



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/20/3257724

Land opposite Chambers Gardens / Strawberry Vale, East Finchley, London N2 9AL

- 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 Hutchinson 3G UK Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/2215/PNT, dated 12 May 2020, was refused by notice dated 30 June 2020.
 - The development proposed is a telecommunications installation: proposed 20m Phase 7 Monopole C/W wraparound 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 of in the banner heading above from the appeal form 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 and appearance.
5. Policy DM17 of the Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) was not cited on the Council's decision notice but was referenced on decisions for similar development that I have dealt with in the Council area. Both main parties were given the opportunity to comment on any relevant implications for the appeal, but neither party has submitted a response. Therefore, I will not prejudice any party in considering DMP Policy DM17 in the determination of this appeal.

Main Issues

6. The main issues of this appeal are the effect of the appearance and siting of the proposed development on: i) the character and appearance of the appeal site and surrounding area; and, ii) pedestrian and highway safety.

Reasons

Character and appearance

7. The monopole mast and ancillary equipment are required to provide 5G coverage and support the existing mobile network. The proposal is described as an upgrade to the existing telecommunications site. However, the existing 15m mast and associated cabinets are sited in a different location on the footpath to the proposed development, closer to the junction of Strawberry Vale and High Road, albeit on the same side of the road. The appellant has confirmed that the existing installation would be removed when the new mast and equipment have been installed, apart from the larger VRE cabinet, which would remain. On this basis, I consider that the amount of equipment that would be introduced would be broadly comparable to the existing situation and would not result in visual clutter.
8. The site is located in a visually prominent location adjacent to a road with residential properties opposite. I have had regard to the surrounding urban environment within which the appeal site is located, and other features such as street lighting, traffic signs, amongst other things. As such, I find that this is not an unsuitable location in principle for the siting of telecommunications equipment. However, whilst the existing installation is present, I find this scheme to differ significantly from the case before me.
9. Whilst, the existing installation, particularly the mast is visible within the street scene, it does not appear unduly prominent or visually intrusive within the context of the adjacent street lighting columns, due to its similar slim vertical design, with a height and column width which are not significantly greater than those of the lighting columns. I accept that the proposed development retains a monopole form, but it would have a much more visually dominant presence in views from the public realm than the existing installation, particularly due to the combination of its greater height, column width and more bulky and visibly distinct array on top of the supporting column.
10. As a consequence, the proposed development would not successfully integrate with its surroundings, which includes the street lighting, due to the notable increase in height and column width. Consequently, the proposed development would appear as a stark, incongruous feature within the street scene that would visually dominate the 2no.storey houses on Chambers Gardens. In this instance, I do not consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable. Accordingly, the proposed development would result in unacceptable harm to the character and appearance of the appeal site and surrounding area.
11. For the above reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. Thus, the proposed development would conflict with the design, character and appearance aims of DMP Policies DM01, DM18 and the requirements of the National Planning Policy Framework (the Framework).

Pedestrian and highway safety

12. The site would be located on a pavement, which is located opposite residential properties on Chambers Gardens. To the rear of the site is an area of land with mature vegetation/trees and High Road beyond. Strawberry Vale has no

parking restrictions in the immediate vicinity of the site and the existing installation, where it became apparent during my visit that vehicles park on both sides of Strawberry Vale, including in front of the existing installation.

13. I accept that there are misgivings with the siting of the existing installation as it is already located on the pavement and would restrict the flow of pedestrians, especially when engineers are in attendance and the cabinets are open. This would be compounded by a vehicle parked in front of the site, as I noted in front of the existing installation at my visit. I acknowledge that it is unlikely that construction and maintenance would be a frequent occurrence. Nonetheless, I cannot be certain that pedestrians would not be forced into the carriageway when work is being undertaken at the proposed development.
14. Whilst acknowledging the siting of the existing installation on the pavement, given the land to the rear of the pavement, I am not persuaded on the details before me that the siting of the proposed development on the pavement is the only available option. Overall, and in the absence of any substantive evidence to the contrary, I consider the siting of the proposed development would be unacceptable in its location, as it would harmfully restrict the pavement for pedestrians, which is further compounded due to the proximity of the junction to Chambers Gardens.
15. For the reasons set out above, I conclude that the proposed development would cause significant harm to pedestrian and highway safety. Thus, the proposed development would conflict with the highway/pedestrian safety aims of DMP Policy DM17 and the requirements of the Framework.

Other Matters

16. 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.
17. I acknowledge that the height of the proposed development must be sufficient to enable local provision and clear surrounding buildings and the installation with 5G also needs to be at the height detailed to clear ICNIRP guidelines and thus there is no scope to lower the height of the array. On this issue, I have no reason to doubt the appellant's evidence that the monopole and cabinets proposed are the minimum necessary and would comply with ICNIRP standards. However, the compliance with ICNIRP standards is of neutral consequence in the assessment of this appeal.
18. The submission indicates that the existing installation would be removed if the proposed development is allowed. This could also 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 proposal would represent a replacement of a monopole or upgrade of an existing site.

19. 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.
20. The appellant advises that the cabinets are permitted development and do not require 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

21. 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.
22. In this instance, 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 character and appearance and, pedestrian and highway safety. This would conflict with parts of the environmental and social objectives set out in paragraph 8 of the Framework. Thus, the proposal does not constitute sustainable development.
23. Taking all matters into consideration, I conclude that the appeal should be dismissed, and that prior approval should not be granted.

W Johnson

INSPECTOR