



Appeal Decision

Site Visit made on 29 June 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/N5090/W/21/3271321

Opposite 129 The Broadway, London NW7 4RN

- 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 Hutchison 3G UK Limited against the decision of the London Borough of Barnet.
 - The application Ref 20/4798/PNT, dated 9 October 2020, was refused by notice dated 21 December 2020.
 - The development proposed is 18m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the site address stated on the Council's decision notice and entered by the appellant on the appeal form as I consider it better describes the location of the proposal than that originally given on the application form.
3. The application form listed the name of the applicant as Mr James Reilly, Dot Surveying Ltd. However, an email dated 6 April 2021 explains that the appeal is pursued by Mr James Reilly, Dot Surveying Ltd ultimately on behalf of Hutchison 3G UK Limited who are the appellant. As other documents including the Developer's Notice that accompanied the application also advised that the application was made by Dot Surveying Ltd on behalf of Hutchison 3G UK Ltd, that is who I have identified as the appellant in the banner heading above.
4. Amended plans were submitted during the Council's consideration of the application altering the height of the proposed Monopole from 20m to 18m. Save for one reference within its report to a Monopole height of 20m which appears to be an error, the Council's report and decision notice are clear that the proposal was considered with regard to these amended plans. I have determined the appeal on the same basis. The revised description stated on the decision notice and entered on the appeal form accurately reflects these amendments, and I have used it in the banner heading above.
5. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and Schedule 2, Part 16, Class A, require the local planning authority to assess the proposed development solely on the basis of its siting and appearance. My determination of this appeal has been made on the same basis.

6. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. I have therefore had regard to policies of the development plan only in so far as they are material to matters of siting and appearance.

Main Issue

7. The main issues are:
- i) the effect of the proposal on the character and appearance of the area in respect of its siting and appearance; and
 - ii) in the event that harm is identified, whether this would be outweighed by other considerations including the need to locate the installation on the appeal site having regard to the potential availability of alternative sites.

Reasons

Character and Appearance

8. The appeal proposes an 18m high Monopole, wraparound cabinet and 3 further equipment cabinets on part of a wide verge between the Mill Hill Circus roundabout on the A1 Watford Way and The Broadway. The Broadway runs to the front of a parade of three-storey buildings with ground floor commercial uses on the outskirts of the Mill Hill Town Centre.
9. Given the wide carriageway to this part of Watford Way together with the large central island of the roundabout, there is a significant degree of openness around the appeal site. As a result, the proposed Monopole would be highly visible, with views of it for a significant distance along Watford Way particularly from the north west where the carriageway is relatively straight on the approach to the site. It would also be readily apparent from the closest residential streets and open spaces to the opposite side of Watford Way.
10. The appellant has sought to balance operational requirements and visual impacts. Nevertheless, the Monopole would be substantially taller than existing lamp posts, other street furniture and the majority of trees nearby, and would also be of greater height than the predominantly two or three-storey buildings in the vicinity of the site. This contrast would be conspicuous, and would be particularly striking where the Monopole would be seen immediately juxtaposed against the adjacent parade given its proximity. The additional bulk to the upper part of the Monopole would give further emphasis to its height above neighbouring structures, exacerbating the considerable visual impact. In my judgement, it would therefore stand out as an incongruous feature and in combination with the prominent position of the development, I find that it would be visually intrusive and would dominate its surroundings, irrespective of traffic levels on the adjacent road network.
11. The Council's report suggests that the cabinets would also appear incongruous within a residential setting, but the context of the site is mixed and given their scale and number I do not consider that the cabinets themselves would significantly detract from the character and appearance of the area. However, this does not outweigh the harm that would be caused by the Monopole.
12. For these reasons, I conclude that the siting and appearance of the proposal would cause significant harm to the character and appearance of the area. In so far as they are a material consideration, it would therefore be contrary to

the requirements within Policies DM01 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 for development that preserves or enhances local character and that does not have a significant adverse effect on the space in which it is located.

Other Considerations

13. The development is proposed to meet operational requirements and provide 5G coverage, and the appellant notes that it will bring a modern, high-speed communications service to the surrounding area. The National Planning Policy Framework (the Framework) advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of electronic communications networks, including next generation mobile technology should be supported. I also note that the Government has written to local authorities to encourage support for investment in digital connectivity and the expansion of telecommunications.
14. Nevertheless, the Framework outlines that the number of radio and electronic communications masts should be kept to a minimum, and where a new mast is proposed it requires evidence that the possibility of use of existing masts, buildings and structures has been explored.
15. The appellant advises that following a desktop survey and physical inspection, no opportunities for mast sharing or to use existing buildings or structures were identified. Three potential alternative locations for a new site were considered but were discounted. However, little detail is provided on how the search for sites was carried out or how sites were selected for further consideration. In addition, the appeal site falls some way outside of the appellant's 'designated search area' of 100m from the preferred nominal location, and from the submitted information I am uncertain whether all potential opportunities to use existing buildings, structures or masts a similar distance beyond the designated search area have been considered. The information before me also indicates that the search was carried out on the basis of a 20m high Monopole, and I do not know whether siting options for an 18m high Monopole may have been different. Moreover, the reasons given for discounting the alternative sites that were identified are very brief, with little supporting evidence. For example, the reason for discounting site D1 – The Broadway is stated as 'potential impact on shopping area therefore not considered to be appropriate', with no explanation offered of what the impact is or why it would be unacceptable.
16. While I appreciate that the residential nature of much of the surrounding area may be a constraint, I am not therefore satisfied that the information before me demonstrates that a robust sequential approach to site selection has led to the appeal proposal. Accordingly, I am unable to conclude that there would be no preferable alternative option to deliver the required coverage and associated social and economic benefits.

Other Matters

17. The development would be positioned within an existing verge, and given its relationship with the surrounding highway and pedestrian network and the evidence before me, I see no reason that it would cause unacceptable harm to the safety or convenience of users of these routes.

18. Interested parties have raised concerns over potential health risks, including in relation to 5G technology. However, I am directed by the Framework not to set health safeguards different from the International Commission guidelines for public exposure. The proposal is accompanied by a certificate confirming that it has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In the absence of substantive evidence to suggest that the ICNIRP guidelines would not be met, a departure from the approach within the Framework would not therefore be justified.

Conclusion

19. I acknowledge the support given by the Framework to advanced, high quality and reliable communications infrastructure, including 5G networks. Nevertheless, I have found that the siting and appearance of the development would cause significant harm to the character and appearance of the area, and I am not satisfied that the evidence before me demonstrates there are no less harmful viable alternative locations to the appeal site.

20. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR