



Appeal Decision

Site visit made on 29 November 2022

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

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/A5270/W/22/3296321

Windmill Lane, Southall, UB2 4UA, 514300, 180110

- 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 EE (UK) Ltd against the decision of London Borough of Ealing.
 - The application Ref 216569PNT, dated 12 November 2021, was refused by notice dated 23 December 2021.
 - The development proposed is Installation of a 20.0m monopole phase 5 on a new root foundation with 8 port wideband antennas; installation of one Mk5 cabinet, one Wiltshire cabinet and Huawei cabinet (56 Day Prior Notification Process).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the Council against EE (UK) Ltd. A counter claim was made by EE (UK) Ltd against the Council. These applications are the subject of separate Decisions.

Preliminary Matters

3. 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.
4. 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.
5. The appellant has submitted a number of photomontages as part of this appeal. I note that the parties agreed that the first and second sets of photographs were incorrect and the appellant submitted a final amended set on 16 September 2022. Such photomontages can be useful considerations when assessing schemes such as this. However, they are simply one element of a range of evidence which also includes the submitted plans, the information provided by the Council (for example regarding the height of the lighting

columns) to discredit the photomontages and is supplemented by my own observations on site. I have considered the photomontages in the light of the other evidence provided.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposal on highway safety and 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

Highway Safety

7. Windmill Lane is a busy arterial route with four lanes of traffic separated by a central verge. A pavement runs along the road and, in the vicinity of the appeal site, is bounded by a fairly large brick boundary wall. The proposed mast and cabinets would be sited at the edge of the footway along the brick boundary wall. At the time of my site visit I observed that the area was regularly trafficked, including by large vehicles and lorries.
8. The footway along this part of Windmill Lane is between approximately 3m and 3.2m wide and, for the majority of the road, there is no physical barrier between the edge of the busy carriageway and the footway. The installation of the proposed monopole and cabinets would reduce the width of the available footpath by around 1m. This reduction would increase by around a further 0.7m on occasions when the cabinet doors were open; though I note that this would occur rarely and would be for only a limited time.
9. In my view, the narrowing of the pedestrian footway at this location would reduce the amount of defensible space between the footpath and the road to a degree which would result in an uncomfortable experience for pedestrians.
10. Furthermore, the proposed development would be in close proximity to a bus flag type bus stop and would overlap with the yellow bus stop box markings along the highway itself. As such, there is the potential for pedestrians to congregate in the area when waiting for a bus, waiting to board a bus or when a group are disembarking for example. This would cause further congestion and would force passing pedestrians closer to, or into, the busy main road. Safety would be further compromised by the restriction to visibility which would be caused by stationary busses at the stop.
11. I note the appellant's view that the primary access to the bus stop is via a footpath link on the other side of the stop and thus those using the stop need not pass the appeal site. However, this footpath link would not eliminate all access to the bus stop on the route which passes the appeal site and would not control those congregating around the bus stop.
12. The appellant has provided a copy of the Pedestrian Comfort Guidance for London Guidance Document 2019 (PCG). I concur that according to this guidance, in areas which are considered to have low pedestrian flow levels, a minimum width of 2.9m (including an allowance for obstructions such as street furniture) is considered acceptable. However, the PCG, in order to assess levels of pedestrian flow for example, requires a number of calculations and on-site

assessments to be carried out. In this respect the evidence before me is limited and I cannot be certain that the site would indeed have a low pedestrian flow.

13. Furthermore, in applying the guidance the dual nature of the obstructions (i.e the bus flag plus the proposal) in close proximity to one another does not appear to have been accounted for. Moreover, the footway width would only just exceed the suggested minimum requirement. This document provides guidance and not firm rules and, in my view, the circumstances on site at this location are such that even if pedestrian flow is low and the suggested minimum widths within the guidance are met, the introduction of an obstruction and the reduction of the footway would be detrimental to highway safety.
14. For the reasons set out above, I consider that, due to the nature of the road and the proximity to the bus stop, the proposal would lead to a hostile pedestrian environment which would be likely to cause harm to highway safety.

Character and appearance

15. The appeal site is within a designated Green Corridor and has mature trees along the highway with some greenery along the central reservation. The area is also characterised by the wide, busy road, high brick boundary wall and surrounding street furniture and associated paraphernalia.
16. Due to its height and size, the proposed 20m high monopole would rise above nearby trees and buildings and would also be of significantly greater height than nearby lighting columns and other street furniture and paraphernalia. As such, the proposal would undoubtedly appear as a notable feature within the area. However, it does not necessarily follow that because a proposal such as this would be visible it would be harmful.
17. Windmill Lane allows long views down the designated Green Corridor and the mature trees contribute towards softening the infrastructure around the highway which would otherwise dominate the area, creating a sense of spaciousness and a somewhat green character and appearance. Nevertheless, in my view, the highway remains the dominant feature. The proposed mast would be situated in an urban area and seen in the context of the busy road and other surrounding street signage and lighting. The proposal would retain the surrounding greenery and trees and would not compromise the green corridor in this respect.
18. The proposed mast has also been designed in such a way so as to limit its girth and bulk and, consequently, it would have a relatively slim profile. Masts such as that proposed in this instance are becoming common features within urban environments such as this and, in my view, given the wider context of the site, the proposal would not appear as an exceptional or visually jarring feature.
19. The proposed ground level cabinets would be positioned at the rear of the pavement and would be lower than the existing brick boundary wall. Though I accept that these cabinets would introduce an element of visual clutter, I consider that they would not be unduly prominent or result in an overly cluttered appearance to the street scene.
20. In my view, due to the location of the site the proposed mast and associated structures would be perceived as part of the functional structures found in locations such as this. Consequently, I am not persuaded that the overall visual

impact of the proposal would be so injurious as to result in an unacceptable degree of harm to the overall character and appearance of the street scene or the area.

Other Matters

21. 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.
22. The appellant states that the development is necessary to improve coverage, capacity and connectivity within the area. The proposal would also facilitate the delivery of 5G technology within the area at a future date. The economic and social advantages of the scheme would undoubtedly be a benefit. I also note the importance of providing coverage for the Emergency Service Network and for those using the railway network.
23. I note that the location of the proposed site has been selected for a number of reasons and also recognise that the design of the proposed equipment is considered to be the least visually intrusive option whilst providing the level of coverage required. The Framework states 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'.
24. The appellant has provided some information with regards to other potential sites and I note that a number of other sites have been discounted for a variety of reasons. However, the evidence appears to relate largely to other sites for new masts. Reference to the use of existing buildings, masts or other structures is extremely limited and does not go into specific detail. In my view, the evidence before me is not sufficient to satisfy me that the appellant has carried out a suitably thorough consideration of the potential alternatives.

Planning Balance

25. I have identified that the proposal would cause harm to highway safety but that the proposal would not result in an unacceptable degree of harm to the overall character and appearance of the area. I have also found that there would be benefits associated with improved communications infrastructure within the area. However, I consider that the search for and assessment of alternative sites is not sufficiently robust and I cannot be certain that there are no other sites available where the harm would be less severe.
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 benefits of the scheme would not be sufficient to outweigh the harm which would be caused.

Conclusion

27. For the reasons given above I conclude that the appeal should fail.

L J O'Brien

INSPECTOR