



Appeal Decision

Site visit made on 10 October 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2023

Appeal Ref: APP/L5810/W/23/3319122

RUT058 Verge at 111 Kneller Road, Whitton, Twickenham, London TW2 7DT

- 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 appeal is made by MBNL for and on behalf of Three UK Ltd against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref 22/2578/TEL, dated 12 August 2022, was refused by notice dated 29 September 2022.
 - The development proposed is the installation of a new 20-metre-high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, the installation of 2 no. additional equipment cabinets and ancillary development thereto.
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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 Order) 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 Order do not require regard to be had to the development plan. I have therefore had regard to the policies of the development plan and the National Planning Policy Framework, 2023 (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.
4. The appellant has submitted an Arboricultural Impact Assessment within Appendix 6 of their Statement of Case. As advised by the Procedural Guide to Appeals – England, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what the Council determined the application upon, and on which interested parties' views were sought. I cannot be certain that the views of interested parties would not be prejudiced if I were to consider the Arboricultural Impact Assessment as part of my determination of the appeal. As a result, my decision is based on the information submitted with the Prior Approval, upon which the Council determined the application and I have not taken the additional information into account.

Main Issues

5. The main parties do not dispute that the appeal scheme meets the requirements of Class A, Part 16, Schedule 2 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.
6. Therefore, the main issues are:
 - the effect of the siting and appearance of the proposed development upon the character and appearance of the area, including the effect on heritage assets, trees and flood risk; 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, appearance, trees, and flood risk

7. The appeal site is located on a wide grass verge on the junction of Kneller Road, Whitton Dene, and Nelson Road, between the footpath of Kneller Road and the highway. The footpath at this point is separated from the road by the grass verge. There is an existing monopole and equipment cabins adjacent to the site and an area of hard surfacing which provides space for community recycling bins and trees line the grass verge along this side of Kneller Road.
8. On the opposite side is the wall and grounds of Kneller Hall, a grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
9. In so far as it is relevant to the appeal, based on the evidence before me, the significance of Kneller Hall is founded on the architectural detailing of the manor house set in large grounds. The setting of Kneller Hall includes the grounds and the wall around the grounds and there are mature trees on the inside of the wall of Kneller Hall, immediately opposite the appeal site, which contribute positively to the character of the area and the setting of Kneller Hall.
10. The trees and the wide grass verge immediately around the site provide a green and verdant character to the area. These features are also identified in the London Borough of Richmond Upon Thames Whitton and Heathfield Village Planning Guidance Supplementary Planning Document, 2014 (the Village SPD), Character Area 6: Kneller Road/ Hounslow Road and surrounds. The appeal site is one of the wide and open green verges with mature trees identified.
11. The Village SPD also advises that Kneller Road, Whitton Dene, and Nelson Road are medieval routes and there is a historic core of buildings which mark the crossroads. These include Nos 8 and 11 Nelson Road and No 121 Kneller Road which are identified by the Council as Buildings of Townscape Merit (BTMs). I consider the BTMs to be non-designated heritage assets and, in so far as it is relevant to the appeal, I consider that the significance of the BTMs is mainly

- derived from their architectural detailing and siting in the historic core and on the medieval routes. The BTMs currently contribute positively to the character and appearance of the area.
12. Due to its position on the street, in close proximity and within views of Kneller Hall and the BTMs, I consider that the proposed mast would be within the setting of these heritage assets.
 13. Kneller Road, around the appeal site is predominately two-storey residential with occasional other uses such as the adjacent Day Centre. The appeal site is in front of the tall brick wall boundary of the Day Centre and has an open, green, and verdant character and appearance, within a predominately residential area which includes heritage assets and where there is a fairly consistent height of buildings, trees, and other structures. The consistent height of the houses limits longer distance views of the site. However, there would be views of the appeal proposal from Kneller Road, Whitton Dene, and Nelson Road.
 14. Existing tall street furniture consists of street lighting columns and wooden telephone cable poles, which are located on both sides of the road, and the existing monopole, which from the evidence before me is some 11.5m high. The existing monopole is slightly taller than the street lighting columns, telephone cable poles and trees immediately around it.
 15. The proposal is for a 20-metre pole with associated ground-based apparatus which would be located on the grass verge, close to the canopy of the nearest tree. The proposed pole would be at a greater height than any of the existing surrounding street furniture and whilst the pole has been designed to be the least intrusive, simplistic, and as narrow as possible, it would still be wider and taller than any other structure in the immediate area. I note that the Order allows for masts of up to 25-metre and the proposal is 20-metre, which is the lowest possible height for the needs of the proposal. However, the proposal would still extend above the existing street furniture to a significant degree.
 16. Furthermore, the pole would extend above the height of the trees around the site. The trees would provide a backdrop to some of the views and also obscure the view of the lower half of the monopole. However, the trees would not screen the full height of the pole which would extend substantially above the height of the trees. The pole would, therefore, be visually prominent, unsympathetic, and overbearing in the views from the surrounding roads and from immediately adjacent to the site.
 17. The siting and appearance of the proposed pole would stand out on the street scene as an incongruous and alien feature, not respecting the existing scale of the area. Although such poles are often found in urban locations, in my judgement, the proposal before me would not, contrary to the appellant's assertion, be of a design solution that is suitable for the proposed site and would not mitigate the harmful effect on the character of the area. That it is not a designated Conservation Area would not reduce the harm identified.
 18. As detailed above the significance of the designated and non-designated heritage assets is mainly derived from their architectural detailing and there is already a monopole on site, other modern street furniture and the proposed monopole would be finished in green. It is, therefore, my judgement that the proposal, albeit harming the character of the area, would not harm the setting

or significance of either the listed building or the BTMs or how these heritage assets are appreciated in the street scene. I have, therefore, found no conflict with Policy LP4 of the London Borough of Richmond Upon Thames Local Plan, 2018 (LP) which seeks to preserve and enhance the significance, character and setting of non-designated heritage assets.

19. The width of the grass verge would provide sufficient space for the proposed monopole and cabinets. However, the proposal would be within close proximity of a tree of amenity value. As detailed in the preliminary matters above I have not accepted the Arboricultural Impact Assessment submitted by the appellant and I have determined the appeal on the basis of the information originally submitted to and considered by the Council. As such the effect on trees, as part of the consideration of the siting and appearance of the proposal, remains a matter for my consideration in determining the appeal.
20. The close proximity of the monopole and the cabinets, of which one would be under the canopy of the tree, places this amenity value tree at risk both during and after development. The loss of this tree, or any significant damage or pruning, would result in the loss of the screening that this tree would provide to the proposal. The loss of any of this screening would result in further visual intrusion and harm the character and appearance of the area. On the basis of the original submission, I do not have compelling evidence that the proposal would not result in an adverse effect to the nearby amenity value tree.
21. The Council's reasons for refusal also include the effect on flood risk and the lack of a flood risk assessment. As contended by the appellant, footnote 55 to paragraph 167 of the Framework advises that land subject to other sources of flooding only requires a Flood Risk Assessment (FRA) where it would introduce a more vulnerable use. However, this is a separate criterion to where the land is identified in a strategic flood risk assessment as being at risk of flooding in the future, as is the case for the appeal site. Footnote 55, therefore, confirms that an FRA is required.
22. Although the Council did not insist on an FRA during validation of the planning application it remains a requirement in the consideration of the appeal. The siting of the proposal is for consideration under the Order, and, in this case, the siting is affected by flood risk. Without a detailed FRA it is not possible for me to be certain that the proposal would not increase flood risk elsewhere.
23. For the above reasons I, therefore, conclude that, although the proposal would not harm the significance or setting of Kneller Hall or the BTMs, the siting and appearance of the proposal would cause substantial harm to the character and appearance of the area, including the effect on trees and flood risk.
24. The proposal would, therefore, insofar as it is relevant, be contrary to Policies LP1, LP15, LP16, LP21 and LP33 of the LP which, taken together, require all development to be of high quality, maintain and enhance the character of existing areas, preserve and enhance designated and non-designated heritage assets including BTMs, protect existing trees and incorporate them into development, resist the damage, loss, or significant pruning of trees of amenity value, avoid contributing to flooding, and minimise the visual impact of telecommunications proposals.

25. For the same reasons, the proposal would be contrary to Policy G7 of The London Plan, The Spatial Development Strategy for Greater London, 2021, (LonP) which amongst other things, seeks to retain existing trees of value.
26. The proposal would, insofar as it is relevant, also be contrary to the advice in the Supplementary Planning Document – Telecommunications Equipment (the Telecommunications SPD) which seeks to ensure that masts are not prominent in the street scene and minimise the visual impact. It would also conflict with the aim of the Village SPD.
27. For the same reasons, the proposal would also fail to comply with the requirements of Paragraphs 115, 117 and 167 of the Framework, which, taken together, seek to ensure that new electronic communications poles are sympathetically designed and camouflaged, require such applications to be supported by the necessary evidence including the possibility of erecting antennas on existing building, mast or other structure, and seeks to ensure that development does not increase flood risk elsewhere.

Alternative Sites

28. I acknowledge that siting of the proposal is based on coverage and capacity to the surrounding area and, therefore, the siting of the proposal is required where the service is used. In this regard, a street-based solution has been proposed with Kneller Road being identified as the best location.
29. For the reasons given above I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area. The other options that might be available are therefore an important consideration.
30. The appellant contends that the search area for the proposal is very small as there is a specific need to replace the coverage provided by the existing mast and the need to improve the coverage, including providing 5G. The appellant also contends that there are no other locations on the main road that benefit from being within a cluster of existing structures and that the gap in the coverage can only be provided by replacing the existing mast. Therefore, no alternative site assessment has been provided.
31. Using existing masts or sites already occupied by masts is preferred. However, the supporting information is unclear why no other sites were considered, and no evidence has been provided to show that there are no other sites that could provide the same level of coverage as the proposed mast. Contrary to the appellant's assertion the supporting statement does not clearly set out that a mast is required in this location.
32. The appellant has also not considered any alternative mast/site sharing opportunities or existing buildings or structures. For these reasons there is little information before me to show that alternative sites have been fully considered, as required by Paragraph 117 of the Framework and Policy LP33 of the LP.
33. I am, therefore, not convinced that the search area has been properly explored. The evidence before me is not compelling and I cannot be sure that the appeal scheme is the most suitable in terms of its siting and appearance. I consider that limited information has been provided for discounting any other area or site, including mast sharing and use of existing buildings or structures.

34. In summary, the development proposed would cause substantial 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 proposed development to be unacceptable.

Other Matters

35. The Council also refused the application on the basis that the appellant failed to supply details of the outcome of the consultation carried out. Although the Framework advises that an application for a mast should include the outcome of consultations it is not prescriptive over the level of consultation required to be conducted. The appellant could have consulted the adjacent community centre and the nearby education facility. However, there is no requirement within the Order, paragraph 117 of the Framework or the Telecommunications SPD for the appellant to consult any parties other than the landowner or agricultural holding tenant.
36. Based on the evidence before me, the appellant carried out pre-application consultation but did not receive any substantive responses. As such, there was no information available to be provided to the Council. I, therefore, find no conflict with the Framework or the Telecommunications SPD in this regard.
37. The appellant has referred to pre-application correspondence sent to the Council; however, the Council did not send a response to this other than to advise that pre-application advice was no longer provided without a charge. As such the pre-application correspondence does not alter my findings on the main issues.
38. I note the support in the Framework and the other documents referred to by the appellant in their statement for high quality communications, the overall improvements that enhanced 5G brings to an area and that access to advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. There can also be economic and social benefits from improving connectivity speed to support working from home, improved connectivity for emergency services and smart cities and that the proposal would contribute towards the London Plan requirement for world-class digital connectivity.
39. However, the general benefits of new masts have effectively been recognised by the grant of permission under Article 3(1) of the Order and are not material to the consideration of siting and appearance.
40. Consequently, I must balance these general benefits against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term. In this case, the harm I have identified is not outweighed by the broad support for enhanced and improved telecommunications infrastructure.
41. The appellant has also drawn my attention to two other appeal decisions where the Inspector allowed the developments. However, both of these cases are materially different to the appeal before me. In the first case¹ the Inspector determined that there would be no harm from siting and appearance and in the

¹ APP/G5180/W/3151769

second case² the harm was considered to be limited. For the reasons given above I consider that the harm that would result from the appeal proposal is substantial, and the general public benefits would not outweigh the harm, even though there would be no increase in the number of mobile communication masts.

Conclusion

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

K Townend

INSPECTOR

² APP/G5750/W/20/3249160