



Appeal Decision

Site visit made on 29 January 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2021

Appeal Ref: APP/N5090/W/20/3260686

Existing telecommunications mast (adjacent to barrier gate), Partingdale Lane, Mill Hill, Barnet NW7 1NX

- 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 MBNL for H3G (UK) Ltd & EE (UK) Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/0718/FUL, dated 10 February 2020, was refused by notice dated 10 July 2020.
 - The development proposed is the installation of a 20m monopole, 12 no. antenna apertures, 7 equipment cabinets, alongside the removal of the existing 14.7m monopole, 3 no. antennas, redundant equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Accompanying the appeal is an Arboricultural Impact Assessment (AIA), which was not before the Council in determining the application. As this does not amend the proposed development, I have had regard to it in determining this appeal.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt and the character and appearance of the appeal site and the area;
 - the effect of the proposal upon trees; and,
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

4. The appeal site is a section of vegetated verge on Partingdale Lane. To the south of the lane is a residential development and to the north is a more open landscape interspersed with occasional buildings and infrastructure. The appeal site is close to the boundary but within the Metropolitan Green Belt. Paragraph 143 of the National Planning Policy Framework (February 2019) (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. Paragraph 145 states the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless the development falls within a list of exceptions. One exception listed by paragraph 145d) is the replacement of a building, provided it is in the same use and not materially larger than the one it replaces. Policy 7.16 of the London Plan (2016) (the LP) seeks to protect London's Green Belt in accordance with the Framework. Policy CS7 of the Barnet Local Plan Core Strategy (the CS) seeks to protect and enhance open spaces in the Green Belt. Policy DM15 of the Barnet Local Plan Development Management Policies (2012) (the DMP) states replacement buildings will not be permitted where they would have an adverse impact on the openness of the area or the purposes of including land in the Green Belt.
6. The development would replace an existing 14.7m high monopole and four cabinets with a new 20m monopole and seven cabinets. The cabinets would be greater numerically and in floor area. The monopole would be similar in diameter for the most part, but approximately 5.3m higher. Therefore, the development would result in an increase in built development materially larger than the one it replaces, so it would not meet the exception set out in paragraph 145d) of the Framework. It would be further forward on the appeal site, on an area of verge comprising grass and trees, moving development away from the defined residential area onto the open verge, thereby projecting an overall greater amount of development into the countryside and Green Belt. For this reason, it would result in a conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment.
7. Another exception to inappropriate development is the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Therefore, my findings in relation to openness will determine whether the development would meet the exception under paragraph 145g) and whether or not there is a conflict with Policy CS7 of the CS and DM15 of the DMP.

Openness and character and appearance

8. The appearance of the lower part of the existing monopole is not dissimilar to the vertical sections of streetlamps. The new monopole would have a sizeable cabinet at the base and would be wider at the top and approximately 5.3m higher with a considerable number of distinct antennas visible. The increase in height would be significantly visible above the existing Oak tree which provides some degree of screening to the existing mast. It would be distinctly separated from the new residential development and fence. Its considerable

height, shape and appearance would result in it appearing as a tall and incongruent development.

9. The cabinets would be greater numerically, in floor area, and overall mass. The combined scale, quantity, close proximity and alignment of the cabinets would appear unusual, significantly adding to street clutter and would be at odds with the current relatively open and verdant appearance of the verge. The higher monopole and position of the new cabinets would be significantly more prominent when viewed from dwellings to the south and when traversing this part of the lane.
10. The site trees and trees nearby including those lining and around Partingdale Lane, and Burtonhole Lane limit wider visibility. However, this new increased amount and scale of development would be significantly visible from the street scene in the vicinity of the appeal site, and the monopole from a number of dwellings and the street scene to the south of the appeal site. Therefore, it would be significantly harmful to the character and appearance of the appeal site and area around the appeal site. Consequently, I do not agree that the development would be fully compliant with Policies 7.5 of the LP or CS5 of the CS in this regard.
11. The increased area, mass, scale, and height of the development would have a greater adverse effect upon the visual and the spatial openness of the Green Belt. It would be a moderate adverse effect upon openness, thereby not preserving openness. The surrounding trees and built development, would not mitigate this harm. Therefore, the development would not meet the exception listed under paragraph 145g) of the Framework.
12. For the reasons set out above the development would conflict with Policy CS7 of the CS, Policy DM15 of the DMP, Policy 7.16 of the LP and with the Framework, in so far as these confirm that openness is an essential characteristic of Green Belts and that it would be inappropriate development, which is by definition harmful to the Green Belt.
13. The development would also be harmful to the character and appearance of the appeal site and some of the surrounding area. Therefore, it would conflict with Policies DM01, DM15 and DM18 of the DMP, insofar as these require development shall preserve or enhance local character, result in no significant adverse effect upon the space in which it is located and be appropriately designed to take account of its setting. A condition in respect of the colour of the development would not mitigate this harm.
14. Even if the development would be compliant with aspects of the extracts of some of the other Policies of the LP and the Draft London Plan (2019) provided in respect of character and appearance, this does mitigate or outweigh the harm I have found.

Trees

15. The AIA identifies the existing monopole, some cabinets, new monopole, and some cabinets are or would be within the Root Protection Area (RPA) of the mature Oak tree (T2), Ash tree (T1), some smaller trees along the rear site boundary and scrubby Blackthorn. The Oak is a category B tree due to its condition and landscape value. Collectively all the trees and scrub make a positive contribution to the character and appearance of the appeal site and

area. They also provide a good degree of screening for the existing development.

16. The AIA suggests techniques for the removal of existing apparatus. This is likely to require people traversing the RPAs as well as extraction or breaking of concrete foundations and the potential extraction of services. The existing trees would be protected in accordance with BS5837:2012. Soil compaction could be mitigated by the use of protective matting and use of hand tools and hand digging. Some root pruning is likely for the foundations and minor crown pruning for the monopole. The development would require the removal of a small amount of Blackthorn scrub around the locations of the new cabinets.
17. Therefore, the development would be likely to result in some limited harm to some roots and branches of the trees and the loss of a small amount of Blackthorn. However, subject to the imposition of a condition to secure implementation in accordance with the accompanying Arboricultural Method Statement, based upon the evidence before me the development would not be likely to prejudice the longer term health and landscape value of the most valuable trees, and allowing for some future growth the value of the collection overall. Therefore, while the development would result in a limited conflict with Policy DM01 of the DMP and Policy 7.21 of the LP, which requires trees should be protected, there would not be likely to be any overall longer term harm from this conflict.

Other considerations

18. Paragraph 144, the Framework makes clear that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, as well as any other harm resulting from the proposal, is clearly outweighed by other considerations.
19. There is support in the Framework to supporting high quality communications in paragraphs 112 and 115. The upgrade is required to enhance coverage of network services, including the introduction of new 5G technology for EE and Hutchinson 3G UK Ltd (H3G) locally in the London area. The development would result in an increase in the capacity, speed, and responsiveness of both the operator's networks, enhancing mobile connectivity. Based upon the evidence before me the equipment is the minimum capable of meeting the appellant's requirements at this site.
20. I have been provided with Government statements and publications, which set out government aspirations for 5G and support the drive towards advanced digital connectivity. This would be beneficial to economic growth, the environment, and to society. This includes from technological improvements benefitting social inclusion and well-being, healthcare, emergency services, wider business, technology in people's homes, and may include enabling smart devices, services, and supporting 'Smart Cities' and cars of the future. Such applications and beneficial use of the technology are emphasised during the Covid-19 pandemic.
21. Based upon the extracts I have been provided with it would be compliant with Policies 4.10, 4.11, 7.1 of the LP and some economic objectives of the CS including Policy CS8. The advantages to the telecommunications industry and the benefits of the enhanced mobile coverage and capabilities set out are a material consideration that carry significant weight in favour of the scheme.

22. I have been provided with other appeal decisions. The full evidence before those Inspectors is not clear. Two were in different Council areas with different development plan policies, and two are not in the Green Belt. The decision in the Green Belt appeared to be within a complex of other buildings, being viewed in the context of structures such as flues and power lines, such that it was not considered harmful to character and appearance. Based upon the evidence before me those appeal developments were set within different visual contexts, not directly comparable to this appeal proposal, which I have considered on its own merits.
23. Paragraph 115 of the Framework explains that for a new mast or base station, it should be accompanied by evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure. There are benefits to replacing an existing mast on an existing site. However, I have been provided with only very brief details of the consideration of other sites. A limited description has been provided of some locations and buildings that were ruled out. However, there is little technical information to understand the extent and nature of the network and coverage requirements in the area, the extent of the full search area, the exact locations within the area that were potentially suitable, investigated, and discounted. I place limited weight on this factor. From the evidence provided I cannot conclude that very special circumstances are demonstrated.

Other Matters

24. The Council's first reason for refusal refers to Policy 7.8 of the LP. The nearest heritage asset is a Grade II Listed War Room Bunker approximately 100m to the north. Given the number and size of the mature trees between the appeal site and the asset, there would be little intervisibility. Based upon the evidence before me, the landscape setting of the heritage asset does not form an important part of how the asset is experienced. Therefore, there would be no harm to its setting and the development would preserve its significance. Therefore, based upon the evidence before me, the development would not conflict with Policy 7.8 of the LP.
25. The Council concludes that the development would not have any significant impact upon the living conditions of neighbouring properties, or highway and access matters, and I see no reason to disagree.

Green Belt Balance

26. The appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. It would result in moderate harm to the openness of the Green Belt. The development would also be harmful to the character and appearance of the area. There would be a limited conflict with policies in respect of tree protection, however, there would be no longer term harm from this conflict. Compliance with policies in respect of matters such as highways, access, living conditions, biodiversity and heritage assets would have a neutral effect attracting neutral weight. The support and benefits advanced of the proposed development attract significant weight in favour of the development.
27. However, paragraph 144 of the Framework requires substantial weight to be given to harm to the Green Belt. Overall, I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt which attracts

substantial weight and any other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. For these reasons, the development conflicts with paragraphs 133, 143 and 144 of the Framework, Policy 7.16 of the LP, Policy CS7 of the CS and Policy DM15 of the DMP, insofar as they protect the Green Belt from inappropriate development unless very special circumstances exist, and seek to preserve the openness of the Green Belt.

Conclusion

28. The proposed development would be contrary to the development plan and the National Planning Policy Framework as a whole, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR