
Appeal Decision

Site visit made on 11 August 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2020

Appeal Ref: APP/G4620/W/20/3249146

Telecommunication Mast B0097, 131 Station Road, Cradley Heath B64 6PL

- 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 Mobile Broadband Network Limited (MBNL) against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/19/62954, dated 25 March 2019, was refused by notice dated 13 November 2019.
 - The development proposed is the replacement of the existing 15m monopole with a 20m lattice tower to support 6 no. aperture (each aperture capable of accommodating 2 no. antenna each- 12 total), 9 no cabinets and development ancillary thereto.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing 15m monopole with a 20m lattice tower to support 6 no. aperture (each aperture capable of accommodating 2 no. antenna each- 12 total), 9 no cabinets and development ancillary thereto at Telecommunication Mast B0097, 131 Station Road, Cradley Heath B64 6PL in accordance with the terms of the application, Ref DC/19/62954, dated 25 March 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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:
 - i) 002 – Site Location Plan – Rev B
 - ii) 004 – Lease Demise Plan – Rev B
 - iii) 100 – Existing Site Plan – Rev B
 - iv) 150 – Existing Elevation A – Rev B
 - v) 215 – Max Configuration Site Plan – Rev B
 - vi) 265 – Max Configuration Elevation – Rev B

Procedural Matters

2. The description of development has been taken from the appeal forms and the decision notice, which more accurately describe the proposal and omit unnecessary detail. The appeal has been dealt with accordingly.

3. The Council refers to visual amenity in its decision notice. This phrase can be interpreted in a number of different ways, however from the policy references in its reasons for refusal as well as detail within its officer report, it is clear that the focus of the dispute is the effect on the character and appearance of the area, and not necessarily the living conditions of neighbouring occupiers. The appeal has been dealt with on this basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The site is located adjacent to Dudley Canal, on land where there is an existing telecommunications mast. The immediate context of the site is defined by industrial and commercial uses. Consequently, during my site visit, I found the area around the site was predominantly utilitarian in character, albeit with limited numbers of residential properties interspersed throughout. There is more established residential development beyond the immediate context of the site, but the degree of separation with the site meant it appeared peripheral and somewhat detached. The Council states that land to the north is allocated for housing, but there is no evidence substantiating that this is the case or what specific details are of relevance to the proposal. Therefore, I am unable to fully assess the implications under the appeal.
6. In amongst the prevailing development surrounding the site there is substantial green infrastructure provision, including large mature trees, some of which appeared taller than the existing mast, and from certain vantage points obscured it completely from view. Views of the existing mast were available from points along Station Road in the west and Dudley Canal in the north, but its prominence is reduced against a backdrop of green infrastructure. Outside of these specific viewpoints, the majority of long distance views, such as those from the peripheral residential areas described previously, are likely to be restricted either by green infrastructure or intervening industrial and commercial development in the immediate vicinity of the site. Short distance views, such as those from the adjacent stretch of the canal or the limited numbers of residential properties nearby, are taken within the context of industrial development, where the existing mast accords with the prevailing utilitarian character.
7. Among other things, the proposal would replace the existing mast with a new mast comprising an increased height of around 5 metres. In and of itself this height increase may be somewhat noticeable. However, in the context of the substantial green infrastructure within the vicinity of the site (which already exceeds the height of the existing mast and either obscures it from view or softens its appearance) and other intervening development that restrict views even further, I do not find it likely that the new mast would be any more prominent in the landscape. Even if a degree of additional prominence was perceptible, the aforementioned mitigating circumstances would prevent it from being harmful. Notwithstanding its scale, the new mast would retain a similar utilitarian character and appearance in comparison to the existing mast and therefore would assimilate into the prevailing context.

8. The Council states that no attempt has been made by the appellant to soften the impact by incorporating a good quality design which could potentially even enhance the area. However, I find this unnecessary, for the reasons already explained, given the prevailing character and appearance of the area and that the design would be somewhat softened by existing green infrastructure in any event.
9. The appellant has demonstrated that the existing mast was not technologically capable of being upgraded and therefore a new mast was required for the purposes of delivering new technology (5G services). Furthermore, it is stated that there are no tall buildings or other existing masts nearby capable of accommodating the new infrastructure, and there is no evidence suggesting this is not the case.
10. The new mast would be repositioned slightly relative to the existing mast, due to utilities constraints, but the new position is largely the same and the overall effect on the surroundings would be negligible. Consequently, there is sufficient evidence to suggest the appellant has explored and considered other opportunities for using existing infrastructure before delivering new infrastructure.
11. Overall, the proposal would deliver a utilitarian piece of infrastructure that would assimilate into an industrial and utilitarian context, without harming the character and appearance of the area. Consequently, it would accord with Policy ENV4 of the Black Country Core Strategy 2011 and Policy SAD TEL1 of the Site Allocations and Delivery Development Plan Document 2012. Among other things, these seek to ensure telecommunications masts are designed to minimise their impact whilst respecting operational efficiency and protect the Black Country Canal network.

Conditions

12. The Council were given the opportunity to suggest conditions but did not submit any for consideration. The Canal and River Trust raised matters relating to the impact of surface water runoff on water quality and the impact of construction on a below ground sluice, and whether conditions are necessary in this context. However, there is no evidence that the foundations associated with the replacement mast would be any more intrusive than the existing mast or that there is additional hard surfacing capable of exacerbating runoff. Consequently, I cannot conclude that conditions are necessary to safeguard water quality or the integrity of the below ground sluice. Accordingly, I have attached the standard conditions in accordance with Planning Practice Guidance, setting out the time limit for implementation and securing compliance with the approved plans, which are necessary to provide certainty.

Conclusion

13. For the reasons given the appeal is allowed, and planning permission is granted, subject to conditions.

Liam Page

INSPECTOR