



Appeal Decision

Site visit made on 25 April 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Appeal Ref: APP/U2235/W/22/3295912

Cumberland Avenue, Parkwood, Maidstone, Kent ME15 7RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 MBNL, EE Ltd and H3G (UK) Ltd against the decision of Maidstone Borough Council.
 - The application Ref 21/505460/TNOT56, dated 8 October 2021, was refused by notice dated 6 December 2021.
 - The development proposed is installation of a 20m monopole, 12 no. antenna, 6 no. equipment cabinets and associated ancillary development.
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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 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority, and therefore the Secretary of State, to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of the appeal has been made on the same basis.
3. The principle of the development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main parties do not dispute that the appeal scheme meets the requirements of Schedule 2, Class A, Part 16 of the GPDO such that it would constitute permitted development, subject to the condition that prior approval must be sought in relation to its siting and appearance.
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 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

6. The surrounding area comprises predominately housing of two storeys with pitched roofs, and a low level flat roofed community centre exists near the site to the south. The site lies at the highest point of Kent Avenue, where it opens up into an extensive area of grassed recreation ground to the south. The appeal site lies adjacent to the junction of Kent Avenue and Cumberland Avenue, where a series of open grass verges and the angled building lines give an open character and form a part of the transition from dense residential development into the grassland to the south.
7. As a result of its height and location, the proposed mast would be apparent in long public views from the north, as well as in views around the open space to the south over the community centre. Given the reasonably sporadic nature of mature trees in the immediate area, together with the distance of the mast from the nearest tree and its height above it, the mast would not be screened and the trees would do little to mitigate its visual impacts.
8. The surrounding area includes paraphernalia such as post and rail fencing, street lighting and pole-mounted signage. Various structures around the community centre to the south also include vertical elements such as fencing and outdoor lighting. However, these features generally have slim profiles and are simple in their overall design. By contrast, the proposed mast would be taller, have a substantially thicker profile and a complex and cluttered appearance by virtue of the equipment which it would accommodate across various levels. As such it would appear heavily at odds with the other vertical attributes of the surrounding area.
9. The proposed ground level cabinets would be utilitarian in their appearance. Their height, bulk and positioning would dominate the edges of the grass verge, substantially erode the open character of the immediate area and obscure the building frontages behind. Their impacts would be limited to localised views around this junction, however their effects would nonetheless be significant and harmful. There is not evidence to substantiate that these ground level elements would be screened by existing street furniture.
10. In combination, the above concerns lead me to conclude that the proposal would cause significant harm to the character and appearance of the area. The proposal would conflict with policies DM1 and DM25 of the Maidstone Borough Local Plan 2017 insofar as they require proposals to respond positively to local character and efforts to be made to minimise visual impacts of electronic communications equipment. There would also be conflict with the Framework insofar as it states that new communications sites should be sympathetically designed and camouflaged where appropriate.

Alternative Sites

11. The appellant has submitted plans demonstrating that, once the equipment at the Maidstone Police Headquarters is decommissioned, there would be a significant area of coverage deficiency around the appeal site as well as areas to the north, east and south. The appellant reports that the appeal scheme is one of a number of proposals needed to replace the coverage lost by the removal of the 45m tall mast on the police site. On the basis of the evidence before me, I am satisfied that there is an identified need for the proposed development once the police site equipment has been decommissioned.

12. I have found that the proposal, through its siting and appearance, would cause harm to the character and appearance of the area for the reasons given. The other options that might be available are therefore an important consideration. In addition, paragraph 117 of the Framework states that, for a new mast, evidence should be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
13. Alternative sites have been explored by the appellant. Of those, two sites within the police compound are no longer available due to redevelopment aspirations for that site. The appellant reports that there were no suitable buildings over 15m in the search area which could accommodate the mast, and I do not have reason to doubt this conclusion. There is, however, little detail of the sites which were explored at Northumberland Road and nearby open spaces at Shepway Green and Dorset Way, in particular in terms of the locations of those sites and why the impacts would have been more severe than the appeal site. As such I cannot conclude that the use of those sites would be more harmful than the appeal scheme.
14. In summary, the development proposed would cause harm to the character and appearance of the area and I am not satisfied that less harmful alternatives have been properly explored. For these reasons I find the siting and appearance of the proposal to be unacceptable.

Other Matters

15. Reference has been made to various social and economic benefits of the proposal, but these have not been taken into account in considering the matters of siting and appearance.
16. Other appeal decisions relating to telecommunications equipment have been brought to my attention¹. However, those relate to sites already occupied by masts and cabinets and the characteristics of those sites would appear to be different to those of this appeal.

Conclusion

17. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR

¹ APP/Q1445/W/20/3249294, APP/N5090/W/20/3245093