



Appeal Decision

Site visit made on 4 July 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2023

Appeal Ref: APP/B1930/W/22/3313526

Highways Land, Quantock Close, Marshalswick, St Albans AL4 9SY

- 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 MBNL of MBNL, EE Ltd & H3G (UK) Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/2022/1506, dated 10 June 2022, was refused by notice dated 19 July 2022.
 - The development proposed is described as a "Telecommunications cell site."
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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 GPDO for the installation of a 20m monopole, 12 no. antennas, 2 no. 600mm transmission dishes, 7 no. equipment cabinets and development ancillary thereto at Highways Land, Quantock Close, Marshalswick, St Albans AL4 9SY in accordance with the terms of the application Ref 5/2022/1506, dated 10 June 2022, and the plans submitted with it; 002 Site Location Plan issue B5; 215 Proposed Max Configuration Site Plan, issue B5; and 265 Proposed Max Configuration Site Elevation, issue B5; and the appellant's email to the Planning Inspectorate dated 17 July 2023 detailing the colour of the proposals (light grey- RAL 7035).

Preliminary Matters

2. In my decision above, I have used the description of development used by the Council in their notice of decision, as this more accurately describes the proposed development.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. My determination of this appeal has been made on the same basis.
4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have however, 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.
5. The appellant has submitted amended plans with their appeal to accurately show the height of a nearby building and an adjoining lighting column, a

revised ICNIRP certificate has also been submitted with the appeal to reflect the new drawings. As the amended plans only relate to showing the height of existing features near to the appeal site and do not alter the proposals, I have accepted these amendments, and the appeal has been determined on this basis.

6. The proposed colour of the monopole and cabinets was not included within the information the appellant submitted with their appeal. Although both parties indicated that they are willing to accept a condition in this respect, I asked the appellants to specify the colour of their proposals as it relates to their appearance. They subsequently confirmed the proposed colour to be light grey (RAL 7035). The Council were given opportunity to comment on this, but no views were received. The appeal has been determined on this basis and in allowing the appeal above, I have referred to the specified colour.

Main Issue

7. Having regard to the above, and the Council's reasons for refusal, the main issues are 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

Siting and Appearance

8. The appeal site relates to a small, grassed area that contains a bus shelter and a tree, a road wraps around this grassed area, which is situated at the junction between Chiltern Road and Quantock Close. Near to part of the appeal site are residential properties, these are 1 and 2 storeys high on Quantock Close and 2,3 and 4 storeys high on Chiltern Road. In addition, there is mature planting near to the appeal site on either side of Chiltern Road, including where it bounds Sandringham School on the opposite side of the road. The ground levels vary in the immediate area, with the appeal site occupying quite an elevated position, with the ground levels falling to most of its sides. The area surrounding the appeal site, includes further residential development and is interspersed with trees, some of which are in groups.
9. The proposed monopole at 20 metres in height would be taller than the highest residential development on Chiltern Road, and it would be visible above the roofs of many of the surrounding properties, particularly the nearby single storey properties. Furthermore, given that it would have 12 no. antennas attached to it, the girth of the monopole would be relatively wide, stated to be 1.35 metres at its largest. It has a functional design, which in addition to the antennas, includes 2 no. satellite dishes on its upper parts. The proposed monopole would be visible in its immediate surroundings, particularly given its height and girth.
10. I saw on my site inspection that closer views of the proposed monopole from along Chiltern Road and Quantock Close would include views of other buildings, the existing bus shelter and the landscaped sides of Chiltern Road near to the appeal site. This combined with its separation to nearby properties, due to the road arrangement would ensure close-up views were not overly dominant or harmful and would also help soften such views of the proposed monopole.

11. In making this assessment, the trees near to the site were in leaf at the time of my site inspection, and I do acknowledge that during the winter months, when they are not in leaf, the proposed monopole would be more visible. However, even taking this into account, the tall branches of the trees and the adjacent 4 storey building on Chiltern Road would still form part of the context to the proposed monopole, ensuring that it would not appear harmful, overly dominant or out of character with the surrounding area at those times.
12. The backdrop of the mature trees nearby would help to assimilate it into the immediate surroundings and restrict wider views of it. The submitted photomontages show that the proposed monopole would also be taller than most of the trees in this immediate area, although the part of the proposed monopole that would be visible above the roofs of the nearby buildings and between the trees would not be particularly prominent, and the proposed monopole would not be significantly taller than the surrounding trees. The nearby tall buildings and landscaping will help to ensure that the proposal would assimilate into the surrounding area.
13. The specified light grey colour of the proposed monopole would be similar to the colour of the nearby lighting columns and relate well to the light-coloured finish on some properties nearby, ensuring that the proposal would integrate well into its surroundings.
14. The proposed cabinets are relatively small and would be located on the existing grassed area adjoining the proposed monopole. They would also be seen in the immediate context of the existing bus shelter. Even though there are 7 no. cabinets, given their modest scale and height, the siting and appearance of them would not be harmful to the character and appearance of the area. In addition, there would also be a reasonable amount of green space retained surrounding them.
15. In view of the above, the siting and appearance of the proposed development would have an acceptable effect upon the character and appearance of the area. Whilst not determinative, the proposal would also comply with Policy 69 of the St Albans District Plan, City and District of St Albans, District Local Plan Review, Adopted 30 November 1994 Written Statement, that requires, amongst other things, development to have an adequately high standard of design which takes into account the character and context of its surroundings including the scale, height, materials, general colour and tonal value of its background.

Other Matters

16. As I have identified that the siting and appearance of the proposed development would be acceptable, it is not necessary for me to consider the detailed merits of any potential alternative sites. Although, I do note that the appellant has stated that the search area is small and that the proposal is required as an existing telecommunications site nearby at Nashes Farm is to be removed as the site is being re-developed. In addition, it is noted that this site is required to deliver the required 5G coverage, without interfering with existing installations, to support the delivery of high-quality communications and digital connectivity.
17. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been

designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

18. Concern has been expressed about the retention of the bus shelter and a tree that adjoins the appeal site. Both of these features are shown to be retained on the proposed drawings. The comments regarding possible damage to this tree before this application was made are noted, however, I am not aware the tree has a Tree Preservation Order, and there is no evidence before me that the scale of the proposal would cause damage to the health of the tree.
19. Objections have been raised about highway safety, including movements along the road network at peak times and the safe operation of the bus stop, particularly when used by school children. Whilst the proposed development is near to the existing bus stop, it is unlikely to affect its operation. The bus stop faces away from the proposals, and the space within the adjoining bus shelter would not be reduced. Furthermore, I have no evidence that the existing bus stop cannot remain operational during construction works.
20. Neither is there any evidence that when operational the proposal would affect movements along the adjoining highway as its siting is positioned away from the road, and it would not unacceptably interrupt visibility of other road users. I also note that the Council has not raised any objections in terms of highway safety, and I also concur with that view.
21. Mention has also been made as to whether the bus shelter and bus stop is to be relocated. I have not been made aware of any such proposals and I have determined the appeal based on the bus shelter and stop being retained.
22. The comments raised as to whether early consultation with local residents took place and whether Councillors were consulted are noted, but they do not alter my conclusions on the siting and appearance of the proposed development.
23. Whilst concerns are raised regarding the effects of construction works upon the occupiers of nearby properties. The construction phase for the proposed development would be temporary and it is likely to be short-term in its duration. Furthermore, the separation distances between the proposal and the properties nearby should alleviate most of the potential noise and disruption associated with the construction works. Without any specific evidence to the contrary, I do not find that the construction works associated with the proposal would be harmful to the living conditions of nearby occupiers.
24. A petition objecting to the proposal signed by 21 no. residents of Park Side View was submitted in response to the planning application, and a further petition signed by 25 no. residents of Park Side View has been submitted in response to this appeal. The attached letters to the petitions, state that the proposal would affect the overall mental health and quality of lives of elderly and vulnerable persons, particularly those with complex needs and those using wheelchairs, who are living nearby. Such affects are said to be from the health effects of the proposal, construction works, highway safety, the free flow of traffic, outlook from properties, and the proposed development's effect upon

the character and appearance of the area. The comments are made generally and are not specific to a particular person.

25. The general information provided in this case means I am unable to ascertain exactly what, if any, the protected characteristics of the individual persons living nearby are, and consequently exactly how the proposed telecommunications development could affect them. Nonetheless, I have assessed the effects of the proposed development upon those living nearby referred to in the letter accompanying the petition, based on the information provided.
26. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
27. I recognise the paramount importance of the neighbouring occupiers right to have their home, and private and family life respected and this is a primary consideration. Any adverse effects experienced from the proposal and from construction works associated with it, could interfere with the nearby occupiers' rights in respect of their home, and private and family life. Any such impacts would weigh against the proposal in these respects.
28. The proposal's siting on the grassed area would not affect the safe operation of the surrounding highway network, the existing bus stop or local residents' access to buses. Furthermore, as stated above, the health implications from the mast are not considerations that I am able to take into account and the proposal is accompanied with a certificate confirming its ICNIRP compliance. In my assessment above I have also found that the siting and appearance of the proposal would not be harmful to the character and appearance of the area, including from nearby properties. The siting of the proposal would also not affect the accessibility of wheelchair access to the bus stop or along the existing footpath network. It is accepted that there would be some construction disruption, but again due to the appeal site's separation from nearby properties and its likely short-term duration, it is not considered to be harmful to the living conditions of nearby occupiers.
29. Whilst I take the comments raised seriously, the limited specific information, together with my above assessment has not identified that the proposal would be harmful to the living conditions of nearby occupiers, or the character and appearance of the area, or be prejudicial to highway or pedestrian safety. Having regard to the legitimate and well-established planning policy aims in respect of providing good quality high speed 5G telecommunication technology to support economic development and social and community well-being, a refusal of permission would not be proportionate and necessary on the information available to me. Allowing this appeal would not unacceptably violate the nearby occupier's rights under the HRA and would be consistent with my PSED duty contained in Section 149 of the Equality Act 2010.

Conditions

30. Any planning permission granted for this proposed development, in accordance with 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), 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

31. For the above reasons, the appeal is allowed and prior approval is granted.

A Hunter

INSPECTOR