



Appeal Decision

Site visit made on 10 January 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2024

Appeal Ref: APP/B4215/W/23/3318357

Footway of Lapwing Lane, Lapwing Lane, Didsbury, Manchester M20 6UR

Easting: 384400 and Northing: 392097

- 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, for and on behalf of Three UK Ltd, against the decision of Manchester City Council.
 - The application Ref 134901/TEL/2022, dated 1 September 2022, was refused by notice dated 21 October 2022.
 - The development proposed is described as a "telecommunications mast and equipment/power cabinets, the installation of an 18.0m column supporting 6 no antennas, together with 2 no. ground-based equipment cabinets 1 no. power cabinet 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 (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.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach. Where I have referred to a specific paragraph of the Framework, the numbering used is that of the revised version.
4. The address in the banner heading above has been taken from the planning application form. The Council have however used a different address within their decision notice. In the interests of accuracy, I have included the easting and northing references in the banner heading above.

Planning Policy

5. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. Nevertheless, saved Policies DC17.1 and DC18.1 of the Unitary Development Plan for the City of Manchester Adopted July 1995 (UDP) and Policies DM1, EN3 and SP1 of Manchester's Local Development Framework Core Strategy Development Plan Document Adopted July 2012 (CS) are a material consideration as they relate to issues of siting and appearance. In particular, they seek, among other things, to ensure that development proposals preserve or enhance the historic environment and have regard to the character of the surrounding area. Similarly, 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, with particular regard to whether it would preserve or enhance the character or appearance of the Ballbrook Conservation Area (CA), 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

7. The appeal site is located on a relatively open and wide section of pavement at the corner of a busy junction at the intersection of Lapwing Lane and Palatine Road. Street trees are located adjacent to the appeal site and in the wider area, contributing to the verdant character of the locality. Building heights in the area largely comprise of two and three storeys. Vertical street furniture is not uncommon in this area, and includes streetlamps, road signs and traffic lights. These are interspersed with lower-level street furniture, including planters and benches. Two existing masts, with relatively slim profiles and of modest heights, are located on the north westerly corner of the intersection.
8. The relatively low building heights, wide junction and corner pavements, trees, street furniture and slim masts give the area an open, spacious and verdant feel, which contributes to the character and appearance of the area.
9. The site lies within the Ballbrook CA. While this area is predominantly in residential use, the vicinity of the appeal site is characterised by commercial buildings, street trees and the busy junction. The appeal site is located adjacent to a prominent former bank building and close to No 99 Palatine Road, a Grade II listed building, and a row of commercial units that front Lapwing Lane. These buildings add interest to the CA and, based on the submitted evidence, provide a marker of the quality of buildings that were being erected in the CA in the early 20th Century as the area expanded as a residential suburb. These buildings provide a focal point to the entrance of the CA and, collectively, contribute towards its significance.

10. The proposed installation includes a 18m tall monopole, which would support six antennas, and three cabinets at ground level. These structures would be located in a prominent position, close to, and readily visible from the adjoining roads for some distance. While the adjacent trees and buildings would help to partially soften and screen the proposed installation, the monopole would be significantly higher than these features, as evidenced by the proposed elevational drawing and photomontages.
11. The height of the monopole is dictated as a result of the new 5G standards and the need to site 5G antennas a minimum height above any obstacle, in order to ensure a reliable signal. However, the proposed development would result in an incongruously tall, robust and conspicuous feature, located in a highly prominent position on a wide area of pavement. It would project above surrounding buildings, streetlamps, the retained mast, road signs and traffic lights. The proposal would therefore appear as a conspicuous and prominent form of development that would harm the character of the area and the character of the nearby commercial buildings, which contribute to the significance of the CA.
12. As the appeal proposal would replace one of the existing masts located on the north westerly corner of the intersection, there would be no increase in the number of masts in the immediate area. While there is a presence of monopoles and associated structures within the vicinity of the appeal site, these are shorter and more slender in their proportions than the proposal. Moreover, due to the wide junction, the appeal scheme would not be viewed directly alongside the remaining mast and would therefore create a sense of clutter on this junction, to the detriment of the spacious character of the area. Overall, the proposal would fail to preserve or enhance the character or the appearance of the CA.
13. Although the site context in relation to this appeal is more built up when compared to the recently dismissed appeal¹ (the dismissed appeal), the proposed installation would nevertheless result in harm to the character and appearance of the area for the reasons identified.
14. While the appellant has indicated they would be willing to varying the colour of the monopole and cabinets, a change in colour alone would not overcome the harm I have identified with respect to the height and bulk of the appeal scheme.
15. For these reasons, I conclude that the siting and appearance of the proposed installation would have a harmful effect on the character and appearance of the area and would not preserve or enhance the character or the appearance of the CA as a whole. In so far as they are a material consideration, the proposal is contrary to UDP Policies DC17.1 and DC18.1, CS Policies DM1, EN3 and SP1 and the Framework.

Alternative sites

16. The proposed installation would upgrade an existing installation and would introduce 4G coverage for two operators, while providing the scope for 5G service from a single installation. This joint approach, providing multiple technologies, would help meet the objectives in paragraph 119 of the

¹ Recently dismissed appeal reference APP/B4215/W/21/3285778

Framework, which seeks, among other things, to keep the number of masts to a minimum, consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion.

17. The existing monopole cannot be re-used as it cannot support any more antennas. However, paragraph 121 of the Framework requires, for a new mast, that evidence is provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
18. As the proposal is an upgrade of an existing installation located on the north westerly corner of the intersection, there is a highly constrained cell search area and the proposed installation needs to stay close to the existing established site, in order to ensure coverage holes are not created, which would lead to a loss of service for existing customers. The cell search area is further constrained due to 5G wavelengths.
19. The appellant contends that the appeal scheme cannot be considered in isolation but in the context of the scheme considered under the dismissed appeal. In light of the dismissal, they state the only option left is the location at the appeal site.
20. Due to its location, there is insufficient space to replace the existing installation with an installation of the size required for the operational requirements identified. I note the remaining space close to the site of the existing installation is located over the railway bridge, which the appellant asserts there is nothing solid in which to install the root. The appellant also asserts that the footways along Palatine Road and Lapwing Lane are too narrow for the proposed installation, with evidence of underground services, which cannot be built over.
21. Mast sharing with the adjacent monopole at the existing telecommunications site has been discounted. The existing installation is not structurally capable of supporting the required apparatus for four operators and would need to be replaced and redesigned with a secure compound. There is insufficient space within this area to accommodate such an installation.
22. A limited number of alternative sites were assessed. The analysis by the appellant is not sufficiently comprehensive to show that it has considered reasonable alternative options. Overall, the reasons given for discounting other sites are brief and unsupported by sufficient detailed evidence to demonstrate why they would not be viable.
23. Therefore, in the absence of clear evidence as to why other nearby areas have been discounted, I cannot establish whether or not more suitable sites might reasonably be available. Consequently, I am not satisfied, based on the evidence before me, that suitable alternatives have been comprehensively explored, nor that the requirements of paragraph 121 of the Framework have been fully met.

Other Matters

24. The planning history associated with the two existing telecommunications sites, located broadly opposite the appeal site, have been drawn to my attention. While noting these existing installations have been accepted by the Council, their locational context and design differs from the appeal site, insofar as they

are not located within a CA, and they are much narrower and lower in height than the appeal scheme.

25. I have also considered the allowed appeal decisions referred to by the appellant. However, based on the evidence before me, the locational context and circumstances of the allowed appeals were different. In three cases² the Inspector found the character and appearance of the area would not be adversely affected by the development proposed. In three other cases³, the Inspectors were satisfied there were no suitable alternative sites. In all cases, none of the sites were located within a CA. As such, those cases are not comparable with this appeal scheme, which I have determined based on the circumstances of the site and the details of the proposal before me.
26. While the appellant asserts the siting of the proposed mast would not impede pedestrian flow or the safety of passing motorists and would not be overlooked by neighbouring residents, an absence of harm in respect of highway safety and living conditions of occupiers of neighbouring properties carries neutral weight in favour of the proposal.

Planning Balance

27. The appeal scheme would cause less than substantial harm to the significance of the CA. In such circumstances, paragraph 208 of the Framework states that this harm should be weighed against the public benefits of the proposal.
28. The proposal would improve existing 4G services and provide the scope for 5G coverage from one installation. There are public benefits associated with access to connectivity, including economic and social benefits and several reports and documents have been drawn to my attention, outlining the benefits and importance of connectivity. Furthermore, the appellant has specifically highlighted further associated benefits for residents and visitors of the area. These include much faster download and upload speed and latency, improved capacity in congested areas and improved homeworking, as 5G rivals the speed of fibre broadband.
29. I acknowledge that the appeal scheme would provide coverage in this geographical area. As set out in the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.
30. I consider the public benefits arising from the proposed development would be moderate, but they would not be sufficient to outweigh the less than substantial harm to the significance of the heritage asset. No clear and convincing justification for the harm to the designated heritage asset has therefore been provided.
31. In coming to my decision, I have had regard to the statutory test set out at Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In so far as they are a material consideration, the proposal is contrary to UDP Policies DC17.1 and DC18.1, CS Policies DM1, EN3 and SP1 and the Framework.

² APP/G4240/W/21/3268575, APP/M5450/W/20/3244354 and APP/P4605/W/19/3242513

³ APP/P4225/W/21/3283532, APP/G5750/W/20/3249160 and APP/L1765/W/18/3197522

Conclusion

32. The siting and appearance of the proposed installation would have a significantly harmful effect on the character and appearance of the surrounding area, and would not preserve or enhance the character or the appearance of the Ballbrook CA. Given alternatives have not been properly explored, this harm is not outweighed by the need for the installation to be sited as proposed. As such, I find the siting and appearance of the proposed development to be unacceptable.

33. I therefore conclude that the appeal should be dismissed.

S Pearce

INSPECTOR