



Appeal Decision

Site visit made on 29 October 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/N5090/W/23/3333624

**Land at Lyttelton Road SW, Hampstead Garden Suburb, Barnet,
London N2 0DR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under development order 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 on behalf of EE Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref is 23/2597/PNT.
- The development proposed is for the installation of a 12.50m high slim-line monopole, supporting 6 no. antennas, 2 no. equipment cabinets, 1 no. electric meter cabinet and ancillary development thereto.

Decision

1. The appeal is allowed and prior 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) for the installation of a 12.50m high slim-line monopole, supporting 6 no. antennas, 2 no. equipment cabinets, 1 no. electric meter cabinet and ancillary development thereto at land at Lyttelton Road SW, Hampstead Garden Suburb, Barnet, London N2 0DR in accordance with the application 23/2597/PNT and the details submitted with it including plan nos 002, 005, 200, 250, 251, 252, 253.

Preliminary Matters

2. There is no dispute that the proposal would accord with the requirements of Schedule 2, Part 16, Class A Paragraph A.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires 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.

Planning Policy

3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, 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.

Main Issues

4. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the Hampstead Garden Suburb Conservation Area (HGSCA); and
- whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

Character and appearance

5. Lyttelton Road is a main arterial road and generous grass verges allow for a degree of separation between the road and the footways. The immediate area includes a mix of commercial and residential uses and consists of a variety of building styles and scales ranging from large traditional dwellings to substantial residential blocks. The appeal site is in front of Lyttelton Court a locally listed building that is set back from the highway by generous lawned front gardens. An access road and a bank of mature trees and shrubs create a further degree of separation from the highway. The grass verges are lined with mature street trees and are largely open. However, street furniture typically associated with a busy main road such as streetlights, bus shelters and road signs impinge on this openness. This includes an existing small mast close to the appeal site. The grass verges, generous landscaped front gardens and wide highway create an attractive streetscape which is both spacious and verdant. The appeal site is within the grass verge, which therefore makes a positive contribution to the character and appearance of the area.
6. The site is within the HGSCA and in front of Lyttelton Court, a non-designated heritage asset. The significance of the HGSCA derives from its garden suburb origins and the quantity of listed buildings within. Its buildings are largely arranged in regimented rows and small pockets of housing with a strong emphasis on verdant and ordered public realm. The HGSCA includes cohesive areas of private and public spaces, resulting in a place that the Council's appraisal¹ describes as "leafy and visually attractive". I note that Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, does not apply in this instance as the proposal seeks prior approval. Nevertheless, appropriate consideration can still be given to the provisions under Section 15 of the Framework in this regard.
7. The proposed mast would be painted grey to reflect the existing streetlights and blend with the sky, it would be slightly taller than the existing trees and lower than Lyttelton Court. On my site visit I observed the site in close proximity and from more distant positions along Lyttelton Road and neighbouring streets. Both the trees and existing architecture neighbouring the mast would effectively frame it within both closer and long range views. Within this context the tower would not be materially harmful when viewed from a distance. This screening effect may be lessened in the autumn and winter months when the trees lose their leaves. However, the density of

¹ Hampstead Garden Suburb – Conservation Area Character Appraisal Statement Introduction

planting and the maturity of trees is such that a sufficient level of cover would remain.

8. Notwithstanding this, the width and height of the mast, as well as the associated equipment and cabinets would result in a degree of visual clutter. This would have a harmful impact on closer views within the street scene and the open nature of the grass verge would be reduced. The physical and visual separation between the appeal site and Lyttleton Court is such that the proposed scheme would not harm the setting of this non-designated heritage asset. Nonetheless, it would result in an obtrusive addition on a wide grass verge that is a defining characteristic of this part of the HGSCA. Coupled with existing street furniture and existing and proposed monopoles in close proximity, it would add to visual clutter in the area.
9. Insofar as they are material considerations, I have also had regard to policy CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document 2012 and policies DM01, DM06 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012. These policies, among other matters, seek development to protect the areas heritage, be based on an understanding of local characteristics and for telecommunication equipment to have no significant adverse effect on the space in which it is located. I have found that the proposal would not integrate well with the local street scene and would not satisfy these policies. The appellant asserts that the pole is as low and narrow as possible to meet technical and structural requirements and the proposed colours would act to mitigate the impact of the scheme. These factors lessen the impact of the proposal and in light of them the scheme would result in less than substantial harm.

Location

10. Given the above, paragraph 208 of the National Planning Policy Framework (the Framework) requires harm to a designated heritage asset to be weighed against the public benefits. The Framework makes it clear in paragraph 118 that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The appellant provides evidence that the telecommunications equipment would provide the latest 3G, 4G and 5G technologies in the area where there is currently a coverage deficiency.
11. In accordance with the requirements of paragraph 121 of the Framework, there is also evidence before me to demonstrate the search for alternative sites in the local area including existing structures. This involved the consideration and assessment of a number of sites both prior to the submission of the application and subsequently to accompany the appeal submission. The appellant asserts that an existing and a recently approved pole in the area of the appeal site² do not have the structural capacity to support the required equipment. They state that in order to support the required technology a lattice tower and surrounding security fence would be required which would be significantly more prominent and visually intrusive. In order to achieve the required coverage, the appellant states that a site outside of the HGSCA would be unsuitable.

² APP/N5090/W/16/3153667 and APP/N5090/W/22/3310886

12. There is no substantive evidence before me to demonstrate that the alternative sites would be suitable or the existing and approved poles in the area would be capable of supporting the equipment required without significant alteration.
13. Paragraph 122 of the Framework states that the need for telecommunications equipment should not be questioned. Furthermore, I note that the Council raised no objections at the application stage to either the need for the mast or to the possibility of any alternative sites which might be preferable. I therefore attach significant weight to such matters.
14. I therefore conclude that while the proposal would cause some harm to the character and appearance of Lyttelton Road and the HGSCA this would be outweighed by the need for the proposal and the lack of alternative sites that would cause less material harm. The proposal would therefore be in accordance with paragraphs 118 and 121 of the Framework.

Other Matters

15. The Council has drawn to my attention to a recent appeal decision at the site which was dismissed³. However, there are specific differences between that scheme and the appeal before me in that the mast in that case would have been 15m high and significantly taller than both Lyttelton House and the mature trees in the area resulting in a high degree of visibility within the street and a greater impact on the character and appearance HGSCA.
16. A range of other matters have been raised by interested parties. I note that previous applications have been refused and appeals have been dismissed for similar developments in the area. This is not a reason for resisting the proposal because each application is determined on its own merits. Furthermore, this does not prevent the appellant from applying for permission for an alternative proposal.
17. Submitted representations from neighbouring residents state that the area receives suitable broadband and 5G coverage. However, there is no substantive evidence before me to demonstrate that the EE network has a suitable level of cover in the area.
18. 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.

Conditions

19. The GDPO 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

³ APP/N5090/W/21/3276591

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

20. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be given, subject to the conditions set out in the GPDO.

C Livingstone

INSPECTOR