
Appeal Decision

Site visit made on 9 November 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal Ref: APP/V1505/W/20/3252927

St Nicholas Lane, Lee Chapel, Basildon, Essex, SS15 5JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by EE Limited & Hutchinson 3G UK Limited against the decision of Basildon Borough Council.
 - The application Ref 20/00200/TFULL, dated 12 February 2020, was refused by notice dated 4 May 2020.
 - The development proposed is a telecommunications upgrade with proposed phase 7 monopole, wraparound cabinet at base and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Reference is made by both parties to Policies COM1 and COM2 of the Emerging Local Plan. As the Emerging Local Plan has not yet been through public examination these Policies could be amended and as such I am unable to give them any significant weight.

Main Issues

3. The main issues are the effect of the development on the character of the street scene and the outlook of neighbouring residential occupiers.

Reasons

4. It appears from the information before me, specifically the covering letter and the Site Specific Supplementary Information (SSSI) submitted with the planning application, that the proposal relates to one part of a larger development for 2 new large telecommunications masts and associated cabinets to replace the existing 12m high mast and most of the existing cabinets.
5. The Council has already granted Prior Approval for a 17m high mast and Full Planning Permission for a 20m high mast in the immediate area, together with associated cabinets. Neither of these developments has as yet been undertaken. According to the Council's description of the development, the current proposal is a revision of the previously approved 20m mast. However, I understand that the siting of the previously approved mast and cabinets has been amended and there is nothing before me to prevent both schemes from

potentially being implemented should the appeal scheme be allowed. Moreover, the position of the second mast and associated equipment is not shown on the submitted drawings and as such the cumulative impact of the development as a whole has not been demonstrated in an open and transparent manner.

6. The proposed new equipment would be located on back edge of the pavement within a wide grass amenity strip that separates the busy B148 (St Nicholas Lane) from a new housing estate to the south. There are some areas of trees and other vegetation within the area that would partially obscure some views of the equipment from the east and west.
7. St Nicholas Lane is dominated by roads, footpaths, street lights, road signs, traffic lights, bus stops/shelters and other telecoms masts. As such tall vertical structures are already present in the area albeit these have quite large spaces between them and are significantly lower than the proposed mast. The site is slightly lower than St Nicholas Lane, which would help to reduce the visual impact of the mast when viewed in the context of other high structures along that road. However, the site is higher than the new housing estate to the south, from which the mast would be highly visible and would not be seen in context with other street structures.
8. The appellant points out that the site has already been found to be acceptable for telecommunications. However, since the original 12m high monopole was granted in 2015 new residential development has taken place making the site more sensitive than it was previously. There is no evidence before me to suggest that any alternative sites in the area have been explored, given the change in surroundings and the need to replace one 12m high mast with two larger masts that would be approximately 8m taller and a third wider than the existing one with additional equipment attached to them.
9. The existing mast to be replaced, although visible within the street scene, does not appear unduly visually intrusive. Its height and width are not significantly greater than the adjacent street lighting columns and it has a visually unobtrusive antennae design. The new mast, despite retaining a monopole form, would be far more visually prominent due to its increased height, width and stacked antennae design. As such it would not integrate as successfully with existing street structures as the current mast.
10. Although the extant prior approval and consent are a material consideration, I have not been provided with any details of those and as such I am unable to compare any differences. Moreover, as previously stated, I have not been provided with any drawings to show the cumulative impacts of the proposed twin poles or to confirm which of the extant approvals will/will not go ahead or to prevent multiple consents from potentially being implemented.
11. In the absence of any information to demonstrate otherwise, I conclude that the proposal would lead to an over proliferation of large masts in this area which cumulatively would adversely affect the appearance of the street scene and the outlook enjoyed by residential occupiers of the new houses to the south. It would therefore conflict with Policy BAS BE20 of the Basildon District Local Plan Saved Policies (2007), which states that the siting and appearance of telecommunications apparatus should not have a significantly detrimental impact on the townscape as a result of excessive prominence.

Other matters

12. In respect of the concerns relating to health, the appellant has confirmed that the proposal has been designed to comply with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and an appropriate Certificate has been submitted. However, it is unclear whether this covers the cumulative impacts of all masts that would be located on the site in accordance with paragraph 115(b) of the National Planning Policy Framework (the Framework).
13. The effect of the development on property values is not a material planning issue, and I have not taken it into account in reaching my decision. Given the slim nature of the mast and its position to the north of the adjacent houses it would not result in any overshadowing and there is no evidence to suggest that the proposal would have any adverse impacts on local wildlife.
14. The council and local residents have suggested alternative sites in the area which they consider may be more suitable. The appellant's grounds of appeal state that as this is an upgrade to an existing site no other facilities have been investigated. Whilst I acknowledge that the proposal would replace an existing mast, the replacement would be a new mast of different scale and design in a different position. As such, it would in my view be a new mast for the purposes of paragraph 115(c) of the Framework and accordingly alternative options should be explored. There is also nothing before me to confirm that one of the existing extant consents was not granted on the basis it would be a replacement of the existing mast.
15. Appropriate landscaping would assist in mitigating the outlook for residents of those dwellings nearest to the proposed installation. The Council suggested a condition for landscaping, should the appeal be allowed. The appellant was asked to comment on this and raised no objections. However, neither party appears to have considered the fact that any landscaping would need to be provided on third party land outside of the application red and blue line boundaries. There is nothing before me to confirm that any landscaping would be permissible, if it would interfere with underground services or who would be responsible for maintaining it. Ownership is also unclear, the Council state the land is allocated as public open space in the local plan, the appellant has served notice on the local highway authority and residents of the new housing estate have claimed they pay a maintenance charge for the upkeep of the land, which suggests it is privately owned. An email to the LPA Case Officer, dated 29 April 2020, shows that although the strip of grass immediately to the south of the pavement may be adopted highway the remainder of the grassed area is village green. The highway authority suggests its ownership only extends to the southern edge of the pavement. Accordingly, despite the appellant not objecting to the suggested off-site landscaping condition, I do not consider that it would meet the tests set out at paragraph 55 of the Framework.
16. I note that no objections have been made in relation to the cabinets, which due to their low height and small scale would be screened from the gardens of the adjacent dwellings by their existing brick built rear boundary walls.
17. The upgrade is required to facilitate Fifth Generation (5G) coverage and the increased height is necessary in order to meet technical requirements and ICNIRP guidelines. I acknowledge that the mast would be shared by a number of users including the Emergency Services Network and that facilitating the delivery of mobile connectivity is clearly of significant importance to the

economy. I have given these matters significant weight favour of the development.

Planning Balance and Conclusion

18. Notwithstanding the significant economic and social public benefits of delivering 5G coverage, based upon the conflicting and unclear information before me, regarding the number and location of masts, existing unimplemented consents and the ability to implement any landscaping mitigation measures, these benefits would not outweigh the significant harm that an increased number of larger masts would have on the character and appearance of the area and the outlook of residents from the new dwellings to the south of the site.
19. For the reasons set out above the appeal is dismissed.

Rachael Bartlett

INSPECTOR