

Appeal Decision

Site visit made on 2 February 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Appeal Ref: APP/N5090/W/20/3258693

Land opposite junction of Sunny Gardens/6 Great North Way, London NW4 1JB

- 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) (GPDO).
 - The appeal is made by MBNL against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/2213/PNT, dated 11 May 2020, was refused by notice dated 25 June 2020.
 - The development proposed is a 15.0m AGL Phase 8 monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the address in the banner heading above from the appeal form and Council's decision notice as it is more precise.
3. There is no dispute that the proposal would accord with the requirements of Schedule 2, Part 16, Class A, Paragraph A.2(3) of the GPDO. Consequently, prior approval for the siting and appearance of the proposed development is required and is the subject of this appeal.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard 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.

Main Issue

5. The Council do not raise any issues with the effect of the proposed development on character and appearance of the appeal site or surrounding area. On the evidence before me, I have little reason to disagree. Therefore, the main issue of this appeal is the effect of the siting of the proposed development on pedestrian and highway safety.

Reasons

6. The majority of the appeal site is located on part of a grass verge that adjoins the pavement, adjacent to Great North Way (the bypass). A further grass verge is located between the pavement and the bypass. However, a small section of the proposed development, particularly the wraparound cabinet at the foot of the mast would encroach onto the pavement.
7. During my site visit, in the middle of a weekday morning, the road was busy, even before taking the current travel restrictions into consideration. I found that the arrangement of the pavement and the grass verges added to the perception of safety and security when walking along the pavement in the immediate vicinity of the site. Nonetheless, given the busy nature of the bypass and the speed¹ of the vehicles using its six lanes, particularly three lanes travelling in the direction of Greenlands Lane adjacent to and from the site, the existing dimensions of the pavement and the verges is reasonable. Additionally, I noted on my visit that it is also possible for the pavement to be used by cyclists, which adds further justification for its dimensions.
8. It was apparent that the existing mast and apparatus is set away from the edge of the pavement, albeit by a modest distance. Whilst the Council suggest that the proposed development should be moved away from the edge of the pavement by 1.5m, there is little detail to substantiate this suggested distance or to any incidents that have occurred through the presence of the existing installation. However, there is also little specific detail to demonstrate why the proposed development has to be so close to/encroach the pavement. I acknowledge that construction and maintenance at the site would be infrequent. However, this matter does not provide sufficient mitigation to outweigh the harmful effect from the siting of the proposed development, which would be unacceptable in its location, harmfully restricting the pavement for both pedestrians and cyclists.
9. For the reasons set out above, I conclude that the proposed development would cause significant harm to pedestrian and highway safety. Therefore, the proposed development would conflict with the highway/pedestrian safety aims of Policy CS9 of the Council's Core Strategy 2012, Policy DM17 of the Development Management Policies 2012 and the requirements of the Framework.

Other Matters

10. Paragraph 112 of the Framework is clear that planning decisions should support the expansion of electronic communications networks. I have no reason to question the appellant's contention that the proposal is required to give coverage and capacity to the wider area. I also recognise the proposed installation has been designed to be shared between 2no. operators and would be available to the Emergency Services Network. These factors weigh in the proposal's favour.
11. The appellant asserts that the existing installation would be removed if the proposed development is allowed. However, the submission indicates that is to be retained for an unspecified length of time, but this could be secured through the imposition of a suitably worded condition. Paragraph 113 of the Framework also states that the use of existing masts is encouraged. However, in this instance, given the site and the existing installation, I cannot agree that the

¹ Up to 50mph

proposal would represent a replacement of a monopole or upgrade of an existing site.

12. On this basis, the requirement as outlined in Paragraph 115(c) of 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. Thus, I am not satisfied or convinced that undertaking the proposed development at this site is the only way to achieve the identified economic and social benefits.
13. The appellant advises that the cabinets are permitted development and not requiring prior approval. However, I am not convinced that there is a greater than a theoretical possibility that the installation of the cabinets on their own, might take place. Therefore, my conclusions on the main issues remain unaltered. I have also had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

14. I acknowledge the potential economic and social benefits of the proposal detailed by the appellant, and the support given by the Framework towards a high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.
15. In this instance, I have found no harm in respect of character and appearance and I do not consider that the public benefits of the installation in terms of the enhancement of the telecommunications network, its contribution to economic growth and the operational and locational needs of the operators outweigh the significant harm that I have identified to pedestrian and highway safety.
16. Taking all matters into consideration, I conclude that the appeal should be dismissed, and that prior approval should not be granted.

W Johnson

INSPECTOR