



Appeal Decision

Site visit made on 23 February 2022

by Cullum J A Parker BA(Hons) PgCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/N5090/W/3278281

Colney Hatch Streetworks, London, N10 1HD

- 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 Mr Christopher Weir on behalf of Hutchinson 3G (UK) Limited 'Three' against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1446/PNT, dated 16 March 2021, was refused by notice dated 5 May 2021.
 - The development proposed is described as '*Proposed 15m phase 8 Monopole c/w wraparound cabinet at base and associated ancillary works*'.
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Decision

1. The appeal is allowed and 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 siting and appearance of Proposed 15m phase 8 Monopole c/w wraparound cabinet at base and associated ancillary works at land at Colney Hatch streetworks, London, N10 1HD in accordance with the terms of the application Ref 21/1446/PNT dated 16 March 2021.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. My determination of this appeal has been made on the same basis.

Planning Policy

3. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policy CS9 of the *LB Barnet Core Strategy DPD 2012* and Policies DM17, DM18 of the *Development Management Policies DPD 2012* are material considerations as they relate to issues of siting and appearance. Similarly, the National Planning Policy Framework is also a material consideration and this includes section on supporting high quality communications.

Main Issues

5. The main issues are the effect of siting and appearance of the proposed installation on;
 - (i) The character and appearance of the surrounding area; and on,
 - (ii) Highway safety.

Reasons

6. The area surrounding the appeal site is characterised by mainly two storey properties including both residential and commercial; including the public library. The surrounding area is a typical urban area with common street furniture paraphernalia including street lighting, road signs, and, zebra crossing and associated lighting. The appeal site is located on a paved island that stretches the length of a parade of shops. On its western edge is the main road, with a 'layby style' parking area provided on its eastern side.
7. The proposal would be taller than the majority of structures and buildings in the area as can be seen on drawing NT14662_PLANNING_REV_B. However, telecommunication structures are common features in built up areas and the proposal, whilst being visible, would not necessarily be highly noticeable as it would blend in with similar structures such as street lighting.
8. Moreover, the proposal would mainly have a vertical emphasis, which would be in keeping with similar structures in the near locality. The proposal would be visible. However, due to its siting, height and bulk, it would not appear as an intrusive feature that adversely compromises the street scene and surrounding buildings within this context.
9. The proposal would not have a harmful effect on the character and appearance of the surrounding area. The proposal would be in accordance with Policy CS9 of the *LB Barnet Core Strategy DPD 2012*, Policies DM17, DM18 of the *Development Management Policies DPD 2012* and the National Planning Policy Framework (the Framework) which seeks proposals for telecommunications to have no significant adverse effect on the external appearance of the space in which they are located.

Highway safety

10. The existing footpath is about 5 metres wide, with a clearance of around 4 metres to remain between the leading edge of the equipment and the roadside kerb¹. As is shown on Drawing BNT14662_PLANNING_REV_B there would remain a large area of pavement for pedestrians to utilise. Whilst this would narrow when the proposed apparatus is being serviced or maintained, the Appellant confirms that this would likely occur no more than 1-2 times per year. I note the number of objections received and that the pavement near the appeal site is used by a number of users throughout the day. However, there would remain a large area of pavement enabling pedestrians to safely access the short parade of shops, the library, and nearby residential dwellings.
11. The proposal would not have a harmful effect on highway safety of the surrounding area. The proposal would be in accordance with Policy CS9 of the *LB Barnet Core Strategy DPD 2012*, Policies DM17, DM18 of the *Development*

¹ See paragraph 7.5 of the Appellant's Statement of Case

Management Policies DPD 2012 and the National Planning Policy Framework (the Framework) which seeks ensure that the safety of all road users is taken into account.

12. I am also satisfied that alternative sites were explored and that an appropriate sequential approach was taken by the appellant. Therefore the proposal would not be contrary to the Framework in this respect.

Other Matters

13. I have had regard to concerns raised from local residents 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.
14. Concerns have also been raised by local residents and the local Member of Parliament (MP) regarding matters including the previous planning refusal, concerns over highway safety, the effect on property values, and the risk of terrorist attacks. I have given careful consideration to these matters, some of which the Council have not raised any objections to, but they do not lead me to a different conclusion on the main issue nor do they amount to harm in which would justify withholding consent.
15. Representations have also been made to the effect that the rights of neighbouring occupiers, under the Human Rights Act 1998, Articles 1, 2 and 8, would be violated if the appeal were allowed. I do not consider these arguments to be well-founded, because I have found that the proposed development would not cause unacceptable harm in terms of siting and appearance – including character of the locality and high safety. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Articles 1, 2 and 8 of the Human Rights Act 1998.

Conditions

16. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

C Parker

INSPECTOR