



Appeal Decision

Site visit made on 4 May 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022

Appeal Ref: APP/E2205/W/21/3282353

Land adjacent to Newtown Green, Newtown Green, Ashford TN24 0PE

- 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 Mobile Broadband Network Limited (MBNL) and Hutchison 3G UK Ltd (H3G) against the decision of Ashford Borough Council.
 - The application Ref 21/00173/AS, dated 28 January 2021, was refused by notice dated 8 March 2021.
 - The development proposed is the installation of a new 20m monopole supporting 6 no. antennas with a wrap-around equipment cabinet at the base of the column, installation of 3 no. new equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'Order') require the local planning authority to assess the proposed development based solely on its siting and appearance, taking into account any representations received¹. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the Order. The provisions of the Order do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan and the National Planning Policy Framework (the 'Framework') in so far as they are material considerations relevant to matters of siting and appearance.
4. The address of the appeal site is variously referred to as '*land adjacent to 60-90 Newtown Green*' on the application form, and '*south east of 20 Newtown Green*' on the Council's decision notice. When queried, the appellant proposed using the address given on the appeal form to avoid any inaccuracy. I have accordingly used the proposed form of address in the banner heading to this appeal decision. The exact position of the mast and cabinets is as shown on the submitted plans.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4)

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and if harm would be caused whether there are any preferable sites or designs available.

Reasons

6. Newtown Green is an estate of mainly residential dwellings grouped around a grassed open space, with a small parade of shops providing local goods and services. With the exception of an unusual 3 storey arch fronted building in the middle of the parade, all other buildings are 2 storey and domestic in appearance.
7. While the equipment cabinets would be little different to other utility cabinets commonly found in urban areas, the 20m monopole would be noticeably taller than any other structure in the vicinity, including the 3 storey building in the parade. The height and thickness of the pole would also distinguish it from other street furniture, such as lighting columns, in the area.
8. It would be prominent in views not only in the immediate vicinity of the shopping parade but also from Newtown Green and the dwellings that surround it. There are trees around the periphery of the Green but the height of the mast is such that the top of it and the antenna array would be visible above the canopies of the trees, even when they were in full leaf.
9. In comparison to lattice masts the monopole design is less bulky and therefore more appropriate in minimising its visual prominence in so far as that is possible given its height. However, the antenna array is shown to be unshrouded, which draws attention to the antennas and their supporting structures. The appellant has stated that a shroud would not be technically possible because it would interfere with transmissions. However, other installations, including some of those in appeal decisions referenced by the appellant, include shrouds. There is no explanation as to what, if any, difference there is between these installations that would prevent shrouding of this installation.
10. Notwithstanding the use of a monopole design, the proposed installation would be prominent from a wide variety of views around Newtown Green. Given its height, which would be considerably taller than any structure in the vicinity, and the unshrouded design of the antenna array, it would appear incongruous and cause a degree of harm to the character and appearance of the area. It would therefore conflict with Policies SP6 and ENV3a of the Ashford Local Plan 2030, which seek to promote high quality design that respects its location.
11. Given its impact on the character and appearance of the area, it is necessary to consider whether there are any preferable sites the mast could be located within the technical constraints of the cellular network.
12. In this regard, the appellant has not provided a map or details showing the location of existing cells or antennas within the network, nor the extent or location of any areas of poor coverage or capacity limitations that the proposed installation is intended to address. Without such information, it is not possible to assess in any meaningful way the scope for alternative sites.

13. There is a brief mention of 2 existing installations but their location is not detailed². The appellant has also listed alternative new sites that have been considered but rejected for various reasons. I acknowledge that the residential streets, courts and places around Newtown Green are unlikely to provide any better location than the appeal site, because it would be sited as close if not closer to existing residential properties, and there are difficulties in identifying a large enough site without unduly narrowing the width of the pavement. Likewise, I accept that the design of the roof on the Ashford Designer Outlet Village is not suitable for mounting antennas, and that sites awaiting or under redevelopment are unlikely to be available within the timescales needed for the installation.
14. However, I do consider that a ground based site at the Ashford Designer Outlet Village would be preferable to the appeal site, even if that were to require the loss of a small number of parking spaces. There is also the Centre's lattice advertisement tower at the entrance to the carpark that could potentially be used to mount antennas. Neither of these possibilities appear to have been explored in any detail.
15. Having regard to the absence of information and the potential sites noted above, I am unable to determine whether there are alternative, preferable sites to that proposed in the appeal.

Other Matters

16. Concern has been raised in representations about the potential effect of microwave radiation on human health. Paragraph 118 of the Framework advises that local planning authorities, and by implication other decision makers, should not seek to set health safeguards different from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by ICNIRP. For this reason, the potential effect on health is not a determining issue in this case.
17. Concerns have also been raised about potential noise from the installation and obstruction of the pavement. I have no evidence that this type of installation emits any audible sound; and given the width of the pavement at this location I am satisfied that the proposed installation would not restrict its use or function.

Conclusion

18. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and supports the expansion of electronic communications networks, including the introduction of 5G. It goes on to say that applications for electronic communication development (including applications for prior approval) should be supported by the necessary evidence to justify the proposed development.
19. I have concluded that the proposed installation would cause harm to the character and appearance of the area because of its location, height and unshrouded antenna array. It is therefore necessary to determine whether

² Appellant's appeal statement, Section 6.

there are any other locations the installation could be sited which would avoid or lessen such visual harm.

20. In this case, because of the lack of information on the scope for siting the mast, and the potential alternative sites identified above, I am unable to conclude that there are no other preferable sites the installation could be located. The proposed installation has therefore not been adequately justified. In the absence of such justification, the harm to the character and appearance of the area outweighs the benefits that would accrue from improving the cellular network.

21. I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR