



Appeal Decision

Site Visit made on 9 February 2021

by Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2021

Appeal Ref: APP/Z0116/W/20/3258854

Inns Court Avenue, Bristol, BS4 1SR

- 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 Bristol City Council.
 - The application Ref 20/02291/Y, dated 24 May 2020, was refused by notice dated 23 July 2020.
 - The development proposed is 20.0m AGL Phase 7 monopole c/w wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The principle of development is established by the General Permitted Development Order (GPDO) and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.
3. The Council clarified that the decision notice incorrectly refers to Policy DM29 of the Site Allocations and Development Management Policies Local Plan (SADMP) rather than Policy DM27. The correct policy was included in the officer report and the appellant had the opportunity to respond to this at final comments stage. Therefore, no party would be prejudiced by my approach of looking at the correct policy.
4. It has been put to me that the proposed cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.
5. The appellant's statement refers to the removal of the existing mast and cabinets near the site. However, the scheme as determined by the Council, and upon which consultation responses were made prior to that decision, were based on the information provided with the original submission. This indicated that the existing mast and equipment were to be retained. Consequently, I cannot be satisfied that interested parties who commented on the original submission have had sufficient and fair opportunity to comment on this change. I have therefore considered the appeal on the basis of those details on which

the Council based its decision, in order to avoid prejudice to the interested parties.

Main Issues

6. The main issues of the appeal are:

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on the living conditions of the occupiers of nearby properties, with particular regard to outlook; and
- Whether the proposed development would provide appropriate living conditions for the occupiers of future residential developments near the site, with particular regard to outlook.

Reasons

Character and Appearance

7. The appeal site is located in an urban area with modern buildings of varying scale and design. While not subject to any specific designation, there is a relative consistency to the height of existing street trees and existing vertical features such as street lighting. This consistency contributes positively to the character and appearance of the area. The nearby trees are located at a lower level to the appeal site. The adjacent car park and generally rising land levels towards the site means it is a relatively open location with the site being separated from the larger buildings beyond the car park.
8. There is an existing pole and associated cabinets nearby. However, the height of the existing pole is comparable with the street lighting and the cabinets are viewed against the metal fencing adjacent to them and with the nearby bus stop. As such, the existing equipment assimilates into the streetscene relatively well.
9. In contrast, while the overall shape and design would not be alien to the area, the proposed mast would be significantly taller than the existing vertical features in the streetscene, including the existing mast. Furthermore, although in a similar position to the existing built street features, the proposed mast would be thicker than them. As a result, while it is stated that this height is required for coverage, site sharing and to clear surrounding buildings, it would be a very prominent and bulky feature that would be highly visible in the townscape. The scale would be clearly dissimilar to the existing features in the streetscene. This would be obvious for close and longer distance views where the upper part of the mast would tower above the other vertical street features.
10. Conditioning the colour of the mast has been suggested. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. In any event, no colours have been put forward and I cannot be sure this would overcome the harm I have identified.
11. Site sharing would reduce the need for additional locations. Nonetheless, although uniform in appearance, the scheme would introduce several cabinets

into a more open context than the existing site nearby. These would stand out against the greenery behind and add to the visual clutter of the area.

12. For the reasons set out above, due to its siting and appearance, the proposed development would have a significantly harmful effect upon the character and appearance of the area and so, insofar as they are a material consideration, would be contrary to the design aims of Policies DM26, DM27 and DM36 of the SADMP and Policy BCS21 of the Bristol Development Framework Core Strategy (CS).

Living Conditions of Existing Occupiers

13. There are a number of properties that would have views of the appeal scheme and the mast would be considerably taller than any features in the street. Views of the site from the properties opposite would be angled to some degree. From those on the same side of the road the lower part of the site would be screened by trees. Occupiers of nearby properties would have a range of alternative outlooks away from the site. Therefore, while prominent in the streetscene, from existing properties the scheme would not be overbearing.
14. Therefore, due to its siting and appearance, the proposed development would not have a harmful effect on the living conditions of the occupiers of nearby properties with regard to outlook and so, insofar as they are a material consideration, not be contrary to the amenity aims of Policies DM27 of the SADMP and BSC21 of the CS.

Living Conditions of Future Occupiers

15. The Council refer to a timescale for proposals to be submitted for the development of the land adjacent to the appeal site. Nonetheless, there is little firm evidence before me of a scheme with no layout or orientation of any proposed buildings. In the absence of greater detail of a scheme and with no permission in place, I cannot be sure if, or how, the site would be developed. In any event, there is already the existing pole in the public realm close to the appeal site.
16. As a result, due to its siting and appearance, the proposed development would provide appropriate living conditions for future occupiers of nearby developments and so, insofar as they are a material consideration, would accord with the amenity aims of Policies DM27 of the SADMP and BCS21 of the CS.

Planning Balance

17. I have identified significant harm to the character and appearance of the area. That there would be no unacceptable harm to living conditions is a neutral factor and does not weigh in favour of the scheme.
18. The proposal would support the delivery of an upgrade of the existing mobile/digital telecommunications equipment to accommodate 5G services. This would bring benefits to businesses, services and residents. There has also been increased demand and use of such services during the COVID-19 restrictions.
19. The National Planning Policy Framework sets out that advanced, high-quality and reliable communications infrastructure is essential for economic growth

and social well-being, as well as that planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).

20. Consequently, I give the benefits from improved digital, high-quality communications moderate weight.
21. While not comprising the use of the same site, I see some merit in the use of a site near to any existing one. The base station would be shared, thus reducing the need for additional locations. Nonetheless, the submission indicated that the existing site and its equipment would be retained.
22. The main parties refer to details of alternative sites having been provided in a previous submission. Nevertheless, these have not been included in the scheme before me. In the absence of any detailed persuasive evidence, I cannot be sure that there is a lack of available alternative reasonably available sites that could provide the desired coverage and other benefits or that these would result in the same or greater harm to the character and appearance of the area.
23. Consequently, on the basis of the information presented to me it has not been demonstrated that the harm to the character and appearance of the area from the scheme is outweighed by the need to site the installation in this location and other benefits even when taken cumulatively.

Conclusion

24. I conclude that the appeal should be dismissed.

Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

INSPECTOR