
Appeal Decision

Site visit made on 12 July 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Appeal Ref: APP/B5480/W/20/3265545

White Hart Lane, Mawney, Romford RM7 8HX

- 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).
 - The appeal is made by MBNL against the decision of the Council of the London Borough of Havering.
 - The application Ref: M0016.20, dated 4 September 2020, was refused by notice dated 28 October 2020.
 - The development proposed is a telecommunications upgrade. Proposed 18.0m AGL 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. Class A of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of (amongst others): the installation, alteration or replacement of any electronic communications apparatus, or development ancillary to radio equipment housing.
3. Paragraph A.3. sets out matters by which development that is permitted by Class A is subject to and requires the developer to apply to the local planning authority for a determination as to whether prior approval of the authority will be required as to the siting and appearance of the development. Development must not begin before the occurrence of such an approval.
4. It has been contended that the proposed equipment cabinets would be permitted development. However, they are clearly part of the telecommunications works that were applied for. Nor is it evident why they would meet the requirements of Class A, related to the purpose of the operator's electronic communications network, if solely the proposed equipment cabinets were to proceed. Hence, they are the subject of my decision, along with the proposed mast.

Background and Main Issue

5. The appellant applied to the Council as to whether prior approval was required for the siting and appearance of the proposal. The Council considered that prior approval was required and refused the application on the grounds that it would appear as a dominant and visually intrusive feature in the street scene, and would be harmful to the visual amenities of the area.
6. The Council also refused the application on the grounds that the submitted information was not sufficiently clear and unambiguous as to whether the existing telecommunications equipment would be retained and over the height of the proposed mast. The Council now acknowledges that such matters have been addressed and I see no reason to disagree in reviewing the submitted drawings and the appellant's submissions on this matter. I have not considered this reason for refusal any further.
7. The appellant considers that prior approval should be granted because the proposal would not, by virtue of its design, be detrimental to the amenity of the area or the areas character, and that suitable and robust evidence has been provided to demonstrate the need in this location.
8. As such, the main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and if harm arises, if this is outweighed by the need for the proposal.

Reasons

9. The appeal site comprises part of an area of open land that lies at the crossroads of White Hart Lane and Cross Road. This area of land also contains an existing 14.7 metre high monopole with a number of associated equipment cabinets. These would be removed as part of the proposal. The existing telecommunications equipment is sited further away from the crossroads and within an area of bushes and trees.
10. The broader area is residential in nature and has a planned layout, including the positive contribution that the areas of open land around the junction of White Hart Lane and Cross Road make to the local character. The existing street furniture is typical for such a location, consisting of lighting columns, road signage and telegraph poles.
11. The proposal would be found where there is some degree of sensitivity, despite that the site is not the subject of protective designations or landscape character effects. Such sensitivity is due to the prominence of the crossroads location and the contribution of the open land to the local character.
12. When the height of the proposed mast is considered with its siting in relation to the crossroads, it would be highly visible in all directions. The open land and the alignment of the roads themselves would afford wide ranging views of the proposed mast in the wider environment. Accordingly, it would not be found in what can be reasonably considered a discreet location. Its prominent siting would also reinforce that it would be noticeably taller than the existing street furniture, including the lighting columns.
13. The siting of the proposed equipment cabinets would add to the overall harm in these surroundings because they would lessen the spacious character of the open land, along with the proposed mast. That the chosen siting avoids

- impeding pedestrian flow would not overcome the loss of the local character that would arise. In these respects, the proposal would not be well sited.
14. The appearance of the proposed mast with the equipment positioned at the top of a monopole would result in a dominant appearance. It would be a visually intrusive feature, with the relatively open nature of its setting. This would not be satisfactorily addressed by specifying the colour of the proposed mast, or indeed the equipment cabinets, because they would appear as an incongruous addition to the streetscene.
 15. The existing telecommunications installation is sited in a considerably more restrained position on the open land because it is further away from the crossroads and set amidst vegetation. It does not justify a replacement taller mast and equipment cabinets in a considerably more prominent location, notwithstanding that the distances to the nearest residential properties would be similar. Even if the proposal was considered to be a sequentially preferable upgrade to the existing site, this is not unqualified because the GPDO requires a consideration of siting and appearance matters. For the reasons that I have set out, this counts against the proposal.
 16. The appellant has pointed to a lack of alternative sitings because of the area that the proposed mast would serve. The information that I have in this regard is though of a limited nature, especially as to whether alternative sitings would be as prominent. There is also limited explanation on why the existing monopole could not be upgraded, or why a replacement could not more greatly reflect the less intrusive current siting. The National Planning Policy Framework (Framework) states that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. In this case, such evidence is lacking as regards alternative sitings. I am not persuaded that relying on the current siting for the existing telecommunications installation is sufficient as regards the proposal, with its different location within the open land.
 17. The appellant has also referred to a lack of a response at the pre-application stage, where there may have been the opportunity to influence the proposal. Nevertheless, the appeal is to be decided on the planning merits and so what occurred at the pre-application stage does not alter my view.
 18. With regard to the appeal decision¹ for the telecommunications equipment elsewhere that I have been referred to, whilst it was also found in a residential setting, it was not located close to a crossroads and in such a conspicuous location. Accordingly, the site circumstances are sufficiently different so as not to change my conclusion.
 19. With regard to need, the proposal would enable 5G coverage from the installation to facilitate improved connectivity. The Framework supports high quality communications and states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, it goes on to state that decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). With the recent increase in homeworking, it is fair to say that improved connectivity has taken on additional importance.

¹ Appeal ref: APP/N4205/W/20/3258648

20. The appellant has also stated that the proposal would be compatible with emergency services usage and has referred to the Letter to Chief Planning Officers: Planning for Growth' dated 31 March 2011 and the Future Telecoms Infrastructure Review (2018), both of which concern the backing of Government for improved digital connectivity. These matters attract support for the proposal.
21. However, the harmful effects caused by the siting and appearance of the proposal would be significant. It would be a dominant and visually intrusive feature in the streetscene. The benefits of the proposal would not outweigh this harm.
22. Taking account of the above, I conclude that the effect of the siting and appearance of the proposal on the character and appearance of the area would be unacceptable. This would not be outweighed by the need for the proposal.
23. The Council has referred to the policies of the development plan in its decision, as well as referring to the more recently published London Plan (2021) in its appeal statement. There is no statutory obligation to decide a prior approval appeal on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. Nevertheless, I have taken into account these policies and given that I have concluded that the proposal would be unacceptable as regards the character and appearance of the area, it would be in conflict. Similarly, I find that the proposal would not comply with the Framework on these counts where it concerns achieving well designed places and sympathetically designed development.

Other Matters

24. Concerns have been raised about potential effects on health, in particular as the proposal would facilitate 5G coverage. 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 Framework advises that health safeguards are not something which a decision-maker should determine. Thus, it is not for my further consideration.

Conclusion

25. The proposal fails against the prior approval matters of siting and appearance, as are set out by paragraph A.3. As a result, it would not satisfy the requirements of Class A of Schedule 2, Part 16 of the GPDO and, therefore, is not development permitted by it. For these reasons, the appeal should be dismissed.

Darren Hendley

INSPECTOR