



Appeal Decision

Site visit made on 21 February 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2023

Appeal Ref: APP/J1915/W/22/3298342

Land off Mimram Road, Hertford SG14 1NN

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL (EE (UK) Ltd and H3G (UK) Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/3066/TEL, dated 8 December 2021, was refused by notice dated 2 February 2022.
 - The development proposed is the installation of a new 20m monopole tower, associated radio-equipment housing and ancillary development hitherto.
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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 siting and appearance of a 20m monopole tower, associated radio-equipment housing and ancillary development hitherto at land off Mimram Road, Hertford SG14 1NN in accordance with the terms of the application, Ref 3/21/3066/TEL, dated 8 December 2021, and the plans submitted with it including drawing nos. 1647598_99247_TBC_EHE122_M001 A 002 Site Location Plan; 1647598_99247_TBC_EHE122_M001 A 100 Existing Site Layout; 1647598_99247_TBC_EHE122_M001 A 150 Existing Site Elevation; 1647598_99247_TBC_EHE122_M001 A 215 Proposed Site Layout; 1647598_99247_TBC_EHE122_M001 A 265 Proposed Site Elevation.

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. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of 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 Issue

4. The main issue in this appeal is the effects of the siting and appearance of the proposal on the character and appearance of the site and surrounding area.

Reasons

5. The appeal site is situated within a wide grass verge at the front of an industrial estate, immediately adjacent to a vehicle workshop. This building and the neighbouring commercial unit are of brick construction, with a simple form and modern appearance. Whilst the two-storey buildings have a large footprint, due to their flat roofs the buildings appear generally modest in height. The appeal site is close to the road junction of Hertingfordbury Road and Mimram Road. The rear side of a group of modest two-storey and single storey dwellings and commercial buildings is located on the opposite side of Mimram Road. The proposed monopole would significantly exceed the modest height of surrounding buildings. However, the presence of nearby buildings and mature trees adjacent to the bridge would provide an element of screening and enclosure of the proposed installation at street level and it is within this context that the tower would be seen from along Hertingfordbury Road.
6. The proposed monopole would be most visible when travelling along Hertingfordbury Road toward the rail bridge, after passing the tree belt adjacent to the petrol filling station. From this direction, the proposal would be viewed against a backdrop of a brick rail bridge and earth embankments which elevate the rail line, along with mature trees, lighting columns and overhead lines atop metal poles, thereby reducing the visual impacts of the height of proposed monopole.
7. Opposite the appeal site, a tall brick wall runs parallel with Hertingfordbury Road above which are back gardens, trees and the rear side of a row of dwellings at Sele Road. The dwellings and gardens are elevated significantly above the ground level of the appeal site and would generally obscure views of the proposed installation from the north.
8. The variation in ground levels on either side of Hertingfordbury Road, along with the elevated dwellings, and presence of the rail bridge and embankments add considerable height to the street scene. Therefore, whilst the proposed monopole would exceed the height of adjacent buildings, it would not appear out of proportion within the context of the street scene.
9. There are many modern, tall and vertical structures within the surrounding area. Street lighting columns are spaced at regular intervals along the central reservation of Hertingfordbury Road, with occasional lighting columns along the pedestrian footways. An assortment of signage containing advertisements are sited on the grass verge. Also within the street scene are numerous highway signs, bollards and telegraph poles. Within the context of such structures, the proposed development, whilst visible, would not appear out of keeping with the modern, functional appearance and quality of the appeal site and surrounding area.
10. Hertingfordbury Road is a main route to the town of Hertford which, after passing the appeal site, widens to a dual carriageway. The area has a generally urban and functional character dominated by the road, with a mix of building types and uses. On the approach to Hertford the proposed development would

be generally obscured from view by the rail bridge, coming into view over the short distance between the bridge and appeal site. From the appeal site, views toward the town are generally obscured by the curvature of the road and mature trees. The proposal would not therefore appear dominate nor detract from the appearance of this route into Hertford.

11. Paragraph 115 of the Framework requires the number of masts be kept to a minimum consistent with the needs of consumers and the efficient operation of the network. The proposal would provide 5G services and would enable two network operator services plus an emergency services network to operate from one monopole, thereby reducing the need for sites. Paragraph 115 also requires that masts be sympathetically designed and camouflaged where appropriate. I understand the appearance of the monopole would be of a modern design which has sought to minimise visual intrusion and as indicated in the appellant's statement, is of the minimum height necessary to provide network coverage to the local area. Since there are a range of existing modern vertical features within the street scene, as referred to above, the proposed monopole would not appear out of keeping and a camouflaged design would not therefore be necessary.
12. As set out above, whilst the proposed development would be visible within the street scene, it would not appear unduly dominant or overly prominent in the surrounding area, would not harm the visual qualities of the approach to the town, and would not adversely impact on the character and appearance of the site and surrounding area. Having regard to the Framework insofar that it is a material consideration, the siting and appearance of the proposal would comply with section 10 which supports the expansion of electronic communications networks, including next generation mobile technology such as 5G, and section 12 which seeks to achieve well-designed places.

Other Matters

13. The Council notes that it recently granted permission for the installation of antennas in Hertford town centre and suggests it is unclear why a further site is needed. The appellant indicates the scheme would fill a coverage gap following removal of the base station at Hertford theatre. Paragraph 118 of the Framework makes clear that local planning authorities should not question the need for an electronic communications system, and I am satisfied that the proposal is required to meet the operational needs of the network.
14. The Council suggest that the appellant's assessment of discounted options is based on uncertainties or unsubstantiated matters. However, the appellant's statement describes the sequential approach taken to identify a site, and the reasons why sites were discounted. As documented in the application submission, eight site options were assessed and discounted. Two additional options were also assessed and discounted at the feasibility stage.
15. One option proposed sharing of a nearby mast. This was discounted as the existing mast is not structurally suitable or of sufficient height to provide necessary coverage. Other options included a range of rooftop and ground level locations, each of which was discounted for a range of reasons, including technical constraints to coverage or installation, such as inadequate building height and acquisition challenges, and proximity to and visual impacts on dwellings and residential areas. I am therefore satisfied that the evidence

before me indicates the appeal site provides the most suitable option within the area of search.

16. Representations have been received regarding the health risks of 5G communications. Paragraph 118 of the Framework makes clear that health safeguards different from the International Commission guidelines should not be set. Evidence of an ICNIRP certificate has been provided in support of this application, and therefore public exposure is within those guidelines and is not therefore a matter to be questioned as part of this appeal. In addition, some comments queried the need for the proposed installation and suggested alternative locations. As discussed above, I am satisfied the scheme is required and the appellant has undertaken an adequate assessment of alternative site options.

Conditions

17. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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

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

E Dade

INSPECTOR