



Appeal Decision

Site visit made on 2 August 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/T5150/W/21/3283778

Land on grassed area to west of Draycott Avenue, (opposite junction with Wellacre Road), Kenton, Harrow, HA3 0BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by MBNL (EE (UK) Ltd and H3G (UK) Ltd) against the decision of London Borough of Brent.
 - The application Ref 21/1445, dated 20 April 2021, was refused by notice dated 14 June 2021.
 - The development proposed is the installation of a 20 metre high monopole supporting 12 no. antenna apertures and 2 no. transmission dishes, the installation 7 no. equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is allowed and prior 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 20 metre high monopole supporting 12 no. antenna apertures and 2 no. transmission dishes, the installation 7 no. equipment cabinets and development ancillary thereto at Land on grassed area to west of Draycott Avenue, (opposite junction with Wellacre Road), Kenton, Harrow, HA3 0BU in accordance with the terms of the application Ref 21/1445 dated 20 April 2021 and the details submitted with it.

Preliminary Matters

2. In accordance with the provisions of Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. This requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. Accordingly, the principle of development is not a consideration. My determination of this appeal has been made on this basis.
3. The relevant provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to these policies and related supplementary guidance only insofar as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal 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

5. The appeal site is located within a publicly accessible landscaped area adjacent to a Sainsbury's store and its access road. The landscaped area is surrounded by mature trees and vegetation with a footpath running through. The landscaped area has roads on either side with Sainsbury's on one side and apparently residential properties to the other. The Northwick Circle Conservation Area (CA) is situated to the east of the appeal site.
6. The proposal is for the installation of a 20 metre high monopole supporting 12 no. antenna apertures and 2 no. transmission dishes, the installation of 7 no. equipment cabinets and ancillary development. Though the cabinets would be tucked away within the landscaped area and screened from wider views, due to the height and size of the mast the proposal would rise above nearby trees and buildings. Though, I note that the existing trees and vegetation would provide some degree of screening and would act as a backdrop against which the mast would be viewed from a number of areas. The monopole would also be of greater height than nearby lighting columns and other street furniture and paraphernalia nearby.
7. The proposed mast would be prominent in views and would be apparent above nearby buildings and trees appearing as an obtrusive feature which would be out of keeping with the character, appearance and scale of the surrounding area. Concern has also been expressed regarding the possible longer-range views of the proposal that would be possible, particularly from the nearby CA.
8. Northwick Circle Conservation Area (CA) is, according to The Northwick Circle Conservation Area Character Appraisal/Management Plan (the Appraisal), a planned residential estate planned on a geometric street layout which focused on the large open recreation space that is now the Circle. The Circle is considered to be the defining feature of the CA and remains a principal contributor to the character and appearance of the area. The Appraisal states that the estate as a whole constitutes an attractive suburban area characterised by various compositions of stylised medieval houses within large garden plots that maintain and define the separate nature of individual homes.
9. The proposed mast, due to its size, would be visible in views from some areas within the CA. Of particular note is the vista down Wellacre Road towards the appeal site within which the proposal would be visible. However, though the mast would be taller than other buildings or trees surrounding it, the proposal would be seen against the backdrop of mature trees and the Sainsbury's, and other, fairly substantial buildings thus limiting any harm in this respect.
10. The Appraisal states that the most significant views both into and out of the CA are from the Church into the Circle and the Masonic Lodge along Dovedale Avenue and from the Lodge back along to the Church. I consider that due to intervening buildings, trees and other screening the proposal would not cause

harm to this key view. The proposal would also preserve other key characteristics which are considered central to the significance of the CA.

11. Nevertheless, in my view the proposal would cause some harm to the setting of the CA insofar as views along, and in the immediate vicinity of Wellacre Road are concerned. However, for the reasons given above this harm would be limited and therefore would be less than substantial.
12. The National Planning Policy Framework (the Framework) advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.
13. The appellant states that the development is necessary to replace telecommunications equipment serving the area which, as a result of the operators having been served a Notice to Quit, is set to be removed. The Council do not dispute the appellant's statement that an alternative site is required. A replacement site is being sought in order to ensure that service provision within the area is not affected and would additionally improve upon the level of coverage and capacity which is currently provided.
14. Information on existing and predicted mobile telecommunications coverage in the vicinity of the appeal site has been provided by the appellant. The coverage plans indicate that on removal of the existing installation at Brent House coverage would be reduced significantly in terms of both 3G and 4G across two networks which share the equipment. The appellant also states that the proposal has been designed in such a way so as to allow for incorporating future technological upgrades and advancements.
15. I consider that the resultant restricted coverage and capacity in the area would be inadequate to meet the needs of local businesses and the community. It would also be contrary to the Framework's emphasis on extending and future-proofing digital connectivity in order to ensure that communities can benefit from economic growth and greater social inclusion.
16. Having considered all of the above, I concur with the view of the appellant that there is a need for a replacement facility within close proximity to the existing site and also hold that it is reasonable that any new site should provide similar or improved coverage to that which is currently in place.
17. I recognise that the proposed location, and the design of the development, were chosen on the basis of a number of factors with the aim of limiting any potential impacts of the scheme. The appeal site would be shared by two operators and, based on the evidence before me, I am satisfied that the proposed development is the minimum necessary to meet the requirements of the operators and to ensure effective coverage within this context.
18. I am mindful that there is no requirement for developers to suggest the best feasible siting; The Framework requires only that supporting evidence for a new mast or base station should include 'evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure'.
19. The evidence before me indicates that no other appropriate telecommunications base stations are present within the search area, other

than the existing equipment which is due to be removed. I have been presented with evidence which suggests that other options within the search area have been ruled out. Sites have been discounted for a number of reasons including physical or space constraints, the effectiveness of the equipment, height restrictions and sites which would have a more harmful impact on the character and appearance of the area.

20. For example, a site within the CA itself has been discounted due to the potential for any proposal to cause harm to heritage assets. The car park serving Sainsbury's has also been discounted as it is adjacent to the railway and there are a number of health and safety issues associated with the site. The appellant found that there is also insufficient spare land within the car park which is also open and overlooked by residential properties. Consent was granted in 2019¹ for an installation at Nash Way. However, there are underground services which have stopped the development from progressing and this option has also had to be ruled out.
21. Rooftop locations at the Sainsbury's store and at Evergreen Court were also discounted as the lower heights of the buildings would not provide the desired level of replacement coverage. Nearby sites with pitched roofs have also been considered and ruled out as they would not be suitable to accommodate the required equipment.
22. The Council consider that the search for other sites within the desired area has not been comprehensive. However, no detailed, specific substantive evidence has been provided to explain how or why they have reached this conclusion, to suggest that previously ruled out sites could be appropriate or to suggest alternative sites.
23. For the reasons set out above, I find the appellant's evidence in respect of their search and assessment of alternative sites to be robust. As such I am satisfied that there is a lack of reasonable alternative options to the proposal which would provide an appropriate standard of telecommunications connectivity within the area. I therefore consider that there is a strong need for the installation to be sited as proposed taking into account any suitable alternatives and I attribute this need significant weight.

Planning Balance

24. I have identified that the proposal would cause harm to the character and appearance of the area. However, due to the proposed location of the development, its wider context and the presence of intervening screening I have found this harm to be relatively localised. I have also concluded that the proposal would cause less than substantial harm to the significance of the setting of the CA.
25. I have also found that there is a clear need for the development in this location in order to sustain and enhance communications infrastructure within the area. The evidence before me indicates that there is a lack of reasonable alternative sites within the area which would provide the required coverage. I am also convinced that, should the proposal not go ahead and the existing equipment be removed, the quality of communications services within the area would be

¹ Application ref 19/1703

seriously deficient. I also recognise the benefits associated with improved communications infrastructure within the area.

26. I have given careful regard to all of the above considerations. Consequently, in my view, and with regard to the specific circumstances which are present in this case, the public benefits of the scheme would outweigh the harm which would be caused to the character and appearance of the area and would also clearly outweigh the less than substantial harm I have identified to the setting of the CA.

Conditions

27. Any planning permission granted under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and 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

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

L J O'Brien
INSPECTOR