



Appeal Decision

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/Q3820/W/20/3261542

Tollgate Hill, Crawley, RH11 9QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Crawley Borough Council.
 - The application Ref CR/2020/0408/TEL, dated 7 July 2020, was refused by notice dated 3 September 2020.
 - The development proposed is telecommunications upgrade. Proposed 20.0m AGL Phase 8 monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available, supplemented by additional evidence indicated by the by Council¹ and agreed to by the appellant. Both the appellant and the Council have agreed to the appeal proceeding on this basis.
3. The proposal as described on the application form is set out above. It is described on the decision notice and the appeal form as "Prior approval on behalf of EE LTD and Hutchison UK LTD for telecommunications 5G upgrade to include installation of 20M AGL Phase 8 monopole C/W wrap around cabinet at base & associated ancillary works (CRA059 - 28139)". This more accurately describes the proposal and I have considered the appeal on this basis.
4. The application form states at Section 4 that an existing installation is not being replaced. Both the 265 Max Configuration Site Elevation Plan (proposed site elevation) and the 265 Max Configuration Site Plan (proposed site plan) clearly show the proposed monopole and cabinets as well as the existing monopole and cabinets. There is an annotation that one of the existing cabinets would be removed. Accordingly the proposals include the erection of a new ground-based mast in a street environment. These are the proposals that were considered by the Council and are the ones I will consider in this appeal.
5. The appellant's Appeal Statement of Case indicates that the existing equipment would be removed. However, this is not what is shown on the application form or the plans and the appeal process should not be used to evolve a scheme².

¹ <https://www.google.co.uk/maps> and www.instantstreetview.com

² Annex M Procedural Guide Planning Appeals England Nov 2020

6. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO 2015), 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.
7. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. Accordingly I have had regard to the policies of the development plan and any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

8. The main issue is the effect of the proposed development on the character and appearance of the area and whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternatives.

Reasons

9. The appeal site is on highway land in a suburban residential area in a leafy setting. Tollgate Hill slopes down from the roundabout at the junction with Woodmans Hill and the appeal site is prominent in views along it.
10. I acknowledge that Tollgate Hill is not a particularly sensitive street scene in terms of landscape or historic designations. Nevertheless the appeal site is part of an attractive, well maintained grass verge with substantial tree planting along some sections including trees behind the appeal site. Although there are some lamp posts and a monopole with its accompanying cabinets nearby the road verges are relatively uncluttered. They provide a sense of verdant openness along this through route, and establish a soft landscaped context for the residential areas nearby. This is something to be respected, in that wide and well vegetated roadways with trees, as explained in the Council's Urban Design Supplementary Planning Document (SPD), are characteristic of the quality of the townscape in the Borough.
11. Paragraph 113 of the Framework advises that the number of masts, and the sites for them, should be kept to a minimum to efficiently meet existing and future needs. Use of existing masts, buildings and other structures for new communications infrastructure is encouraged. Where new sites are required, such as for new 5G networks, equipment should be sympathetically designed and camouflaged where appropriate. Paragraph 115 c) adds that for a new mast or base station, evidence that the applicant has explored the possibility of other alternatives should be submitted.
12. The proposed monopole would be some 12m from the existing monopole so could not be considered to be the same site. In this case the erection of the new ground-based mast, as the least preferable sequential option and without evidence to justify its siting, conflicts with the Framework.
13. The proposed monopole would be about 10m higher and wider than the existing one and than nearby lamp posts. It would protrude into the skyline well above the trees and the adjacent roofs of houses behind. Due to its scale it

would not be similar in character and appearance to existing street furniture. It would be an unsympathetic and incongruous feature in the streetscape, visible over a considerable distance along Tollgate Hill due to the local topography, and to a lesser extent, from adjacent roads and gardens. It would be visually dominant and uncomfortably intrusive. Whilst the principle of use of part of the verge for communications infrastructure has been established, the proposal would be significantly more intrusive, appearing approximately twice as tall as the existing monopole and lighting columns as well as being a more substantial (wider) feature.

14. I conclude the proposed monopole would not be of sympathetic design. It would be intrusive and would not be camouflaged. Moreover, if, as shown on the plans, the existing monopole and most of its accompanying cabinets remain in place, the combination of the existing and proposed monopoles and cabinets would result in a proliferation of street clutter that would further detract from the openness of the area and the setting of the adjacent houses.
15. In relation to mobile phone masts the SPD requires that all alternatives have been considered and the development is designed and sited to minimise the visual impact and effect upon the character and amenity of the surrounding area. Whilst the SPD recognises that locating masts in a cluster may be appropriate in places this would not be the case where there would be an unacceptable proliferation of masts and installations. The proposal therefore conflicts with the SPD provisions.
16. The appellant asserts that improvements are needed to telecommunications coverage. There is no doubt proposed monopole would enable service improvements. However, no coverage plots or evidence relating to the operational constraints that apply has been provided to demonstrate that only a monopole of 20m in height in this particular location would deliver the requisite coverage and to clear ICNIRP guidelines³. Nor is there evidence that other less intrusive options have been considered (eg a slimmer or lower monopole, a different less intrusive siting, mast sharing or siting on a building).
17. I conclude that because the proposed monopole would be an incongruous installation in this street scene, appearing significantly more conspicuous and obtrusive than the present monopole as well as adding to street clutter, it would harm the character and appearance of the area. It would conflict with Policy CH3 of the Crawley Borough Local Plan 2015 (the LP), guidance in the SPD, and those principles of the Framework that seek good design that is sympathetic to the surroundings and that seek to minimise unnecessary proliferation of masts and installations.
18. A significant plank of government policy is the recognition that advanced high quality and reliable communications infrastructure is essential for economic growth and social well-being. This is a material consideration of significant weight in favour of the proposal. I also acknowledge that Policy IN1 of the LP supports the provision of infrastructure. (Policy IN2 of the LP cited by the appellant, is less relevant in this appeal as it is directed at ensuring residential and other developments are designed be connected to high quality communications infrastructure without the need for retrofitting.)

³ International Commission on Non-Ionizing Radiation Protection

Conclusion

19. I have found that the proposed monopole would have a harmful effect on the character and appearance of the area. There is no evidence that less intrusive alternatives have been explored and shown to be unacceptable. These matters together outweigh the benefits of provision of additional communications infrastructure as proposed. In conflicting with Policy CH3 of the LP the proposal cannot be said to comply with the development plan as a whole, and I have found insufficient material considerations to lead me to conclude the decision should be other than in accordance with the development plan
20. I have considered whether conditions relating to materials and securing the removal of the existing mast and equipment would make the proposal acceptable. However, given the range of the concerns identified this would not be the case. In addition there would be no certainty as to what was permitted as there would be conflict between any condition requiring the removal of the existing mast and equipment and the proposals as shown on the plans and described in the application. Moreover, it is not clear from the evidence that the appellant could secure the removal of the existing infrastructure or any certainty about when this could be achieved.
21. For the reasons set out above the appeal should be dismissed.

S Harley

INSPECTOR