The Planning Inspectorate

Appeal Decision

Site visit made on 25 April 2023

by Elaine Moulton BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2023

Appeal Ref: APP/P4225/W/22/3310956
Land to the rear of the bus stop between the southbound carriageway of Whitworth Road and Greenbank Road, Rochdale OL12 0HZ

- 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 (EE (UK) Ltd and H3G (UK) Ltd) against the decision of Rochdale Borough Council.
- The application Ref 22/00517/TELE, dated 13 April 2022, was refused by notice dated 8 June 2022.
- The development proposed is described as 'the proposed development includes for the installation of a new 20m high, monopole telecommunications mast to support 12 no. apertures and 2 no. dishes antenna, and ancillary equipment required to operate the antenna, housed in cabinets at the base of the mast'.

Decision

1. The appeal is allowed and 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 new 20m high monopole telecommunications mast to support 12 no. apertures and 2 no dishes antenna, and ancillary equipment required to operate the antenna, housed in cabinets at the base of the mast at land to the rear of the bus stop between the southbound carriageway of Whitworth Road and Green Bank Road, Rochdale in accordance with the application ref: 22/00527/TELE, dated 13 April 2022, and the plans submitted with it including 1573571_79794_RO143_TBC_M003 Issue C (002 Site Location Plan); 1573571_79794_RO143_TBC_M003 Issue C (215 Max Configuration Site Plan); and 1573571_79794_RO143_TBC_M003 Issue C 265 (Max Configuration Elevation).

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.

3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.

4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, 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 factors relevant to matters of siting and appearance.

5. I have amended the description of development used in my decision from that set out in the banner heading above, which has been taken from the planning application form, to omit anything that is unnecessary to describe the development.

Main Issue

6. The main issues are:

   - effect of the siting and appearance of the proposal on the character and appearance of the area; and
   - effect of the siting and appearance of the proposal on pedestrian and highway safety.

Reasons

Character and appearance

7. The appeal site is located to the rear of a bus shelter on the busy Whitworth Road which has a mixed commercial and residential streetscape and consists of buildings that are predominantly 2 storeys in height. The site lies within a greenspace corridor, as defined in the Rochdale Borough Unitary Development Plan (2006) (UDP), dissected by Whitworth Road. The greenspace is partially enclosed by a number of tall trees, including at the rear of the site and on the opposite side of Whitworth Road, but otherwise provides a break from the built-up surroundings.

8. In addition to the bus shelter, the nearby area incorporates street furniture including a bus stop sign, waste bin and a phone box. The existing streetlights regularly spaced along the highway create a rhythm within the street scene which is emphasised by the straight alignment of Whitworth Road.

9. The upper section of the proposed monopole would protrude above the trees and surrounding buildings and would be seen against the sky. However, from the majority of views the lower section would be obscured by, or seen against the backdrop of, the trees. Such trees would provide a transition between the height of the surrounding street features and the proposed monopole and screen. Moreover, as demonstrated by the provided photomontages and from my observations on my site visit, the tree canopies would soften the presence and effect of the monopole upon approach in all directions, particularly from within the greenspace. Coupled with its relatively simple linear and compact design, the proposed monopole would not stand out as an isolated or unduly exposed structure. It would not, therefore, appear as an alien or unexpected feature in the street scene or dominate views from within the greenspace.

10. The proposed equipment cabinets would be of modest size and extent. As such, they would not result in an undue proliferation of street furniture or a visually cluttered street scene.

11. I have been supplied with no compelling evidence to suggest that the proposal would be a harmful intrusion into the root protection area of nearby trees. I am satisfied that the proposal would be of sufficient distance from the trees so as not to put them at risk of excessive pruning or removal. As such there is no basis to conclude that the development would undermine the positive contribution that the trees make to the appearance of the area.

12. For the above reasons, I conclude that the siting and appearance of the proposal would not harm the character or appearance of the area. Insofar as they are relevant to siting and appearance, it would accord with Policies P1, P3, and DM1 of the Rochdale Adopted Core Strategy (2016) (CS) and saved UDP Policy G8. Such policies require, amongst other things, that development demonstrates a high-quality design and avoid harm to greenspace corridors.

Highway Safety

13. Most of the associated cabinets would not be located within the footpath. However, the monopole and its wrap around cabinet at its base would be within the footpath directly to the rear of the bus stop.

14. I observed that the footpath is wider at the rear of the bus stop and for a section approaching it in both directions. The proposed monopole and base cabinet would take up a relatively small area of the footway and there would remain sufficient space for all users of the footway, including those with prams, wheelchairs and mobility scooters to safely pass. I consider that the proposed reduction in the footpath would not result in pedestrians or passengers straying onto the adjoining road even at the busiest times of use of the bus stop and I have been presented with no substantive evidence that demonstrates to the contrary.

15. I note that the cabinets open onto the open space rather than the pavement. Additionally, the appellant has indicated that when maintenance is required this is done by a single engineer who would park elsewhere and access the site on foot. I observed that there are long sections of Greenbank Road with no parking restrictions close to the site where parking could conveniently and safely take place. Therefore, even on the infrequent occasions when maintenance is being undertaken the footpath width would not be further reduced and the safe operation of the bus stop compromised.

16. Accordingly, for the reasons given above, the siting and appearance of the proposal would not have an unacceptable impact on highway safety. Insofar as they are relevant to siting and appearance, it would accord with CS Policies T2 and DM1 which requires consideration of the accessibility of transport users.

Other Matters

17. Concern has been expressed about the potential effects of the proposed installation on health. The appellant, however, 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.

18. My attention has been drawn to an appeal decision for a 20m high telecommunications mast elsewhere on Whitworth Road. I have not been provided the full details of the case, including the design and precise location and I am therefore unable to fully assess any direct comparability to the current appeal proposal. However, I note that the information provided within the Council's report indicates that the site is comparatively elevated and thereby differs from the site of the appeal before me. In any event, I have assessed the proposal on its own merits and have found that the proposal will not be harmful.

19. Although concerns have been raised about the impact of the proposal on property values such matters fall beyond the scope of the prior approval process to which this appeal relates.

Conditions

20. Any planning permission granted for telecommunications apparatus 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.

21. The Council have suggested the imposition of a condition that specifies the colour of the mast. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. In any event, I do not consider such an additional condition to be necessary to make the development acceptable. The light grey colour of the mast is described in the documentation submitted with the application which I find to be acceptable. Furthermore, the Council have not raised an objection to such a colour.

Conclusion

22. For the reasons given above, the appeal should be allowed and prior approval should be granted.

Elaine Moulton

INSPECTOR