



Appeal Decision

Site visit made on 13 June 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Appeal Ref: APP/N5090/W/23/3314925

Lampost No. 35 O/S 122 The Fairway, Edgware, London, NW7 3HR

- 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 against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5362/PNT, dated 19 October 2022, was refused by notice dated 14 December 2022.
 - The development proposed is upgrade to the existing 10.0m High Lamppost. Proposed 17.50m 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. The provisions of the GPDO, 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.
3. 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.
4. The Council's decision notice refers to policy HC1 of The London Plan the Spatial Development Strategy for Greater London March 2021 (London Plan). However, the Council has confirmed that reference is not relevant as the site is not within an area of sensitive designations.
5. It is noted that the description of development refers to the installation of a 17.5m monopole, however the plans show the monopole would be 17.6m in height. If I were allowing this appeal, I would have sought the views from both parties in relation to this discrepancy, however, as I am dismissing the appeal for other reasons, and since it would not affect the overall outcome, I have not sought to do this.

6. The Council's third reason for refusal suggests that the monopole, due to exceeding 15m in height above ground level would not comply with Part 16 A.1(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). The Council have confirmed that this reason for refusal was included in error, however, they suggest that the proposal would not comply with Part 16 A.1(d)(bb)(ii) of the GPDO 2015 in relation to the width of the mast. However, the Council has considered the proposal against an out-of-date version of the GPDO.

The version of the GPDO in force at the time of the Council's decision requires the following:

(e) in the case of the alteration or replacement of a mast—

(i) the mast is on any land which is, or is within, a site of special scientific interest;

and

(ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third.

As the mast would not be located within a site of special scientific interest, the width of the mast can exceed the original width by more than one third.

7. The appellant has made it clear that the proposal is to replace an existing mast and while it would not be on the exact same footprint as the existing, it would be in proximity. The Council have accepted the proposal on this basis, and I have considered the appeal on the same basis.

Main Issues

8. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area,
- the effect of the siting on the safety of footpath users, 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

Character and appearance

9. The appeal site is located on the edge of a footpath which is located adjacent to Barnet Way, which is a wide by-pass. The footpath is wide and gives access to a slope down towards a subway and also to The Fairway which is a residential street.
10. The footpath narrows along The Fairway and there is also an existing pole and associated apparatus located on the corner, on a grass verge close to the road. The proposal is for a new pole and cabinets, however it is also proposed to remove the existing pole and associated cabinets.

11. There is extensive street furniture along the by-pass which includes lampposts, signage, bollards and fencing. The proposed pole would exceed the height of the lampposts, however in the context of the extensive vertical street furniture it would not stand out as an excessive or incongruous feature in the street scene or wider locality.
12. The proposal would result in a mast that is larger than the existing one., However due to its proposed location, next to the by-pass it would be seen in conjunction with the other items of street furniture and it would not be visually intrusive. The proposed mast would also be less visible from dwellings in the area due to its further distance away compared with the existing mast.
13. I therefore conclude that the siting and appearance of the proposal would not harm the character and appearance of the area. I find no conflict with policies DM01 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012 (DPD). Amongst other things, these policies seek to ensure development preserves local character and ensure that there are no significant adverse effects on the external appearance of the space where the proposal is located.

Safety of footpath users

14. The proposal would be located at the edge of a footpath and, as such, the overall width of the footpath would be reduced. However, the footpath is wide and with the monopole and cabinets in place would still be over 6m wide which would allow footpath users sufficient space to be able to pass each other, including those with mobility aids and visual impairments.
15. However, the width of the footpath narrows significantly on the slope towards the subway, and some of the equipment would be located on the edge of the footpath. The equipment in this location would occupy a wide section of the path, which, combined with the railings on the edge and the bollard in the centre of the path, would create an obstruction and result in an awkward arrangement for footpath users. The resulting width would not be wide enough to allow users to pass each other, particularly those in mobility scooters or wheelchairs, people with pushchairs and could result in an unexpected obstruction for people with visual impairments.
16. The appellant refers to guidance¹ which suggests that a width of 2m for a footpath is considered suitably safe for movement, however it has not been demonstrated that this can be achieved on the narrower slope.
17. I note that the appellant suggests that the cabinets would be permitted development and would not require prior approval, however I have no evidence that these would be installed as standalone features. As such, I have considered the proposal as a whole as submitted.
18. I conclude that the siting of the proposal would be harmful to the safety of footpath users. It would therefore be contrary to Policy CS9 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012, Policies DM17 and DM18 of the DPD and Policy T2 of the London Plan. I also find conflict with the guidance contained within the Pedestrian Comfort Guidance² document. Amongst other things, these Policies and guidance seek to ensure

¹ Transport for London Streetscape Guidance Fourth Edition 2019 Revision

² Pedestrian Comfort Guidance for London Guidance Document Mayor of London Transport for London 2019

risks are not increased to vulnerable road users and ensure that development is appropriately designed to take account of their setting and ensure the local road network operates efficiently and safely.

Planning Balance and Conclusion

19. Notwithstanding my findings on character and appearance, the proposed siting would cause harm to the safety of footpath users, a matter to which I give significant weight.
20. I note the support in the Framework and by the Government for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced.
21. I also acknowledge that the siting of the proposal is based on the extent of coverage to and capacity within the surrounding area. It is also required to replace an existing telecoms installation to maintain and improve digital coverage and facilitate 5G. I also note that the proposal would be subject to a sharing agreement between networks. The public benefits therefore weigh substantially in favour of the proposal.
22. However, I must balance this against the requirement for equipment to be sympathetically designed and sited where appropriate, as well as the overarching imperatives in the Framework for development to create places that are safe, inclusive and accessible.
23. In summary, the development proposed would harm the safety of footpath users which attracts significant weight against the proposal which is not outweighed by the public benefits. For these reasons I find the siting of the proposed development to be unacceptable.
24. For the reasons given above, I conclude that the appeal should be dismissed.

D Wilson

INSPECTOR