



Appeal Decision

Site visit made on 27 July 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2023

Appeal Ref: APP/T2215/W/22/3310327

Outside Tesco Express, Keyes Road, Dartford, Kent.

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by MBNL against the decision of Dartford Borough Council.
 - The application Ref DA/22/00876/TDA, dated 15 July 2022, was refused by notice dated 12 September 2022.
 - The development proposed is upgrade to the existing EE/H3G 1NO.8.0m High L2 Lamp post on root foundation. Proposed 20.00m MBNL Phase 7 Monopole complete with wraparound cabinet to be installed on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the appeal site from the Council's decision notice as that given by the appellant is incorrect, in particular the postcode.
3. Because this is an application for prior approval, the provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. This appeal will be determined on the same basis.
4. The principle of 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. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting of the proposal on highway safety.

Reasons

6. The appeal proposal would be located in a grass verge between the edge of the carriageway and pavement.

7. The site is located close to the vehicular exit of a car park and service area serving a small supermarket. There is currently a monopole mast and antenna of a similar scale to a lamppost in the verge. However, the existing monopole is of a slimline design and it has a minimal effect on the visibility splay of drivers exiting the car park.
8. There are also a number of existing cabinets close to the exit, but these are set at the back edge of the pavement and do not unduly interfere with the visibility of drivers exiting the car park. This would also be the case with some cabinets associated with the appeal proposal which would be located to the rear edge of the pavement.
9. However, the proposal would include a wraparound cabinet at the base of the mast, which would be of a greater bulk than the existing monopole. Due to the siting and scale of the cabinet within the verge, this would interfere with the views of drivers leaving the car park, particularly in respect of vehicles travelling south along Keyes Road and approaching the exit point. Reducing the visibility of drivers in the vicinity of the junction with the car park could lead to an increase in collisions between vehicles and other road users, and I consider that the Council's concerns in respect of highway safety are well-founded.
10. The appellant contends that the proposal would accord with standards expected by the Government, including those in Manual for Streets (MfS). The appellant has submitted a site plan which purports to show the appeal proposal would not affect the visibility splay from the car park exit. However, the County Highways and Transportation department has highlighted a number of concerns in relation to this site plan, including the extent of the visibility splay and the incorrect application of the 'y distance'. The Highways department sets out that the mast and wraparound cabinet would be within the visibility splay for drivers exiting the car park. The appellant has provided no substantive evidence to rebut the Highways department's comments. Based on what I have seen and read, the evidence provided by the appellant in respect of visibility is not robust.
11. The appellant states that the proposed cabinets should not form part of the application process as they are permitted development. However, I am not persuaded that there is a greater than theoretical possibility that the installation of the wraparound cabinet on its own in this location may occur. I also note the comment of the Council with regard to the provisions of the GPDO and development which creates an obstruction to the view of persons using any highway. My concerns in respect of this main issue and the siting of the proposal remain.
12. The Council has raised no concerns in respect of the appearance of the proposal, and I see no reason to disagree. However, this does not lead me to a different conclusion in respect of the harm to highway safety arising from the proposed siting.
13. I conclude that the siting of the proposal would have an unacceptable impact on highway safety due to its effect on the visibility from a nearby junction. Insofar as they are relevant to the consideration of siting, the proposal would be contrary to the highway safety considerations of Policies DP3 and DP4 of the Dartford Development Policies Plan 2017. On the same basis, the proposal would be contrary to the highway safety considerations of Policies M16 and M17 of the Pre-Submission (Publication) Dartford Local Plan 2021, although

given the stage of preparation of the emerging plan I give these policies very limited weight in this instance.

Other Matters

14. I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure, including 5G coverage. The proposal would also enable the sharing of infrastructure between multiple operators. The Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported. These matters weigh in the proposal's favour.
15. As the proposal relates to the replacement of an existing mast, the Council has raised no concerns with regards to the appellant's approach to the consideration of alternative sites. However, the Council also considers that a minor re-location of the proposal could overcome its concerns in respect of highway safety, and has suggested this to the appellant. On that basis, the benefits arising from the proposal on this specific site carry very limited weight, and in any event should not outweigh the unacceptable impact identified in respect of highway safety.
16. The GPDO requires that the application must be accompanied by a plan indicating the location of the proposed development. The submitted Site Location Plan would appear to be inaccurate as this shows the location of the proposal set further away from the junction with the car park than is shown on the detailed plans. The appellant has also used an incorrect postcode throughout the application and appeal process, including on the Developers Notice. Had I been minded to allow this appeal these are matters I would have considered further.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR