



Appeal Decision

Site visit made on 11 August 2023

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/V2255/W/22/3311086

TP Lower Road, Telegraph Pole Lower Road, Faversham ME13 7LJ

- 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 against the decision of Swale Borough Council.
 - The application Ref 22/504471/TNOT56, dated 8 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is an upgrade to the existing 8.0m EE/H3G OMNI Antenna on root foundation. Proposed EE/H3G Phase 7 Monopole complete with wrapround cabinet to be installed on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It is not a matter of dispute between the main parties that the proposal complies with the limitations and restrictions of Paragraph A.1 of Class A of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Based on the evidence before me, I have no reason to reach a different view.
3. The provisions of the GPDO 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 based on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The relevant provisions of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) cited in the Council's reasons for refusal, only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and the settings of the Faversham Conservation Area (CA), and the Grade II listed building known as Kosicot, and

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- if any harm is identified whether it would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and appearance

6. The character and appearance of the area is predominantly residential, consisting of rows of mostly two storey buildings fronting onto roads. Set into the footway at regular intervals along Lower Road are rows of telegraph poles, street lighting columns and several street trees.
7. The existing Monopole (mast) that would be replaced by the appeal proposal is a thin profiled structure, finished in a dark brown colour, which is substantially similar in scale and appearance to the several timber telegraph poles that are found in the area. It therefore blends in with its surroundings.
8. In contrast, the proposed Monopole would be substantially taller and sited in a different location. Compared to the narrower profiles of the shorter street lights and telegraph poles in the area, the proposed Monopole's thickness would appear bulky, particularly its upper part. This would emphasise its height and considerable visual presence, where notwithstanding its light colour finish, it would be seen towering noticeably above the predominantly 2 storey buildings, street furniture and nearby trees in the skyline.
9. I acknowledge that the proposed Monopole's height would be necessary to achieve network coverage and connections between different 'cells'. However, set in a relatively prominent position, the proposed Monopole would nonetheless be highly visible from nearby properties and for a significant distance along Lower Road, where the carriageway is relatively straight, and from South Road looking towards the junction with Lower Road. The upper part of the Monopole is also likely to be visible above the roof tops of nearby buildings in longer distance views from the surrounding roads and properties.
10. In these views, the height, bulk and utilitarian appearance of the proposed Monopole would appear as an incongruous and visually dominant structure. Even when in leaf, the nearby trees would provide only a limited degree of occasional screening of the proposed Monopole and a green backdrop in views from certain points. They would not provide effective screening of the proposed Monopole, which would contrast markedly with its surroundings in a way that the existing Monopole does not.
11. The scale of the proposal might be comparable to similar installations seen in similar urban environments. However, no details of such installations are before me in this appeal, which I have determined on its individual merits and the evidence before me, including site specific factors and effects.
12. The equipment cabinets would add to visual clutter in the street scene. However, seen in the context of the nearby boundary wall and the mixed boundary fences above it, the cabinets themselves would not significantly detract from the character and appearance of the area. Although some existing cabinets associated with the existing Monopole would be removed, this would not outweigh the proposed Monopole's visual harm.

13. For these reasons, I conclude that the siting and appearance of the proposal would cause significant harm to the character and appearance of the area. In so far as they are a material consideration, it would therefore be contrary to Policy CP4 and Policy DM14 of The Swale Borough Local Plan – Bearing Fruits 2031 (Adopted July 2017) (the LP), which, amongst others, require high quality design that is appropriate to its surroundings and context, including in respect of the scale, height and massing of development, and causes no significant harm to amenity. I therefore find that the proposal would not be sympathetically designed, contrary to the requirement of Paragraph 115 of the Framework.

Conservation Area

14. The proposal would be sited just outside of the CA, which encompasses a predominantly residential area of the town, including the buildings fronting onto the north side of Ospringe Road and South Road. I have not been referred to any formal appraisal of the CA, however I find that the significance of the CA is generally derived from the rows of attractive period style buildings, predominantly 2 storeys in height, that front onto the roads in a near grid-like linear pattern, giving a sense of formality to the urban character of the area.

15. The main parties refer to the part of the CA within the vicinity of the appeal site as not displaying the highest level of character and interest. Nonetheless, the proposed Monopole would be clearly visible in views from within the CA, particularly from South Road looking towards Lower Road, and from outside of the CA looking into it. It would also be likely to be visible above the roofs of the nearby buildings from Ospringe Road and from St Ann's Road. As such, it would affect the setting of the CA in views into and out of the CA.

16. In these views, the incongruity of the height, bulk and utilitarian appearance of the proposed Monopole would be inconsistent with the prevailing character and appearance of the CA, resulting in harm to its significance. In terms of the Framework, the harm would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the proposal in delivering communications infrastructure and improved connectivity.

17. The removal of the existing Monopole and equipment cabinets from the CA would have negligible beneficial effects on its character and appearance, consistent with criterion 3 of Policy DM33 of the LP. However, this would not outweigh the less than substantial harm identified above.

18. I therefore conclude that the siting and appearance of the proposal would harm the setting of the CA. In so far as they are a material consideration, it would therefore be contrary to Policies CP8, DM14 and DM33 of the LP, which, amongst others, require development affecting the setting of, or views into and out of a conservation area, to preserve or enhance the area's special character and appearance.

Listed building

19. Kosicot is a nineteenth century grade II listed building (the LB) that has historical associations with the nearby Chart Gunpowder Mills. Remains of the

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Mills exist nearby, albeit there appeared to be no intervisibility between it and the LB.

20. Based on the evidence before me, the LB's significance seems to derive mainly from this historic association and to a lesser extent its traditional architectural qualities, which include a steeply pitched roof, substantial gabled chimney stacks and lattice-pane windows. Set in a prominent position on the back edge of the footway to Lower Road, the LB's architectural appearance and thus its visual significance, is appreciable in relatively long-distance views along the road. It is in marked contrast to the similar style modern buildings along Lower Road and therefore important when seen in this context.
21. The proposed Monopole would be visible with the LB, primarily in views along Lower Road. Whilst it would not obscure views of the LB, its height, width and incongruity would result in a visually dominant structure that would negatively affect the appreciation of the LB's architectural appearance and thus its setting, causing a moderate degree of harm to its significance. In terms of the Framework, the harm would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the proposal as outlined above.
22. I therefore conclude that the siting and appearance of the proposal would harm the setting of the LB. In so far as they are a material consideration, it would be contrary to Policies CP8, DM14 and DM32 of the LP which, amongst others, seek to sustain and enhance the significance of designated heritage assets, including the setting of a LB.

Alternative sites

23. The Framework is clear in Paragraph 115 that the number of mast installations should be kept to a minimum and that the use of existing masts, buildings and structures should be encouraged. Paragraph 117.c) of the Framework states that applications for prior approval for new masts should be supported by evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.
24. The existing Monopole would be replaced by the proposed new installation, which is in a different location and substantially different in scale and appearance. Although it would not increase the number of masts, it is nonetheless a new installation.
25. Details of the geographical search area to achieve the required network coverage capability are not before me in this appeal. The appellant's contention that the search area is constrained is therefore unsubstantiated.
26. I am advised¹ that alternative sites for the installation were supplied with the original planning submission for the existing Monopole. Therefore, the appeal site, which is near to the existing Monopole, was deemed by the appellant to be the most appropriate and sequentially preferable, and no alternative sites were investigated. However, the appellant's appeal statement is somewhat contradictory and in paragraph 3.15, refers to alternative sites having been discounted. Either way, details of that site selection process, such as the

¹ Section 6 of the appellant's Site Specific Supplementary Information document.

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specific alternative sites considered and the reasons why they were discounted are not before me in this appeal.

27. The evidence indicates that the original planning application stage for the existing Monopole dates back several years. Therefore, I cannot be certain that in the intervening years since that Monopole was approved, new buildings, structures or other telecommunications installations presenting opportunities for using existing structures, thus minimising the need for new installations, have not been constructed.
28. No evidence to substantiate a relative absence of tall buildings within the search area have been provided. Furthermore, the search area could be geographically different to when the existing Monopole was considered and the 5G technology would seem materially different. Together, these factors could have a bearing on the search area and site selection process for the proposed installation.
29. I am advised that the proposal would facilitate shared communications equipment removing the need for future masts. However, this does not outweigh the requirement to explore the possibility of erecting antennas on existing buildings, masts or other structures, through a site selection process.
30. For these reasons, I cannot be certain that the site selection process carried out for the original application, of which no details are before me in this appeal, would be applicable to the appeal proposal, and a suitable proxy for carrying out a bespoke up-to-date search.
31. On this basis the appellant has not demonstrated that a robust sequential approach to site selection has been carried out and that all potential opportunities to use existing buildings, structures or masts have been considered. Therefore, I am unable to conclude, on the evidence before me, that the appeal proposal is the only viable solution and there would be no preferable alternative sites for the installation proposed, such that the number of masts are kept to a minimum to achieve the required network coverage and deliver the acknowledged social and economic benefits to the public.
32. I am advised that any alternative site to satisfy the relevant technical requirements would result in the addition of a separate ground-based column elsewhere in close proximity to the existing structure. However, this is of limited relevance to my considerations given that no details of alternative sites are before me in this appeal.
33. For these reasons, the appeal proposal conflicts with Paragraphs 115 and 117.c) of the Framework, the requirements of which are set out above.

Other Matters

34. The absence of schools in close proximity of the site does not outweigh the harm I have identified above.
35. The absence of any harm to highway users does not weigh positively in favour of the proposal, being a likely requirement of any well-designed scheme of this nature.

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Planning Balance and Conclusion

36. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks. The need for the proposal is not in question and the proposal's public benefits in delivering communications infrastructure, including for the emergency services network, therefore weighs positively in its favour and carries significant weight in the planning balance.
37. However, the appeal proposal is not sympathetically designed for its context and would cause significant harm to the character and appearance of the area, and less than substantial harm to the settings of the designated heritage assets. I am required by Paragraph 199 of the Framework to give great weight to an asset's conservation when considering the impact of a proposal on the significance of a designated heritage asset. As such, the harm to heritage assets carries great weight in the balance.
38. Based on the evidence before me, the appellant has not demonstrated that a robust sequential approach to site selection has been carried out and that all potential opportunities to use existing buildings, structures or masts have been considered. Therefore, I am unable to conclude, that preferable alternative sites do not exist for the installation proposed, such that the number of masts be kept to a minimum to achieve the required network coverage and deliver the acknowledged social and economic benefits to the public.
39. For these reasons, I conclude that the appeal proposal's harm to the character and appearance of the area, and to the settings of the designated heritage assets, would outweigh the public benefits of the installation. It therefore follows that the appeal should be dismissed.

G Sylvester

INSPECTOR