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# Appeal Decision

Site visit made on 12 March 2020

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 April 2020**

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**Appeal Ref: APP/V4630/W/19/3241887**

**Pheasy Streetworks 203179, Queslett Road, Pheasy, Birmingham, West Midlands B43 7UF**

- 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 Ltd and Hutchinson 3G) against the decision of Walsall Metropolitan Borough Council.
  - The application Ref 19/0883, dated 5 July 2019, was refused by notice dated 4 October 2019.
  - The development proposed is a proposed upgrade to existing telecoms site. Proposed phase 7 monopole c/w wrapround cabinet at base and associated works.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The appeal site lies within the Great Barr Conservation Area (GBCA), the Green Belt, and there are grade II listed buildings at Doe Bank Farm off Doe Bank Lane to the north-west of the site. I have had regard to the parties' evidence in respect of the GBCA submitted in relation to Council's reasons for refusing planning permission. However, during the appeal I wrote to the parties inviting their views on the proposal's effect on the Green Belt and the listed buildings. I have had regard to their responses in reaching my findings.

## Main Issues

3. The main issues are:
  - a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - b) whether the proposed development would preserve or enhance the setting of the grade II listed buildings at Doe Bank Farm, and the character or appearance of the GBCA; and
  - c) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

*Whether inappropriate development*

4. Framework paragraph 143 states that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appellant company claims that installations are not inappropriate development. However, they have not explained whether their stance relates to Framework paragraph 145 or 146. The Council has not expressed a view either way.

5. The construction of new buildings should be regarded as inappropriate in the Green Belt, unless they fall into the exceptions listed in Framework paragraph 145. A building is defined in s.336 of the Act and includes "any structure or erection". If I were to consider the proposal to fall within the definition of a building, and apply exception d) logically, the proposal would replace the existing telecommunications equipment and it would be in the same use. However, the proposed mast would be materially larger than the one it would replace. Consequently, the appeal scheme does not accord with any of the exceptions listed in Framework paragraph 145 and in this eventuality, the proposal is inappropriate development in the Green Belt.
6. Other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it according to Framework paragraph 146. Notwithstanding the listed exceptions, there would be no conflict with the purposes given the existing mast and associated equipment. Framework paragraph 133 explains that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
7. The height of the proposed monopole would rise considerably above the adjacent trees and evergreens, which either mostly screen the existing mast or provide a backdrop for it. The same principle would apply for the lower section of the proposed mast. However, the trees and evergreens would not alleviate the moderate harm to the openness of the Green Belt that the proposed monopole would cause. The proposal would conflict with Framework paragraph 133 and as a result not accord with Framework paragraph 146.
8. Thus, in either eventuality, the proposal would be inappropriate development in the Green Belt having regard to Frameworks paragraphs 145 and 146. I attach substantial weight to this harm. A moderate harm to openness would also arise following the application of Framework paragraph 145. Furthermore, despite neither party specifically referring to any development plan policies about the Green Belt, of those before me, I consider the proposal would be contrary to saved Policies ENV32 and GP2 of the Walsall Unitary Development Plan (UDP) which jointly seek proposals to take into account, and prevent an unacceptable adverse impact on the Green Belt environment.

#### *Heritage assets*

9. The appeal site lies at the busy junction of Queslett Road, Queslett Road East and Doe Bank Lane. This junction forms the south-eastern corner of the GBCA which extends to the north and west of the site. The GBCA comprises of Great Barr Hall and its 18th century landscape park. The Hall lies in the bottom of a valley with two artificial lakes. Until its gradual decline from the 1970's onwards, the hospital occupied a number of buildings, including the Hall. The Hall and former grounds are now divided between several different ownerships. The Hall and parkland was laid out with several approaches, some direct and

others designed to show off the park. Some of the original entrance lodges remain. From Doe Bank Lane, Queslett Road and Queslett Road East, the GBCA forms an open, largely rural setting.

10. The grade II Great Barr Hall Registered Park and Garden is an important part of the GBCA but it is separated from the appeal site by some considerable distance (over 1km) and there is a large housing estate in-between. Given these circumstances, I agree with the view of the Council's Conservation Officer that the appeal site is not within its setting.
11. The listed buildings at Doe Bank Farm are an isolated pocket of development on the north-east side of Doe Bank Lane. Opposite, and outside of the GBCA, are a row of two storey semi-detached hipped roofed dwellings set back from the road behind a grass verge containing street trees. The Farmhouse is a two-storey building with a hipped tile roof and an English bond brickwork frontage. The front elevation of the Farmhouse is mostly symmetrical and dates from around 1800. Chimneys protrude above the front and side roof planes. The attached single storey building is characterised by the use of brick with a pitched roof. The elevation facing the lane includes a cart entrance with a segmental arch of blue brick with stone impost blocks. Overall, the significance of the listed buildings derives from the inter-related associations between the existing building group and how they can be still appreciated and understood as historic farm buildings in the partly rural context of the GBCA.
12. Despite the extra height, the proposal would have a neutral effect on the GBCA and the listed buildings when viewed from Queslett Road and from Queslett Road East given the busy nature of the roads which contain street furniture. Nearby planting also hinders how the setting, and thus the significance of the GBCA and the listed buildings are experienced.
13. I consider the height and modern design of the proposed monopole would introduce a jarring structure into the setting of the listed buildings and the GBCA when the site is viewed from Doe Bank Lane. Hence, the proposal would harm the significance of the listed buildings and the GBCA, even if the site is located on the edge of the GBCA. Although other street furniture populates the lane, this is well spaced, of a lower scale and less abundant. The proposal would not therefore preserve or enhance the setting of the listed buildings, and the character or appearance of the GBCA. As a result, the proposal would be contrary to Policies ENV2, ENV3 and CSP4 of the Black Country Core Strategy and saved UDP Policies ENV32 and GP2. While I attach great weight to the conservation of the heritage assets, the harm to the listed buildings would be moderate, whilst the harm to the GBCA would be limited.
14. The harm to the GBCA and the listed buildings would be less than substantial, having regard to Framework paragraph 196, though the impact is still harmful as they adversely affect the significance of the heritage assets. The less than substantial harm identified should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Given the nature of the development proposed and the case advanced by the appellant company, public benefits and other considerations can be the same. Thus, I will consider these jointly before reaching a conclusion on the proposal.

#### *Other considerations*

15. The appellant company says that the existing coverage is adequate during times of low traffic, but critically low during peak traffic times. The proposed

upgrade to 5G technology, which would be shared between multiple operators, including the Emergency Service Network would therefore help deliver a modern, advanced, high quality and reliable communications infrastructure that supports a range of consumers, including the emergency services. The proposal would lead to public benefits in the form of economic growth and the local community by enabling fast and reliable communication to take place, for example by helping people gain employment, access services, support their health and well-being, whilst also assisting new technologies. In current times, the importance of an advanced, high quality and reliable communications network is plain to see.

16. The appellant company explains that the monopole's proposed height is essential to provide the upgraded coverage; to clear surrounding buildings and trees; and to comply with the International Commission on Non-Ionizing Radiation Protection guidelines. I have no reason to doubt the latter. I note the appellant company's point about the difficulties of achieving the blanket mobile coverage that Government seeks to realise if masts are not located in the Green Belt. Be as that may, even if alternative sites may have been discounted in an earlier planning application, there is no rigorous assessment of any alternative sites before me, and circumstances may well have changed. As a result, I am unable to agree with the appellant company's view about not achieving widespread coverage without such an assessment. Logically, this also means that the public benefits set out above could potentially be achieved in a location outside of the Green Belt and not within the setting of heritage assets. I therefore give limited weight to the public benefits set out above. Should I be wrong about alternative sites, the public benefits would carry moderate weight.
17. The Council have not raised any concerns with the associated cabinets. They may well be permitted development, but, in any event, I have no reason to form a different view.
18. In refusing planning permission, the Council refer to Framework paragraphs 56, 57, 58, 63 and 64. However, none of these paragraphs are relevant to the scheme that is before me.

## **Conclusion**

19. The appeal scheme would be inappropriate development in the Green Belt. Following the application of Framework paragraph 145, there would also be moderate harm to the openness of the Green Belt. I attach these Green Belt harms substantial weight.
20. The proposal would result in moderate and limited harm to the significance of the listed buildings and the GBCA. I attach great weight to their conservation. I have considered matters put before me in favour of the scheme by the appellant company, but in any event these matters do not clearly outweigh the harm to the Green Belt and the heritage assets that I have identified. Hence, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development, despite the scheme fulfilling the economic and social roles.
21. For the reasons set out above, I conclude that the appeal is dismissed.

*Andrew McGlone*

INSPECTOR