



Appeal Decision

Site Visit made on 12 July 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2021

Appeal Ref: APP/H1515/W/20/3265600

Masefield Court, Warley, Brentwood, Essex, CM14 5EF

- 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 Mobile Broadband Network Limited against the decision of Brentwood Borough Council.
 - The application Ref 20/00531/PNTEL, dated 24 April 2020, was refused by notice dated 9 July 2020.
 - The development proposed is installation of 3no rooftop tripods accommodating 12no antenna apertures, 3no support poles accommodating 4no transmission dishes, plus the installation of 9no equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is allowed, and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, for installation of 3no rooftop tripods accommodating 12no antenna apertures, 3no support poles accommodating 4no transmission dishes, plus the installation of 9no equipment cabinets and ancillary development thereto at Masefield Court, Warley, Brentwood, Essex, CM14 5EF in accordance with application Ref 20/00531/PNTEL dated 24 April 2020 and the associated requirements of the Order.

Preliminary Matters

2. The Council decided not to grant prior approval for the siting and appearance of the proposed development, which would otherwise be permitted under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order). The principle of the development is established, and the scope of the appeal is limited to the effects of its siting and appearance.
3. The Order does not require that regard be had to the development plan in determining applications for telecommunications development. However, the policies of the Brentwood Local Plan 2005 (the LP) are relevant insofar as they relate to the siting and appearance of the proposed development.
4. Only three of the four elevations of the building were shown on plans submitted with the application. A fourth elevation drawing was submitted with the appeal, but this did not correctly show the full elevation of the building. In addition, a further amended elevation plan was provided showing two pole-mounted dishes rather than one outside a window to one of the penthouse flats, with the

second, smaller, dish mounted above the single, larger, dish shown on the originally submitted plan. However, the Order requires only that an application be accompanied by a written description of the proposed development and a plan indicating its proposed location. Sufficient information has been provided to satisfy this requirement and to allow the appeal to be determined.

5. The application form states that the site address is in Brentford, rather than Brentwood. I have amended the site address in accordance with that given on the appeal form.
6. The Government released a revised National Planning Policy Framework in July 2021. The main parties were invited to comment on the revised document.

Main Issues

7. The main issues are the effect the effect of the siting and appearance of the proposal on the character and appearance of the area and living conditions of the residents of the penthouse flats with particular regard to outlook, and whether any harm arising would be outweighed by the need to site the installation in the location proposed.

Reasons

8. Masefield Court is the tallest building in the area, and prominent in its surroundings. The proposed equipment would be installed at roof level. It would be a substantial addition visible in the surrounding area due to the size and amount of equipment proposed. There are no features of similar size on the roof of Masefield Court, and therefore the installation would be out of keeping with the character of the building and the immediate surrounding area, which is predominantly residential in character. The appeal proposal therefore conflicts with Policy IR2 of the LP, which requires that telecommunications development not result in an unacceptable detrimental impact to the appearance of the building upon which the equipment is to be sited.
9. The main parties have addressed the effect of the development on the outlook from the penthouse flats, which have windows at the same level as the proposed installation. For the sake of clarity, this is not a matter of impact on the views from these flats, which might be judged in terms of how pleasant and attractive the outlook is. Planning case law is clear that this is a matter that can be ascribed limited weight in a planning decision. Rather, a determination on the effect on outlook considers whether a development would result in occupiers of the affected properties being unreasonably hemmed in.
10. The equipment would principally be installed in locations on the roof in which they would be peripheral features when seen from the penthouse flats. Two dishes would be mounted on a pole immediately outside the windows to a flat, at a height level with its roof. Due to their proximity to these windows, they would impact on the outlook to the occupiers of that flat. The appeal proposal also therefore conflicts with Policy CP1 of the LP, which requires that proposals not have an unacceptable detrimental impact on the general amenities of nearby occupiers.
11. The identified harm must be balanced against the benefits of the development. The installation is proposed to replace a decommissioned site, the loss of which has resulted in a significant gap in the coverage provided by the EE and Three networks. Considering the ongoing effects of the COVID-19 pandemic, the

demand for mobile network coverage has increased. EE also provides the emergency services network, and this installation would assist with providing that coverage locally. The development would assist with the rollout of 5G coverage in the area and would provide a location for two operators limiting the overall number of sites required. The benefits arising from siting the installation in this location carry considerable cumulative weight.

12. The harm to the character and appearance of the area would be limited by the height of the installation above ground level. While the size of the installation would be substantial, it would principally be visible in longer views of the building, within which context the harm would be limited as a single element in the wider landscape.
13. The harm to the outlook from the penthouse flats would largely be peripheral. The dishes sited outside of one flat would be at a height that would limit its visual impact, and there are several windows to this elevation of the flat. The harm arising to resident outlook would also therefore be limited.
14. Given the need for mobile coverage and emergency service network coverage in this area which would be addressed by the siting of the installation in this location, and the 5G rollout which is supported by the Government, the benefits of the proposed development in this location would, in this instance, outweigh the harm that would arise from it.

Other Matters

15. The appellant has detailed the alternative locations considered for this installation and set out why Masefield Court was selected as the sequentially preferable site. The Council accepted that there was no sequentially preferable location for the installation. I see no reason to disagree with this conclusion.

Conditions

16. Schedule 2, Part 16, Class A of the Order imposes conditions on relevant telecommunications development as standard. These conditions state that the development must be carried out in accordance with the details submitted with the application except to the extent that the local planning authority otherwise agree in writing, that the development must begin not later than the expiration of 5 years beginning with the date on which the approval was given, and that it is removed from the building as soon as reasonably practicable after it is no longer required for electronic communications purposes with the building restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

Conclusion

17. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR