



Appeal Decision

Site visit made on 26 February 2021

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2021

Appeal Ref: APP/T5150/W/20/3262963

**Sudbury Avenue, North Wembley, London Borough of Brent, London
HA0 3AW**

Grid Ref Easting: 517502, Grid Ref Northing: 185918

- 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 Hutchinson 3G UK Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/2107, dated 11 July 2020, was refused by notice dated 4 September 2020.
 - The development proposed is described on the appeal form as "Prior approval for proposed telecommunications installation for a 15m 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. 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.
3. The appellant submitted amended plans to the Council before the determination of the application. The amended plans reduced the height of the monopole from 18 metres to 15 metres. For the avoidance of doubt, I have determined the appeal on the basis of the amended plans. For this reason, I have used the description of development from the appeal form within the banner heading above, as this more accurately describes the proposal.
4. The plans show that three ancillary equipment cabinets would be installed to the side of the monopole. The appellant explains that the size of the cabinets complies with the relevant limitations and restrictions set out within the GPDO 2015, and, thus these elements of the development do not require prior approval. This has not been disputed by the Council. I have dealt with the appeal on this basis. Nevertheless, I am cognisant that the erection of the equipment cabinets would only be permitted development under Part 16 provided they are ancillary to the use of any other electronic communications.

Planning Policy

5. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the London Borough of Brent Local Plan: Development Management Policies (the 'DMP'), the London Borough of Brent Core Strategy (the 'CS'), the Sudbury Town Neighbourhood Plan (the 'NP'), the London Plan 2021 (the 'LP 2021') and the National Planning Policy Framework (the 'Framework') only in so far as they are a material consideration relevant to matters of siting and appearance.
6. The LP 2021 was published by the Mayor of London on 2 March 2021. The LP 2021 comprises the spatial development strategy for London and forms part of the development plan. The LP 2021 supersedes the London Plan of 2016. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have had an opportunity to address this matter as part of the appeal process.
7. The Council refer to Policy DMP1 of the emerging Brent Local Plan within the officer report. In accordance with paragraph 48 of the National Planning Policy Framework (the 'Framework'), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any substantive details of the status of this emerging plan. Therefore, I attribute the plan and policies very limited weight as a material planning consideration.

Main Issue

8. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area.

Reasons

9. It is proposed to erect a 15 metre high monopole with a wraparound cabinet at its base and associated ancillary works. The proposed telecommunications equipment would provide 5G mobile coverage for the Three network.
10. Paragraph 113 of the Framework explains that the use of existing masts, buildings and other structures for new electronic communications capability should be encouraged, but where new sites are required communications equipment should be sympathetically designed and camouflaged where appropriate.
11. Paragraph 115(c) of the Framework goes on to state that where a new mast or base station is proposed, an application should be supported by evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
12. The appellant explains that due to the nature of 5G antennas, which can be up to three times heavier than previous antennas, and the separation required from other items of telecommunications equipment, they cannot utilise existing structures that provide an installation for another operator within the cell search area. This has not been disputed by the Council.

13. However, correspondence from the Sudbury Town Residents Association Neighbourhood Forum (the 'STRA') argues that the appellant has failed to explore the possibility of erecting the 5G antennas on existing masts, which are located on a building within the East Lane Business Park and east of the railway track on East Lane, respectively.
14. Whilst the interested party comments are noted, it is unclear whether the existing masts in these locations are situated within the operator's cell search area. Consequently, I cannot be certain that these existing masts would provide a suitable location for the proposed 5G antennas.
15. For this reason, and having regard to the Council's position on this matter, in addition to paragraph 116 of the Framework, which explains that the planning system should not question the need for an electronic communications system, based on the evidence before me I am satisfied that mast sharing is not feasible in this instance.
16. The proposed monopole and wraparound cabinet would be located on the pavement adjacent to Vale Farm Park. The park is an expansive area of public open space opposite Sudbury Avenue. The park is predominately lawned and features sports pitches with established trees located around the park's boundaries.
17. Sudbury Avenue is a long straight road which runs between East Lane and Sylvester Road and forms part of the eastern boundary to Vale Farm Park. Located along Sudbury Avenue and near to the appeal site, there are various items of existing street furniture including a park bench, street lighting columns, wooden telephone poles and mobile telecommunications apparatus owned by another operator, which includes a slimline monopole.
18. The appellant argues that the siting and appearance of the proposed telecommunications apparatus would successfully assimilate into the streetscene by integrating with the existing items of vertical street furniture. Moreover, they contend that the existing trees would provide a degree of screening to the lower part of the proposed monopole and the associated wraparound cabinet.
19. Whilst I recognise that there are several types of vertical street furniture within the immediate area, the proposed monopole would be significantly taller than the existing street lighting columns and telephone poles. Moreover, the proposed 5G antennas, which would be located at the top of the proposed monopole, would appear significantly bulkier and top heavy when compared to the nearby slimline monopole on Sudbury Avenue.
20. Even if I were to accept that its verticality meant that the proposed monopole would be consistent with the existing lighting columns, telephone poles and telecommunications apparatus, when viewed from the street and from within Vale Farm Park, the proposed development would not be seen in isolation, but within the context of the existing street furniture. Whilst I am cognisant that such street furniture is common within urban areas, there is already a significant amount of street furniture on Sudbury Avenue near to the appeal site, the proliferation of which results in an unduly cluttered appearance. The proposal would further exacerbate this negative cumulative impact to the detriment of the character and appearance of the area.

21. Furthermore, any screening effect provided by the existing trees would be limited due to their low height relative to the proposed monopole. Moreover, any screening would be significantly reduced during the winter months due to a lack of leaf coverage on the trees.
22. Taken as a whole, I consider that the proposed development would be visually intrusive and a dominant form of development which would cause significant harm to the character and appearance of the area. Therefore, the proposal would be inconsistent with paragraph 113 of the Framework which states new telecommunications equipment should be sympathetically designed and camouflaged where appropriate.
23. The significant harm to the character and appearance of the area would reduce the enjoyment of the Vale Farm Park by members of the public. However, the extent of this harm would be very limited owing to the minor scale of the development compared to the large size of the park.
24. As part of their statement, the appellant has provided a zone of theoretical visibility map ('ZTV'), which shows that the main corridors of visibility of the proposal would be along Sudbury Avenue and from within Vale Farm Park. Based on the findings of the ZTV, the appellant argues that 'views of the proposal for road users would be minimal and fleeting with little impact upon receptors perception of the character and appearance of the surrounding area'.
25. Given my findings above, I do not agree with the appellant's position. Nevertheless, even if I were to accept that this were the case, this assessment fails to take account of the effect of the proposal upon the character and appearance of the area as experienced by non-road users, which would include users of the Vale Farm Park and occupiers of the nearby dwellings on Sudbury Avenue who overlook the park, who, for the reasons set out above, would likely perceive the proposal to be a visually intrusive and dominant form of development.
26. The appellant explains that prior to the submission of the prior approval application several alternative sites were explored by the operator within the cell search area, all of which were discounted as being less preferable.
27. The appellant's site-specific supplementary information document sets out reasons as to why five of the alternative sites were discounted. These reasons have not been disputed by the Council. However, no substantive evidence has been put forward to explain why three of the alternative sites¹ located on East Lane were discounted as part of the site selection exercise.
28. On my site visit, I observed that the alternative sites on East Lane were located away from the boundary of Vale Farm Park and near to busy road junctions where there were existing tall lighting columns, traffic lights, traffic signs and elevated CCTV cameras. Consequently, I consider that the siting of the proposed telecommunications apparatus within the identified alternative locations on East Lane would likely result in materially less harm to the character and appearance of the area when compared to the current proposal.
29. Insofar as they are a material consideration, the proposal would be contrary to the aims of Policy CP18 of the CS and Policy DMP1 of the DMP. Amongst other things, these policies state the new development should complement the

¹ Identified as 'Op1', 'Op2' and 'Op3' within Figure 5 of the site specific supplementary information document

locality and preserve open space of local value for the enjoyment of Brent's residents and visitors.

30. Moreover, the proposal would be inconsistent with Criterion D.1 of Policy D3 of the LP 2021, which states that development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness.
31. The Council assert that the proposal would not accord with Policies LGS1 and LGS3 of the NP, which, amongst other things, seek to resist development which is not ancillary to the use of the land at Vale Farm Park for recreational, sporting and amenity purposes. However, as set out above, the principle of development is established by the GPDO 2015.

Other Matters

32. The Council and several interested parties have expressed concerns about potential noise emissions from the proposed telecommunications apparatus. They argue that the noise emissions would erode the functionality and enjoyment of the adjacent park and bench. However, this did not form part of the reason for refusal on the Council's decision notice.
33. In addition, several of the interested parties, including the STRA, contend that the siting of the proposed telecommunications apparatus would unacceptably reduce the width of the pavement on Sudbury Avenue. However, the Council have assessed the proposal and raised no highway concerns.
34. Given that I have concluded that the siting and appearance of the proposal would cause significant harm to the character and appearance of the area, and, given my decision to dismiss this appeal, it is not necessary to consider these matters any further. In any event, even if I were to find a lack of harm in respect of these issues, such findings would be of neutral consequence and would not carry weight in favour of the proposal.

Planning Balance

35. The Framework supports high quality and reliable communications infrastructure, which includes the expansion of electronic communications networks, such as next generation 5G mobile technology. It recognises that advanced, high quality, reliable communication infrastructure is essential for economic growth and social well-being. Therefore, planning policies and decisions should support the expansion of such networks.
36. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching aim of the Framework to achieve well-designed places.
37. In this instance, I have found that the siting and appearance of the proposed development would cause significant harm to the character and appearance of the area. As set out above, I have found that other potentially less harmful alternatives sites have not been properly explored by the appellant.
38. Consequently, based on the evidence before me, I conclude that the need for the electronic telecommunications installation does not in this case, outweigh or overcome the significant harm to the character and appearance of the area which would be caused by the proposal.

Conclusion

39. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR