



Appeal Decision

Site visit made on 25 March 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th May 2021

Appeal Ref: APP/X1925/W/20/3255145

Land adjacent to Ashfield Drive, Blackhorse Road, Letchworth Garden City, SG6 1HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MBNL (EE & H3G) against the decision of North Hertfordshire District Council.
 - The application Ref 19/02678/FP, dated 7 November 2019, was refused by notice dated 23 January 2020.
 - The development proposed is "the replacement of an existing 15.0m monopole with a 20.0m high monopole supporting 12 no antenna apertures, together with the installation of groundbased equipment cabinets and ancillary development thereto."
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Decision

1. The appeal is allowed and planning permission is granted for "the replacement of an existing 15.0m monopole with a 20.0m high monopole supporting 12 no antenna apertures, together with the installation of groundbased equipment cabinets and ancillary development thereto" at existing telecommunications site, land adjacent to Ashfield Drive, Blackhorse Road, Letchworth Garden City, SG6 1HB in accordance with the terms of the application, Ref 19/02678/FP, dated 7 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002 SITE LOCATION PLAN; 100 EXISTING SITE PLAN; 150 EXISTING SITE ELEVATION; 215 PROPOSED MAX CONFIGURATION SITE PLAN and 265 PROPOSED MAX CONFIGURATION ELEVATION (all with Masterplan series number 751372_NHE015_71064_SG0140_M006 Issue F).
 - 3) Before the development is first brought into use, a scheme for the removal of the existing telecommunications mast, all associated equipment and paraphernalia including reinstatement of the land and timetable for the work shall be submitted to and approved in writing by the local planning authority. The existing telecommunications mast, all associated equipment and paraphernalia shall be removed in accordance with the approved details.

Procedural Matters

2. There is confusion over the number of cabinets proposed. The submitted plans show 7 and the appeal has been determined on this basis. For the sake of

accuracy, the Council's location description of the proposal has been used rather than the appellant's which is not accurate.

3. Submitted with the appeal, an additional plan shows a visibility splay looking westwards from the junction of Blackhorse Road and Ashfield Drive. This plan seeks to address a specific objection raised by the Highway Authority (HA) which forms the basis of a Council's highway safety reason for refusal. On the site visit, it was clear that the mast and cabinets would not obstruct the required visibility splay. For the sake of completeness, the appellant was required to submit an accurate visibility splay plan. Based on this, the HA has confirmed visibility requirements can be complied with at this junction with the appeal development. I will comment upon this further in the decision.

Main Issues

4. The main issues are the effects of the proposal on (a) the character and appearance of the area and (b) the safety of highway users, having regard to visibility at the junction of Blackhorse Road and Ashfield Drive.

Reasons

Character and appearance

5. The appeal site is a grass verge on the edge of Blackhorse Road and contains an existing mast of approximately 15m, along with equipment cabinets. The verge and accompanying footway are raised above an area of public open space which slopes down to a road behind, Ashfield Drive. Here, dwellings face onto the public open space and the site beyond, across a residential road. Within the public open space, there is hedge/shrub planting adjacent to footway and verge, and the site. Some more substantive trees have been planted within the space.
6. The site is also close to the junction of Blackhorse Road and Ashfield Drive and there is a further mast, approximately 15m high, with associated equipment cabinets, in between the site and junction. There are industrial properties opposite the site on Blackhorse Road. As a result, the area has a varied and mixed character and appearance.
7. The proposal would result in the replacement of the existing mast and cabinets. The mast would be taller by approximately 5m and wider, by about a third, than the existing mast to be removed. Four cabinets would be replaced with seven cabinets. Both the mast and cabinets would be sited in a position closer to the junction and other mast. At 20m, the mast would be higher than street lighting columns along the road.
8. The existing telecommunications masts were constructed when the area was largely industrial and since then, there has been new housing areas built in Ashfield Drive and Cedar Gardens. The public open space landscaping will take some time to become established and effective, and even when it is, it will not substantially screen or filter views of the development. The development would be seen from footways along and close to Blackhorse Road and Ashfield Drive.
9. However, the mast and its associated cabinets will be seen against the backdrop of existing industrial premises on Blackhorse Road and the highway itself. The mast will utilise a simplistic galvanised finish, similar to lampposts

and the other masts, and the cabinets will be painted a subdued colour grey. The highway is a significant traffic thoroughfare and has street furniture in the form of lampposts. The existing verge also has existing masts and cabinets, albeit smaller in extent.

10. There is dispute over the accuracy of elevation plans showing the dwellings in relation to the development. The development would be elevated compared to these properties. Nevertheless, it could be seen from my site visit that the distance from residential properties to the mast and cabinets would be significant given their location on the northern side of Ashfield Drive and the intervening public open space. The mast and cabinets would also be seen against the backdrop of industrial units and the road from these dwellings and the public open space. Significant weight is given to the industrial and highway backdrop of the development.
11. Drawing all these factors together, the harm to the character and appearance of the area would be small but nevertheless, the proposal would still conflict with Policies SP1 and SP9 of the emerging North Hertfordshire District Local Plan (LP) Submission Local Plan 2011–2031, which collectively and amongst other matters, require sustainable development, the creation of high quality developments that respect and improve their surroundings, new development that is well-designed and responds positively to its context. Similarly, it would conflict with section 12 of the National Planning Policy Framework Policy (the Framework) because the development would not be visually attractive and sympathetic to local character, albeit in a small way.

Highway safety

12. The Ashfield Drive highway slopes up towards its junction point with Blackhorse Road which has a 30 mph speed limit. The HA has recommended a visibility splay of 43m in a westerly direction with a setback of 2.4m based on a Manual for Streets (MfS) (England & Wales). The revised visibility plan shows that the development could be built without interfering with this requirement.
13. There has been strong third party objections regarding the safety at this junction. However, the HA has also confirmed that the required visibility splay from this junction would be met. As a statutory consultee on highway safety matters, considerable weight is given to their views. Furthermore, there is no detailed evidence to demonstrate that the proposal would harm the safety of road users.
14. From what I saw on site and taking into account the HA's views, the development cannot be refused because there would be no unacceptable impact on highway safety nor would the residue cumulative impacts on the road network be severe. Accordingly, the proposal would comply with policy within Section 9 of the Framework on such matters and the guidance of the MfS. The proposal would comply with the guidance of Local Transport Plan (LTP4) 2018-2031 for similar reasons because it would not severely affect highway safety.

Other matters

15. The Council's reason for refusal refers to harm to the wider visual amenities of the area and refers to a conflict with emerging Policy D3 on living conditions. However, this policy conflict has not been substantiated. The impact on a view

from a window can be reflected in a wider loss of residential amenity, such as outlook, but there is none given the significant separation between the mast and cabinets, and the nearest properties. The impact of the proposal on character and appearance is a separate issue and has been considered elsewhere in this decision. In respect of a loss of a view from a window, this is not a planning matter. Thus, there would be no conflict with this policy.

16. The Council's appeal questionnaire details Policy 8 of the North Hertfordshire District Local Plan No.2 (LP2) with alterations 1996 and Saved Policies 2007. This policy indicates that proposals, to meet the majority of the development needs of the District, will normally be permitted if the aims of other relevant policies are met. No other LP2 policies have been identified. In the absence of any identified conflicts with other LP2 policies, there can be no conflict with LP2 Policy 8 and accordingly, there are no relevant development plan policies.
17. Operational constraints require any alternative sites to be within a 100m short radius of the existing mast to maintain the existing network coverage and at a height of 20m to allow for the future provision of 5G. Such a height is required to be at 20m in order to 'see' above the natural land elevations, existing built environment and to provide enough space for both operators to share the same site.
18. Within the search area, the roof scape is mainly pitched domestic roofs or low-lying industrial units which are unsuitable for the telecommunications equipment. There are no large flat roofed buildings which might offer a non-street works option within the required search area. The absence of any available buildings of sufficient height or type, upon which the equipment could be installed, has necessitated the redevelopment of a ground-based option.
19. Within the area, the density of low-rise residential and industrial areas coupled with the local topography, restricts available areas that are suitable to accommodate the development. There are areas around footpaths, but these tend to be close to residential properties whilst the industrial areas would be constrained by space restrictions for accommodating the required equipment as well as challenging low-lying topography. Despite criticism of the appellant's search approach, no sites have been identified by other parties. On this basis, there are no preferable and suitable alternative sites for the provision of telecommunications equipment in the area.
20. The development of high-speed broadband technology and other communications networks plays a vital role in enhancing the provision of local community facilities and services. The proposal would provide shared facilities for two operators to maintain 2G, 3G and 4G service and would provide new 5G services to the surrounding area, the latter not currently available. The lack of alternative sites and business benefits of the services weigh heavily in favour of the proposal.
21. There has been a recently dismissed appeal for a similar development at Stotfold Road in Letchworth Garden City. Inevitably, every proposal will differ in its nature and context and in this other appeal case, the site was on the edge of a green field, largely without surrounding built form or other infrastructure. The front of the appeal site was currently used as a small seating and amenity area. Such considerations serve to distinguish this other appeal from that before me and in any case, every proposal has to be considered on its particular planning merits.

22. A Declaration of Conformity with ICNIRP Public Exposure Guidelines has been submitted in relation to health and safety matters. It confirms that the operator will abide by operational International Commission guidelines and therefore, it will not be necessary to further consider the health aspects of the proposal. Furthermore, the Framework indicates that decision makers should not set health safeguards different from the International Commission guidelines for public exposure at paragraph 116.

Planning Balance

23. There would be harm to the character and appearance of the area in conflict with emerging LP policies. The LP has recently progressed through a series of hearing sessions with an examining Inspector and is at an advanced stage of plan preparation. Significant weight is given to the conflict of the policies within it and the plan itself. There would also be conflict with the design policies of the Framework.
24. However, there are no relevant development plan policies and the Framework tilted test at paragraph 11. d) ii. applies. The harm to the character and appearance of the area would be small for the reasons indicated. A lack of alternative sites has been demonstrated given operational constraints and the development would be shared between two operators, maintaining and upgrading existing network coverage, and would provide new 5G services. Under the Framework, decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) at paragraph 112. The Framework states significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development at paragraph 80. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Accordingly, the presumption in favour of sustainable development would apply.
25. In summary, there would be conflict with emerging policies of LP and the LP taken as whole, and the design policies of the Framework. However, the presumption in favour of sustainable development under the Framework would apply. Given the harm to the character and appearance of the area would be small, planning permission should be granted due to this presumption. There are no other material considerations to outweigh this finding.

Conditions

26. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance. For the avoidance of uncertainty and to allow for applications for minor material amendments, a condition is necessary specifying the approved drawings. In the interests of the character and appearance of the area, a condition is necessary to implement the removal of the existing mast and telecommunications equipment. Given the urban and roadside nature of the site, there is no necessity to colour the mast green.
27. A condition requests details of a satisfactory access at the road junction and that an associated splay be implemented and maintained. A plan shows that the development would not infringe upon an acceptable visibility splay at this junction and therefore, there is no need for such a condition.

Conclusion

28. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR