



Appeal Decision

Site visit made on 21 August 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal Ref: APP/V4630/W/20/3253550

Education Development Centre, Pelsall Lane, Rushall WS4 1NG

- 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 against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 19/1008, dated 1 August 2019, was refused by notice dated 4 December 2019.
 - The development proposed is the existing 15m monopole currently supporting 6 antennas is to be removed and replaced by a new 20m lattice tower with 6 apertures 1 x 0.6m dish antenna, equipment cabinets and associated works within the existing compound. Existing cabinets and any redundant equipment to be removed.
-

Decision

1. The appeal is allowed and planning permission is granted for the existing 15m monopole currently supporting 6 antennas is to be removed and replaced by a new 20m lattice tower with 6 apertures 1 x 0.6m dish antenna, equipment cabinets and associated works within the existing compound. Existing cabinets and any redundant equipment to be removed at Education Development Centre, Pelsall Lane, Rushall WS4 1NG in accordance with the terms of the application, Ref 19/1008, dated 1 August 2019, set out in the attached schedule.

Main Issues

2. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - If the proposal would be inappropriate development 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 necessary to justify the development.

Reasons

Whether inappropriate development

3. The appeal site is located within the grounds of the Education Development Centre (EDC) within the Green Belt. Although Policy 3.3 of the Council's Unitary Development Plan (adopted 2005) (UDP) refers to inappropriate development in the Green Belt, it does not seek to define it. However, Policy GB1 of the Walsall Site Allocation Document (adopted 2019) (SAD) stipulates that inappropriate development is, as defined in the Framework.
4. The Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless they fall into the exceptions listed in paragraph 145. A building is defined in section 336 of the Town and Country Planning Act 1990 and includes "any structure or erection".
5. The proposal would replace much of the existing telecommunications equipment and would be in the same use. However, the tower would be taller and wider, particularly the upper portions. It would therefore be materially larger than the monopole it would replace. As such, the proposal would not accord with paragraph 145 d), any of the other exceptions listed in the Framework (paragraph 145) or other forms of development which are also not inappropriate in the Green Belt (listed in paragraph 146).
6. I therefore find that for the purposes of the Framework, Policy GB1 of the SAD and Policy 3.3 of the UDP, the proposal constitutes inappropriate development in the Green Belt.

Openness

7. The Framework (paragraph 133) advises that 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 permanence.
8. Openness has both a visual and spatial dimension. The proposal would result in the loss of spatial openness through the introduction of a taller and wider tower compared to the existing situation. Visually, the tower would be seen, to varying degrees, from the EDC grounds, rear of properties and the network of public footpaths within this part of the Green Belt between housing. The proposed development would be an evidently larger structure than the one it replaces and although the overall loss of openness would be small, it nonetheless would occur, both spatially and visually.
9. I therefore find that the proposal would lead to a loss of Green Belt openness and would therefore be contrary to the relevant Green Belt policy within the Framework.

Character and appearance

10. The EDC comprises of a large range of buildings, hardstanding and playing fields associated with its use. On top of one of the buildings is a separate telecommunications equipment. The EDC site lies within the Green Belt which forms a narrow gap of open countryside between built development. However, the EDC site is a clearly developed part of this gap which contrasts with the wider undeveloped open land.

11. Located within the EDC grounds the proposal would not result in the loss of any open countryside. I saw that the existing mast is visible to varying degrees from the built form along the edges of the countryside, from the EDC grounds and from the network of footpaths in the countryside. The proposed tower would also be visible from these areas as outlined previously.
12. The proposed tower would not be viewed as an isolated structure, instead it would generally be seen either with the EDC buildings, the other communication equipment or vertical features, such as flues on the building and roof, overhead lines, lighting, fencing and trees bordering the EDC site or within the countryside gap.
13. It would only be viewed in particularly close proximity from within the EDC grounds. However, in the context of the school buildings and features within the grounds, the tower or its associated infrastructure would not appear unduly dominant or out of character.
14. It would be seen at a greater distance from within the countryside or from the edges of the built-up area. In these views, the lattice form of the tower would allow light and views of the sky through the structure. In this respect, although taller and bulkier than the development it would replace, it would not appear excessively large.
15. From the footpaths and due to the appeal site's location in the EDC grounds, it would not be an obtrusive feature or spoil the enjoyment of this part of the countryside. Even where seen, considering the height of the existing monopole and the surrounding context, I do not consider that its replacement with the proposal would be so prominent to appear incongruous.
16. Drawing the above together, I therefore find that the proposal would not harm the character and appearance of the surrounding area. In this regard, I find no conflict with the requirements of Policies 3.2 to 3.5, GP2, ENV7, ENV32 or ENV38 of the UDP. Moreover, I find no conflict with Policies ENV1, ENV2, and ENV3 of the Black Country Core Strategy (adopted 2011) (BCCS) or Policies GB1, and EN1 of the SAD. The proposal would also not conflict with Policy DW3 of the Designing Walsall Supplementary Planning Document for Urban Design (2013). These stipulate, amongst other things, that development proposals will be required to preserve and, where appropriate, enhance local character.
17. The proposal would not be in conflict with the relevant aspects of the Framework in this regard, such as the need to contribute to recognising the intrinsic character and beauty of the countryside (paragraph 170).

Other considerations

18. Paragraph 112 of the Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being. Moreover, the expansion of electronic communication networks, including next generation mobile technology, should be supported. In accordance with paragraph 80 of the Framework, I afford significant weight to the economic and social benefits of providing and enhancing electronic communication infrastructure identified by the appellant. These include, amongst other things, the enabling of working from home, the associated reduction of travel and the facilitation of 'smart' cities.

19. Paragraph 115 of the Framework advises that for a new mast or base station, applications should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. In this particular case the application is for a new mast replacing the existing mast. In this regard, the appellant has elaborated on the rationale for site selection.
20. A rigorous assessment of alternative sites, particularly sites outside of the Green Belt or on buildings has not been provided. Nonetheless, I recognise that there are benefits in this particular instance to the reuse of the existing infrastructure, replacing an existing mast so as to avoid a proliferation of new masts, its positioning next to a large building and its location a reasonable distance from residential properties.
21. The Council has not raised concerns in respect of the effect on biodiversity or the living conditions of neighbouring residents and I have no reason to disagree. The proposal would be shared by 2 operators and I have no reason to question the appellant's evidence regarding need, network coverage, consultation undertaken or accordance with the International Commission on NonIonizing Radiation Protection standards. However, the absence of harm or the accordance with conventional expectations of developments of this type are neutral matters that weigh neither for nor against the development.

Green Belt Balance

22. The proposal would be inappropriate development in the Green Belt. The Framework (paragraph 144) advises that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm. In addition, there would be a small loss of openness in the Green Belt, both spatially and visually. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. In this regard, despite their differences, Policy 3.3 of the UDP and Policy GB1 of the SAD, are broadly consistent with the Framework.
23. In this instance, there would be no other harm resulting from the proposal and I give significant weight to the economic and social benefits outlined. Moreover, the benefits to reusing the existing infrastructure and replacing an existing mast weigh in favour of the proposal. I find that these other considerations are of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and effect on openness.
24. I therefore find that in this particular case, very special circumstances exist to justify inappropriate development in the Green Belt in accordance with the relevant requirements of Policy 3.3 of the UDP, Policy GB1 of the SAD and the Framework.

Other Matters

25. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

26. In addition to the standard implementation condition it is necessary in the interests of precision, to define the plans with which the scheme should accord to those submitted with the application. A condition concerning the colour treatment of the tower and requiring the removal of the existing monopole is required in the interests of the character and appearance of the area. Given the location of the cabinet in the grounds of the EDC it is not reasonable or necessary to seek to control its colour treatment.

Conclusion

27. For the reasons outlined above, the balance of planning considerations in this case leads me to the view that the appeal should succeed and the appeal is allowed subject to conditions.

Robert Walker

INSPECTOR

Schedule of 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: Drawing No: 002 Site Location Plan Rev D; 100 Existing Site Plan Rev D; 150 Existing Elevation A Rev D; 215 Max Configuration Site Plan Rev D; 265 Max Configuration Elevation Rev D; 28939/PM/01; 28939/PM/02; and 28939/PM/03.
- 3) The existing 15m monopole and associated cabinets as identified to be removed on Drawing No 265 Max Configuration Elevation A Rev D shall be removed and the ground reinstated to its former condition within 1 month of the first operation of the 20m lattice tower hereby permitted.
- 4) No development above slab level shall take place until details of the colour of the tower have been submitted to and approved in writing by the local planning authority. The development shall then be carried out and thereafter maintained in accordance with the approved details.