



Appeal Decision

Site visit made on 22 September 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal Ref: APP/D1590/W/20/3264029

Junction of Rayleigh Road and Whitehouse Road, Eastwood, SS9 5SB

- 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 for and on behalf of H3G UK Limited against the decision of Southend-on-Sea Borough Council.
 - The application Ref 20/01424/TEL, dated 21 August 2020, was refused by notice dated 13 October 2020.
 - The development proposed is the installation of a new 20 metre high monopole supporting 6 no. antennas with a wrap around equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets, and ancillary development thereto.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Because this is an application for prior approval, the provisions of the 2015 Order 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. This appeal will be determined on the same basis.
3. Therefore the main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

4. Part 16 of the Order establishes that the proposal is permitted development. The Planning Practice Guidance confirms that the principle of development has therefore been established and that prior approval is a "light-touch" process. There is also no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, the policies referred to in the Core Strategy and the Development Management Document are material considerations.

Character and appearance

5. The proposed monopole would be just over 7m away from an existing 10m high monopole. This equipment currently provides coverage for 2G, 3G and 4G services. The proposal would enable the roll out of 5G technology for this

- operator's network and would replace the existing services so the existing column could be removed.
6. The proposed monopole would be positioned adjacent to the back edge of the footway at the busy junction of Rayleigh Road and Whitehouse Road. The immediate surroundings are generally residential in character although there is a short local shopping parade and service road to the west. The installation would be within a roughly triangular area of open space which is grassed with low level planting and trees including a Holocaust Memorial oak tree. There is also seating and what is referred to as the Eastwood village sign.
 7. In many ways this is a typical suburban street scene. However this modest but well-tended pocket of greenery has a civic quality to it and appears to be at the heart of Eastwood. So not only is it attractive in its own right but this area also has a wider value as a feature of importance to the local community.
 8. From across the mini-roundabout and elsewhere, the proposed monopole would be clearly visible without any intervening screening and so would have a dramatic and seriously detrimental visual impact. This is because of its prominence and as its height of 20m would be well above the top of the three-storey Rayleigh Road units. Furthermore, it would be seen in conjunction with the open space and would spoil its existing attributes. A structure of this size could be regarded as a local landmark but whilst simple and unfussy the design is functional and lacking in elegance. Even over time it would not be readily assimilated into the locality.
 9. There is existing street furniture around the junction including telegraph poles, streetlamps and signage as well as lower level items. However, these are familiar and expected features in urban areas. In comparison the proposal would be approximately double the height of them and chunkier. This paraphernalia therefore does not justify the proposal which would significantly detract from this pleasant undeveloped green area. This effect would be exacerbated for as long as the existing monopole remained in situ.
 10. In this regard the current services could not be moved over as soon as the new column was erected. There is no set timescale for dispensing with the existing installation and there are several dependencies to achieve this although the intention is that the existing mast would only remain for a short period. The Order requires electronic communications apparatus to be removed as soon as practicable after it is no longer required. Therefore the existing mast would eventually be taken down but there would be an unspecified time when both poles would be in place. This would add to the adverse visual impact identified.
 11. The height of the monopole is driven by the operational requirements for 5G including ensuring an adequate line of sight. Furthermore, it is required to be taller and wider than the existing mast to support 5G antennas and cables. Because 5G operates at higher frequencies it is also must be further above ground to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). This explains why the proposal has been put forward in this guise. But it does not change its impact which, in this context, would be ill-positioned and unsightly.
 12. Therefore the siting and appearance of the proposed installation would significantly harm the character and appearance of the area. It would be

contrary to the National Planning Policy Framework objective of achieving well-designed places as well as the aim for design quality in the development plan.

Need for the installation

13. The Framework also includes a chapter on supporting high quality communications. It indicates that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The expansion of electronic communications networks should generally be supported. However, equipment on new sites should be sympathetically designed and camouflaged where appropriate.
14. There is a plethora of evidence in addition to the Framework which also supports the delivery of 5G technology and which underlines the importance of it to many aspects of modern life. The Government considers that the case for 5G is compelling with the potential to improve the way that people live, work and travel. The overall benefits to the economy would be considerable and paragraph 81 of the Framework establishes that significant weight should be placed on the need to support economic growth.
15. The proposal would also be beneficial to the immediate area by securing continuing and improved connectivity for local businesses and industry, commuters on Rayleigh Road, airport users and the nearby education establishment. An effective network has been shown to be especially important during the pandemic to, amongst other things, support home working and the shift in demand to residential areas. The proposal would also align with the Southend-on-Sea digital strategy as well as contributing towards some of the Strategic Objectives of the Core Strategy. The above factors therefore weigh heavily in favour of a monopole that would facilitate both continuous coverage and the delivery of 5G across a wide range of sectors.
16. Network coverage needs to be complete with no breaks in the chain. Hence the location of the mast is geographically constrained by technical requirements including the need to locate it close to the population that use the service. The existing monopole is structurally unable to support the latest technologies. According to the appellant any new column can only be positioned about 100m from the existing site because of the need to replicate existing coverage and capacity and taking account of topography. Three nearby sites were considered and discounted for a combination of amenity and practical reasons. These findings are not disputed by the Council.
17. Furthermore, locating the antennas on the shopping parade buildings, either on the main roof or on the rear flat roof, would not be feasible and the Beaver Tower at Mansell Close is too far away from the target area to ensure adequate coverage. For similar reasons the Progress Road industrial estate and a site along the A127 have been rejected. Disguising the antennas in some way or co-locating them with street lighting columns are also not practical options.
18. In accordance with paragraph 117 of the Framework, the appellant has supported the application with evidence to justify the proposed development. This includes exploring the possibility of erecting antennas on an existing building, mast or other structure. None of the suggestions made by the Council or others would be suitable.

19. However, the contention that all other avenues have been pursued is weakened by the absence of cell maps to identify the search area along Rayleigh Road. Therefore, it is not clear where this extends to. Consequently it is not apparent whether locating the proposal in such close proximity to the existing mast is a matter of absolute necessity or a matter of convenience given that coverage from existing technologies would then be assured.

Other Matters

20. Other issues have been raised by local residents including the direct effect on their living conditions and highway safety. However, the proposal would be well away from the nearest houses and there is no good reason to assume that a mast would be such a distraction to drivers as to be hazardous.
21. 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 ICNIRP. The Framework advises that health safeguards are not something which a decision-maker should determine. No authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy is justified.

Final balance

22. Added together the social and economic benefits associated with the proposal would be significant. Whilst it would only affect a small area of Southend the monopole would be part of a much larger whole to which the Government attaches considerable importance. That said, whatever the outcome of the appeal, the existing mast could continue to provide existing services albeit 5G would not be enabled. There is no indication that calls would be dropped or that coverage would not be complete in the short-term. Nevertheless the clear intention is to deliver 5G to provide faster, more reliable and responsive connections and this would be thwarted if the appeal fails.
23. On the other hand, a combination of the height, position and design of the proposal would cause significant harm to the character and appearance of the surrounding area. Although many aspects of the monopole are driven by technological constraints, the Framework confirms that good design is a key aspect of sustainable development. In all the circumstances, given that the impact of the siting and appearance of the proposal would be so strident and as it would adversely affect a locally important green space, the need for the monopole does not outweigh the visual harm that would ensue.

Conclusion

24. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR