



Appeal Decision

Site visit made on 10 May 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/A5270/W/21/3280940

Area of Grass Verge Western Avenue, London UB6 8SY

- 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 Tom Gallivan, Three against the decision of the Council of the London Borough of Ealing.
 - The application Ref 212479PNT, dated 17 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is 15 metre high Phase 8 monopole complete with 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 a 15 metre high Phase 8 monopole complete with wraparound cabinet at base and associated ancillary works at Area of Grass Verge Western Avenue, London UB6 8SY in accordance with the terms of the application Ref 212479PNT dated 17 March 2021 and the plans and details submitted with it.

Preliminary Matters

2. The appeal relates to an application that was made pursuant to the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Since the Council determined the application, amendments were made to Schedule 2, Part 16, Class A of the GPDO by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022. The main parties were provided with an opportunity to comment on these amendments and their relevance to my determination of the appeal, although neither has done so.
3. For development to be permitted by Schedule 2, Part 16, Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions include a requirement in certain cases for developers to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development. In determining such an application, the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. As such, I have had regard to the policies of the development plan referred to by

the main parties only in so far as they are a material consideration relevant to matters of siting and appearance.

Background and Main Issues

4. Notwithstanding its reason for refusal which states that the proposal falls outside of the provision of Schedule 2, Part 16, Class A of the GPDO, the Council has not argued that the proposal fails to comply with any of the limitations at paragraph A.1. Based on the evidence before me, I have no firm reason to take a different view. However, the reason for refusal continues that prior approval is required and refused, and in this regard the Council's Officer Report raises concerns that the siting and appearance of the development would be unacceptable. I have considered the appeal on this basis.
5. The main issues are therefore:
 - i) the effect of the siting and appearance of the development on the character and appearance of the area; and
 - ii) the effect of the siting and appearance of the development on the living conditions of the occupiers of neighbouring dwellings on Runnymede Gardens having regard to outlook.

Reasons

Character and Appearance

6. The appeal relates to part of a grass verge that separates Runnymede Gardens and the A40 Western Avenue. Near to the site, the A40 carries six-lanes of traffic and is for the most part lined to either side by verges that include streetlights, road signage and some trees, with occasional inset bus stops. Crossing the A40 to the east of the site is a railway bridge, and a pedestrian footbridge that connects Runnymede Gardens and Leaver Gardens. These residential streets run broadly parallel to the A40, and are generally characterised by two-storey semi-detached dwellings which are positioned on relatively consistent building lines facing towards the A40.
7. The development is proposed to facilitate 5G telecommunications network coverage in the area, and includes a 15m high monopole, wraparound cabinet and 3 further equipment cabinets on the site.
8. The monopole would be of greater height than the nearest trees, street lights and other street furniture in the immediate vicinity of the site, and would be significantly taller than the neighbouring dwellings on Runnymede Gardens. It would also be of larger width and bulk than the streetlights, particularly at the upper section where there would be attached antennae and equipment. However, I do not consider that the upper section of the monopole would appear unbalanced or of disproportionate bulk to its height. Nearby streetlights and trees also project above the roofs of the dwellings to either side of the A40, and while I appreciate this is not to the same height as the appeal development, the relationship would not therefore be exceptional. In addition, the visual impact of the contrast in height between the monopole and the closest dwellings would further be softened by the separation provided by their frontages and the highway and footway of Runnymede Gardens.
9. Moreover, telecommunication structures are not unusual in built up areas, and despite being adjacent to a residential area, the development would be seen

against the background of the A40 running alongside the site. From many viewpoints, it would also be seen together with the nearby foot and railway bridges. While these are not of comparable height to the monopole, they are fairly substantial structures crossing the A40, and in my judgement their overall proportions would help to balance the impression of the development's scale so that I find it would not appear overly dominant within its context.

10. I appreciate that the monopole would be visible for some distance on the approaches to the site along the A40, as well as from nearby residential streets. However, I find given the above factors that it would sit comfortably against its surroundings including dwellings on Runnymede Gardens, and I do not consider that it would be unduly prominent or a visually intrusive or incongruous feature in the street scenes of either Runnymede Gardens or the A40.
11. The proposed cabinets and ancillary works would be of relatively modest height and overall scale. The Council has not raised specific concerns in relation to these aspects of the proposal, and given other roadside features in the vicinity of the site including other cabinets and road signs, and the bus shelter which is taller, I am satisfied that they would not be conspicuous or out of keeping.
12. For these reasons, I conclude on this main issue that the siting and appearance of the development would not cause unacceptable harm to the character or appearance of the area. In so far as they are a material consideration, it would therefore accord with the requirements within Policies 7B and 7.4 of the Ealing Development Management Development Plan Document 2013 (DMDPD) and Policies D3 and D4 of the London Plan 2021 (LP) broadly seeking development that responds to local distinctiveness and that complements its surroundings.

Living Conditions

13. The development would be visible from windows to the front of the neighbouring dwellings on Runnymede Gardens to the north of the site. However, the cabinets would not be of significant height, and while the monopole would be much taller than these properties, its lower section would be relatively slender. The antennae would add bulk to the upper part of the structure, but these would be well above the level of the neighbouring windows, and consequently would not be readily apparent in typical views outwards. These factors would moderate the visual impact of the development. Moreover, while I note the Council's suggestion that separation between the development and the front boundaries of the neighbouring dwellings would be less than 10m, additional separation to their windows would be provided by the frontages, and in my view would be sufficient to ensure that neighbouring occupiers would not experience any significant loss of outlook.
14. I therefore conclude on this main issue that the siting and appearance of the development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring dwellings on Runnymede Gardens having regard to outlook. In so far as they are a material consideration, it would comply with Policies 7A and 7B of the DMDPD and Policy D3 of the LP which seek, amongst other matters, to safeguard the amenity of surrounding uses and users and to deliver appropriate outlook.

Other Matters

15. The Council asserts that other locations along the A40 would have less impact on residential areas and would be preferable to the appeal site. However, no details of these locations have been provided, nor is there any substantive evidence before me to challenge the validity of the appellant's account of the sequential approach that informed the selection of the appeal site, or the details of the alternative options that were discounted. It is accordingly unclear that there are any realistic sites that could accommodate the development within the target area identified as able to support the required coverage. I do not therefore find there is compelling evidence to suggest that the siting and appearance of the development are such that the visual impact on the surrounding area has not been minimised in accordance with the requirements of the GPDO.

Conditions

16. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development permitted under Class A Part 16. These specify that the development must be carried out in accordance with the approved details, that it must begin within 5 years of the date of the approval, and that the development 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.

Conclusion

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

J Bowyer

INSPECTOR