
Appeal Decision

Site visit made on 8 March 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021

Appeal Ref: APP/D5120/W/20/3258718

The Pantiles, Bexley, London DA7 5HH

- 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 the Council of the London Borough of Bexley.
 - The application Ref 20/01226/GPDO8, dated 28 May 2020, was refused by notice dated 7 July 2020.
 - The development proposed is telecommunications upgrade. Proposed 15.0m AGL monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of telecommunications upgrade involving the installation of a 15.0m AGL monopole c/w wrapround cabinet at base and associated ancillary works at The Pantiles, Bexley, London DA7 5HH in accordance with the terms of the application Ref 20/01226/GPDO8, dated 28 May 2020, and the plans submitted with it including plans/drawings 002 Site Location Plan, 215 Proposed Site Plan, 265 Proposed Site Elevation and 007 Fixits & Dependencies.

Procedural Matter

2. 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.

Main Issue

3. The main issue is the effect of the siting and appearance of the proposed telecommunications installation upon the character and appearance of the area.

Reasons

4. The appeal site forms part of a paved footway at the junction of The Pantiles, Little Heath Road and Hollingbourne Avenue. The footway is situated adjacent to an area of green open space that creates a landscaped island sandwiched between the two branch roads of The Pantiles. Currently there is an existing 10m high monopole of mock telegraph pole design at the footway close to where the appeal proposal is intended to be sited. There are existing cabinets on the footway to the front of the Earl Haig Public House to the opposite side of one of The Pantiles branch roads. To the northern end of the central green island is a mast with a number of cabinets placed upon the footway where there are also waste recycling bin facilities sited close by.
5. In addition to the existing mast on the footway, there is currently a lamppost and pole type road traffic signage close by. There are a number of trees on the central green island which in some views form the backdrop to the albeit taller mast. In the wider environs of the junction there is street lighting along the highways and trees line Little Heath Road and Hollingbourne Avenue. The Earl Haig Public House also hosts its name upon an elevated post sign. Overall, the locality comprises vertical features within the street scene, both in close proximity to the appeal site and within the wider surrounding area and this forms part of the character and appearance of the area.
6. The mast would be a tall structure, but it would be relatively slimline in appearance, albeit not as slim as the other street furniture or masts within the vicinity. The mast would be a visually prominent installation upon the footway. It would be clearly visible in the public realm and, with its bulbous top section, would be visible in street views, both near and from a distance, along adjoining highways. However, it would be positioned at the back edge of the footway next to the grass island with its trees. This would assist in reducing the visual impact of the mast at the junction. Despite being taller than existing vertical features close by, I do not consider the mast would appear unduly conspicuous within the context of the existing street furniture, masts, tree lined streets and trees within the adjacent central island.
7. In addition to the mast, there would also be a number of ground-based structures comprising cabinets. The cabinets would create a cluster of street furniture upon the footway and bring about a visual change to its existing open character. In some views the cabinets would be seen against the backdrop of the existing green island with its trees and the existing mast, cabinets and waste recycling bins at the northern end of the green island. However, to some extent the cabinets would obstruct public views of this open green island space.
8. Whilst the cabinets would add to the street furniture upon the footway, the positioning of the cabinets would mostly be to the back edge of the footway adjacent to the green island. They would have a relatively uniform appearance and be of similar appearance to those of other existing cabinets sited upon footways within the vicinity of the appeal site. I do not consider the cabinets would create excessive visual clutter on the footway or be visually harmful given the context of existing street furniture in the area.
9. Taking these matters collectively, I consider there would be no significant visual harm to the area.

10. For these reasons, I conclude that the proposed development would not harm the character and appearance of the area. As such, the proposal would not materially conflict with Policies ENV39 and ENV45 of the Bexley Council Unitary Development Plan 2004 (saved policies) that seek, amongst other matters, development to be compatible with the character of the surrounding area and for telecommunication equipment to be located in such a way as to minimise any adverse effects on the character or visual amenity of the area.

Other matters

11. Concerns have been expressed over the potential effects of the proposed development upon health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the National Planning Policy Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
12. Concern has also been expressed as to possible highway visibility issues and access for pedestrians. I note that the Council's technical highway adviser has commented that the proposal would not have any significant impact on the local highway network as it would not adversely affect sightlines at the junction and the available footway width would be sufficient for pedestrian movement in the area. On the evidence available to me there is no substantive reason that might lead me to come to a different view of this matter.
13. It has been highlighted that the green area is used for socialising. However, the proposal relates to the footway rather than the area of open green space, therefore, any recreational use of that land would not be impeded by the proposed development. It has also been suggested that the proposal would damage resale values of properties in the local vicinity, however property prices are not a consideration within the planning system.
14. I note that the Council highlights that an assessment of alternative sites has not been undertaken. Nonetheless, as I have found the proposal to be acceptable it is not necessary for me to consider the merits of alternative potential locations for this installation.
15. A third party questions the transparency and fairness of the decision-making process. The appellant is entitled to appeal against the negative decision reached by the Council and the Planning Inspectorate is the appropriate body that is in place to arbitrate over such planning disputes. I have not been directed to any particular evidence that would clearly indicate that a lack of transparency or fairness within the decision-making process has been demonstrated that might substantiate this comment.

Conditions

16. Any planning permission granted for the telecommunications upgrade involving the installation of a 15.0m AGL monopole c/w wrapround cabinet at base and associated ancillary works under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 2015 is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except

to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin no later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Nicola Davies

INSPECTOR