



Appeal Decision

Site visit made on 22 August 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/N5090/W/23/3316815

Opposite Junction Sunny Gardens, Great North Way, Hendon, London NW4 1JB

- 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 (EE UK Ltd & Hutchison UK Ltd) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5914/PNT, dated 7 December 2022, was refused by notice dated 1 February 2023.
 - The development proposed is upgrade to the existing 10.0m high lamppost structure. It is proposed to install 18.0m high 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 allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the siting and appearance of a proposed upgrade to the existing 10.0m high lamppost structure. It is proposed to install 18.0m high phase 7 monopole complete with wraparound cabinet to be installed on root foundation and associated ancillary works at opposite junction Sunny Gardens, Great North Way, Hendon, London NW4 1JB in accordance with the terms of the application, Ref 22/5914/PNT, dated 7 December 2022, and the plans submitted with it.

Preliminary Matters

2. Notwithstanding the description of development in the banner heading and in my formal decision above, the plans show that the upgrade to the existing 10.0m lamppost structure would result in the removal of the lamppost and the antennas mounted on it. I have determined the appeal on that basis.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. I have determined the appeal on the same basis.

Planning Policy

4. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation.

Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.

5. Nevertheless, Policies DM01 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document (DPD), 2012, are material considerations as they relate to issues of siting and appearance, including in relation to the installation of telecommunications equipment. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.

Main Issues

6. 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

7. The site is located within the grass verge adjacent to the Great North Way, the A1M, close to where it merges with the M1. The A1M in this location is a six-lane highway with a metal fence separating the two carriageways. The site has an existing monopole and telecommunication cabinets which are located beneath a group of semi-mature trees which separate the verge and adjoining pavement from playing fields to the rear.
8. Adjoining the site is a commercial premises consisting of a vehicle repair and maintenance facility. On the opposite side of the road is Sunny Hill Park, an extensive, green, open space, including a number of sports facilities. Whilst residential properties are located adjacent to the Great North Way, none are directly opposite the proposal, with the nearest being a recently built block of flats that I saw close to Sunny Gardens, which are set back from the road and whose side elevation overlooks the park.
9. The proposed 18m monopole would be located to the side of the existing 10m monopole, which would be removed. The existing monopole, was, at the time of my site visit shrouded by the trees. The proposed new monopole would be much higher, and the majority of it would not be hidden by the trees. Instead, it would be visible from the road and, as with the existing structure, when there are no leaves on the trees, it would not be screened. The Council have said that it would be visible from open Green Belt land which adjoins the site, appearing as a prominent feature which would be visually obtrusive.
10. The site is, however, neither in the Green Belt, in open countryside or identified as in a sensitive location. It is located on highway land adjacent to a motorway and the proposal would be set back from the road and sited close to other existing telecommunications infrastructure. The monopole would be a simple structure, chosen to be discreet. It is also in an area where there are numerous vertical elements along the roadside. Whilst the lamp posts on the submitted plans are shown as 10m in height, from what I saw on site, these have been replaced. On both sides of the carriageway, lamp posts, either side of the proposed site extend well above the height of the existing trees and are substantially higher than the existing 10m monopole. This is in combination

with traffic signs within the highway verge and a large totem sign at the entrance to the vehicle repair site.

11. Furthermore, the proposal would be very close to a metal gantry with road signs that extends across three lanes of the carriageway. In the other direction, there is a metal pedestrian bridge which stretches across the six lanes to allow access across the road. The immediate environs of the site are therefore very urban in character. Whilst the proposed monopole would be visible above the trees and would be higher than other structures along the road, it would not appear as incongruous in this location and therefore would not harm the character and appearance of the area.
12. As I have found no harm with regards to the siting and appearance of the proposal, I do not need to assess whether there are appropriate alternative sites or the public benefits of the proposal. Therefore, I conclude that the proposal would not harm the character and appearance of the area.

Conditions

13. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

M J Francis

INSPECTOR