



Appeal Decision

Site Visit made on 22 June 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2021

Appeal Ref: APP/T5720/W/20/3261595

Church Road, Wimbledon, London, SW19 5JE

- 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.
 - The appeal is made by MBNL against the decision of the Council of the London Borough of Merton.
 - The application Ref 20/P2212, dated 6 July 2020, was refused by notice dated 21 September 2020.
 - The development proposed is the erection of a 17 metre high telecom monopole with wraparound cabinet at base.
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Decision

1. The appeal is allowed, and prior 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 erection of a 17 metre high telecom monopole with wraparound cabinet at base at Church Road, Wimbledon, London, SW19 5JE, in accordance with the terms of the application Ref 20/P2212, dated 6 July 2020, and the plans and documents submitted with it, including drawings 002A, 003A, 005A, 006A, 007A, 215A and 265A, all with the master drawing number "1108746_MTN035_26832_SW0060_M001".

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Article 3(1) and Schedule 2, Part 16, Class A, Part A.3 require the local planning authority to assess the proposed development 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. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Although neither of the main parties has provided written confirmation that a revised description of development was agreed, both parties have used this wording in their submissions. Accordingly, I have used it in the heading and my formal decision above, although I have removed the narrative elements.

Planning Policy

4. 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 therefore had regard to the

policies of the development plan, any related guidance 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.

5. The appellant has suggested that the cabinets associated with the proposed mast are permitted development and should not be considered in this appeal. I have no power under the relevant prior approval provisions to make this determination.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed mast upon the character and appearance of the area.

Reasons

7. The appeal site lies adjacent to an existing mast and its associated cabinets, elements of which, including the existing mast, are to be removed pursuant to this proposal. Another telecoms mast with its cabinets lies further along Church Road. There are numerous street trees of various sizes and heights, streetlights and signage around the site, as well as various tall structures and buildings associated with the adjacent tennis club. As such, I do not consider that the siting and appearance of the proposed mast would harm the character and appearance of the area.
8. Turning to the effect of the cabinet on the existing street tree, I note from my site visit that there are existing cabinets, both at this site and elsewhere on Church Road, close to existing trees. I also note that the appellant considers that the cabinet can be installed without harm to the tree, suggests a way in which this can be done, and the Council has not provided any detailed evidence to the contrary, beyond their concern over the separation distance. In addition, it was clear from my site visit that trees in the area are actively managed, and the obvious effects of this do not harm the overall established character or appearance of the street. I therefore find that the siting and appearance of the proposal itself would not result in harm to the character or appearance of the area, and that any subsequent effects would also not cause harm to the character or appearance of the area.
9. In reaching this conclusion, I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. This type of infrastructure is an increasingly common and widespread element of street furniture, and as such, is no longer as unusual or jarringly different as it once was.
10. The Council has cited a number of development plan policies in their decision notice. Insofar as they relate to the siting and appearance of the proposal, I consider that the proposal accords with Policies DM D1, D2 and D6 of the Merton Sites and Policies Plan and Policies Maps, 9 July 2014, which seek, amongst other things, to ensure that development of this type protects the character and amenity of an area.

11. In light of the location of the proposal and the existing infrastructure already installed, I also consider that the proposal would have a neutral effect on the setting of the Conservation Area and would therefore preserve its character.

Other Matters

12. Concerns have been raised about potential effects on 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 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.

Conditions

13. Any planning permission granted for the appeal proposal under Article 3(1) and Schedule 2, Part 16, Class A 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 not 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.
14. The appellant has suggested a condition requiring that cabinet foundations be constructed in accordance with "British Standard (BS) 5837 (2012) – Trees in Relation to Design, Demolition and Construction". The GPDO does not provide any specific authority for me to impose additional conditions beyond the deemed conditions for development by electronic communications code operators, so I am unable to impose such a condition. However, given the appellants awareness of that standard, and of the concerns of the Council, one could reasonably expect that standard to be complied with in any event.

Conclusion

15. The proposal is therefore acceptable on the basis of its siting and appearance, taking into account any representations received, and for the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

S Dean

INSPECTOR