



Appeal Decision

Site Visit made on 13 January 2021

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/X1355/W/20/3260964

Front Street, Framwellgate Moor, Durham, DH1 5AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL against the decision of Durham County Council.
 - The application Ref DM/20/01630/PNT, dated 18 June 2020, was refused by notice dated 26 August 2020.
 - The development proposed is a EE/H3G Street Pole +20.00m AGL and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The provisions of the Order under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning Policy

3. The principle of development is established by the Order, and the provisions therein do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. Since the original decision the Council have adopted the County Durham Plan. This replaces the City of Durham Local Plan such that the policies of that plan cited on the decision notice are no longer part of the development plan and have no weight. I have therefore considered the relevant policies within the County Durham Plan (2020).

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed development on 1) the character and appearance of the area and 2) pedestrian and highway safety.

Reasons

6. The appeal site is located on a footpath in an area where there is a mix of commercial and residential properties. It is situated on a bend in the road, in front of a single storey commercial property. On the whole, the other buildings in the area are two storeys. There are streetlighting columns on the opposite side of the road and an existing 15m high telecommunications monopole approximately 50m to the south of the appeal site. The appellant has outlined that the existing monopole will remain in place for a brief period to address Covid-19 data spike (due to changes in work patterns) and will then be removed.
7. The existing telecommunications monopole in the vicinity of the appeal site is a relatively slender and innocuous installation. It does not appear overly obtrusive and sits relatively comfortably with the streetlighting columns in the area. In comparison, the proposal, due to its height, width and bulky headframe would be significantly more conspicuous, occupying a more prominent position.
8. The installation would be significantly taller than the existing monopole and the building behind the appeal site, which the submitted plans state is 5m high. It would also extend above the existing streetlighting columns. The width of the column and the headframe are also considerably greater than any of the other street furniture in the area. It would therefore, as a result of its scale, be highly visible from a wide area. It would represent an incongruous and dominant addition adversely affecting the character and appearance of the area. I do not consider that the appellants suggestion to use of a specific colour for the installation would overcome the harm I have identified.
9. As the site is around 50m from the existing monopole, which is to be retained for an unspecified length of time, combined with the lack of any appropriate mechanism that would secure its removal as part of the proposed development, I cannot agree that the proposal would represent a replacement of a monopole or upgrade of an existing site. On this basis, the requirement as outlined in Paragraph 115(c) of the National Planning Policy Framework (2019) (the Framework) that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure is applicable.
10. The appellant outlines that the siting of the existing monopole was agreed by the Council as the most appropriate location when the existing installation was approved. Discounted options were supplied with that planning submission and thus the appellant considers that the principle of the siting is already established. Given the significant differences in height, width and indeed siting, between the existing installation and the proposed installation, I do not consider it sufficient or appropriate to rely on the rejected options considered in the original planning submission for a different monopole in a different location.
11. For the reasons set out above, the mast would cause significant harm to the character and appearance of the area. The proposal would be contrary to Chapter 10 of the Framework, which requires, amongst other things that equipment on new sites to be sympathetically designed and camouflaged where appropriate. It would also be contrary to the requirement that the applicant should submit evidence they have explored the possibility of erecting antennas on an existing building, mast or other structure.

12. The proposal would also be contrary to Policy 27 of the County Durham Plan (2020) which outlines, amongst other things, that telecommunications development will be permitted where it will not cause significant adverse impacts and equipment must be sympathetically designed and camouflaged; and that where a new site is required applicants must demonstrate to the council's satisfaction that the use of existing sites in the area have been fully explored and are not feasible.

Pedestrian and Highway Safety

13. The installation would be sited on a pedestrian footpath. The Council consider that this would adversely affect pedestrian safety by narrowing the footpath and forcing pedestrians into the carriageway.
14. Considering the submitted plans, these show that following the installation, there would be a sufficient width of footpath remaining that would not require pedestrians to leave the footpath and enter the carriageway. Even on the infrequent occasions when maintenance is being undertaken and the cabinet doors are open there would be sufficient footpath width remaining.
15. The Council have referred to the high pedestrian footfall owing to the location of New College Durham and surrounding bus stops. Although I do not have substantive evidence to support the argument, from my observations on my site visit, there are bus stops close to the entrances to the college that would not require pedestrians to pass the appeal site. As I have found that sufficient footpath width would remain in any event, I do not consider that this would cause demonstrable harm.
16. The appellant has commented that no construction or maintenance vehicles would be parked on the footpath and that any works would need to be submitted and approved by the relevant Highways Department. Taking this into account and the infrequency of construction and maintenance, I do not consider that the proposal would result in a severe impact on the road network.
17. I therefore conclude that the proposal would not harm pedestrian and highway safety. It would comply with the requirement of the Framework that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, if the residual cumulative impacts on the road network would be severe; and that development minimises the scope for conflicts between pedestrians, cyclists and vehicles, and avoid unnecessary street clutter.
18. The proposal would also comply with Policies 27 and 29 of the County Durham Plan (2020) which require, amongst other things that telecommunications development will be permitted where it can be demonstrated that the scheme will not cause significant adverse impacts and ensure public safety.

Other Matters

19. The appellant has referred to the use of the installation as part of the Emergency Services Network (ESN). I have not been provided with any evidence to demonstrate the significance of the current installation in this context or that there is a specific need or demand for the proposal to meet a deficiency in the ESN. I therefore give this argument little weight.

20. The appellant comments that the site is not within an area with a statutory designation for a particular protection such as for heritage or ecological purposes. The lack of harm to such a protected area does not sufficiently weigh in favour of the proposal to overcome the harm I have identified.
21. The appellant has submitted a copy of the document titled '5G and Future Technology – Delivering the UK's Telecoms Future' (2019). This document outlines the significance of the 5G network and the rollout of new equipment. The document does not appear to have been through any public examination and I give it little weight in the appeal.
22. The appellant has also submitted a copy of the document titled 'Councils and Connectivity - How local government can help to build mobile Britain' (2018). This document outlines the mobile industry's view on how local government can create an environment that is conducive to the building of mobile infrastructure. The document also does not appear to have been through any public examination and I give it little weight in the appeal.
23. The appellant considers that the proposal represents a sustainable form of development, and that such an objective should inform decisions as outlined in the 'Letter to Chief Planning Officers: Planning for Growth' dated 31 March 2011. I have not been supplied with a copy of the letter. In any event, I do not consider that the proposal representing a sustainable form of development (or otherwise) would overcome the harm I have identified.

Planning Balance and Conclusion

24. I do not consider that the public benefits of the installation in terms of an enhanced telecommunications network, its contribution to economic growth, the operational and locational needs of the operators, or that it would be a shared mast accommodating two operators, outweigh the significant harm that I have identified to the character and appearance of the area.
25. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR