
Appeal Decision

Site visit made on 12 January 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal Ref: APP/V4630/W/20/3261249

**Lichfield Road DNS, Lichfield Road, Willenhall, West Midlands, Walsall
WV12 5EA - GR 397640 Easting, 301772 Northing**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
 - The appeal is made by MBNL against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0382, dated 06 April 2020, was refused by notice dated 06 July 2020.
 - The development proposed is the installation of a 20m monopole supporting 12 no. antenna apertures, equipment cabinets and development ancillary thereto.
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Procedural Matters

1. The site address provided in the header above is that given on the prior approval application form. The Council's decision notice and the appellant's appeal form refer to the site address as Davis Road, Willenhall. I note that 2 sites are edged red on the submitted location plan, ie one on Lichfield Road, where there is existing telecommunications equipment, and one on the corner of Davis Road and Moore Road, where it is proposed to install additional equipment. The appellant has confirmed that the grid references given on the application form correctly identify the site of the proposed equipment. I have made my decision based on the proposal being sited on the corner of Davis Road and Moore Road.
2. The appellant submitted the following documents that did not form part of the suite of documents the Council made its decision on:
 - WLL030 20-0382 UK Gov' Covid-19 Guidance for Telecommunications Infrastructure Deployment in England, 02-04-2020
 - WLL030 20-0382 Government Response to the Consultation on Proposed Reforms to Permitted Development Rights to Support the Deployment of 5G and Extend Mobile Coverage
 - WLL030 20-0382 Department for Digital, Culture, Media & Sport: 5G-The Next Mobile Generation
 - WLL030 20-0382 Appeal Decision 3171954
 - WLL030 20-0382 Appeal Decision 3245093
 - WLL030 20-0382 Appeal Decision 3249294
 - WLL030 20-0382 Arboricultural Impact Assessment
 - Photomontage drawing Nos 00001, 00002, 00003, 00004 and 00005.I consider no one would be prejudiced should I accept these documents at this stage; I have therefore made my decision taking them into account.

3. The appellant also submitted a document Ref WLL030 (63181), Revision A, dated 31/09/202. This document includes a location plan, site area plan and elevation plan of the proposed equipment. However, the extent of the site edged red on the corner of Davis and Moore Roads differs to that on the Location Plan submitted with the application to the Council. Although the site location is essentially the same, due to the technical difference between the 2 plans I have reached my decision based on the location plan submitted with the application. That said, this has not had any bearing on the outcome of the appeal.
4. 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 on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis. I note that there is no definition of the terms siting and appearance in the GPDO or in extant national policy or guidance.
5. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have therefore only had regard to policies of the development plan and the National Planning Policy Framework (the Framework) in so far as they are relevant to matters of siting and appearance.

Decision

6. The appeal is dismissed.

Main Issues

7. The main issues are:
 - *the effect of the siting and appearance of the proposal on the character and appearance of the area, including the effect on trees adjacent to the site;*
 - *the effect of the siting and appearance of the proposal on the living conditions of occupiers of existing residential properties, with regard to outlook, and*
 - *if there is any harm caused, whether this is outweighed by the need to site the proposal in the location proposed, having regard to the availability of alternative sites.*

Reasons

8. The site is located within a low-rise residential area. The surrounding residential properties are all two-storey, of a height around 8 m. There is a school playing field to the rear of the site; school buildings are located north-west of the field. There are black railings installed around the perimeter of the field, around 1.8-2 m high, and there are mature trees along much of the field's boundary, with a cluster to the rear of the proposed equipment. There is a telegraph pole opposite the site and grey, slim steel streetlamps on the surrounding streets, all are around 8 m high.
9. The proposed monopole and associated equipment cabinets would be sited within a tarmacked area that forms part of the public footpath, set back from the road junction, adjacent to a chamfered corner of the school playing field, close to the cluster of mature trees located within the school playing field. The

maximum height of these trees is around 12-13 m. The Arboricultural Impact Assessment concludes that, subject to appropriate tree protection measures being in place during the construction phase, along with some pre-emptive root pruning and facilitative crown pruning, all the adjacent trees would be retained. I am satisfied that the proposal would not significantly alter the appearance of the trees or threaten their future well-being.

10. Nonetheless, at 20 m high the proposed monopole would be substantially higher than all the street furniture, houses, and trees in the area. The pole, which would incorporate antennas towards the top, would also be wider than the streetlights on the neighbouring streets. Except for 2 of the cabinets, 6 of the proposed 8 would be higher than the field railings they would be sited adjacent to. The cabinets would be solid blocks, in contrast to the transparent nature of the railings.
11. The application form states that the colour of such monopoles is usually grey. The existing monopole on Lichfield Road is grey and most of the equipment cabinets there are dark green. The appellant has indicated that they would be willing to accept a condition to secure the colour of equipment. I have borne this in mind. However, regardless of the colour scheme of the equipment, my conclusions would be the same.
12. I consider that the monopole and cabinets would collectively comprise an unduly prominent, stark, obtrusive, imposing cluster of steel equipment that would significantly interrupt the existing openness of the street corner, blocking views through the railings across the school field. Even against the backdrop of trees, all the equipment would be highly visible and imposing in the street scene to passers-by, as well as being visible from as far as the western end of Moore Road.
13. Although the cabinets and part of the pole would be screened in some views from surrounding roads, mainly when the trees are in leaf, the monopole would still be visible and obtrusive when viewed from Jones Road against the skyline, towering above the existing trees, street furniture, and roof tops of surrounding properties.
14. In addition to views from public places, the proposed equipment would be very visible and imposing when viewed from habitable room windows of several of the residential properties close to the site, which I consider would harm the outlook from these properties. I note that the appellant considers that the Council has not raised a concern regarding living conditions of existing occupiers. However, reason for refusal 3 states that "*the proposed equipment cabinets would be visually detrimental when viewed from the adjacent neighbouring properties.*"

I therefore conclude that the siting and appearance of the proposed equipment would significantly harm the character and appearance of the area and, with regard to outlook, would significantly harm the living conditions of existing occupiers of numbers 16-20 Moore Road. The proposal therefore does not accord with saved policies GP2, ENV32 and ENV38 of the Unitary Development Plan-1995, (UDP); policy ENV3 of the Black Country Core Strategy-2011, (CS), or paragraph 127 of the Framework. Collectively, and among other things, these policies require development to be of high quality design, taking account of appearance and height, to be sympathetic to and reflect the character of the area and to create places with a high standard of amenity for occupiers of

existing properties. Additionally, saved policy ENV38 states that Large items of telecommunications equipment, such as masts, are unlikely to be acceptable in low rise residential areas.

Other considerations

15. Paragraph 80 of the Framework advises that significant weight should be attached to the economic benefits of providing and enhancing electronic communications infrastructure. Paragraph 112 advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of electronic communications networks, including next generation mobile technology, such as 5G, should be supported.
16. The proposal would be shared by 2 providers and provide for 2, 3, 4 and 5G technology. I appreciate that the height of the mast must be sufficient to provide suitable coverage and satisfy relevant guidelines. I accept that it is possible that the equipment could be utilised by the emergency services. The appellant has outlined the following additional benefits of the proposal: faster download and upload speeds; improved home working; supporting the development of a range of 'smart' devices in the home and beyond; supporting the development of 'Smart Cities', and the development of 'cars for the future'. In addition, the importance of having a high-quality electronic communications infrastructure has been heightened during the Covid-19 pandemic, with the demands that increased home working and schooling from home have placed on local networks. Such factors weigh in favour of the proposal.
17. Although the appellant has indicated they are willing to accept a condition to secure the removal of the existing equipment on Lichfield Road, when it is no longer required, the language used throughout the appellant's evidence does not categorically confirm that the equipment would actually cease to be required; for example, "...*once the proposed base station is fully operational...the existing monopole and cabinets will be removed in their entirety...**if/when**¹ they become redundant.*" Therefore, I consider that a condition as suggested would not secure its removal, as the operator may conclude that the existing equipment is not redundant.
18. Paragraph 113 of the Framework advises that the number of sites for such installations should be kept to a minimum, and use of existing masts, buildings and other structures should be encouraged. Given the distance between the 2 sites, around 140 m, and the built form that exists on the land between them, I do not consider the proposal to be an up-grade to, or a replacement of, the existing equipment.
19. Therefore, sub paragraph 115(c) of the Framework applies, which advises that applications for electronic communications equipment, including prior approval under the GPDO, should be supported by the necessary evidence to justify the proposal. In the case of a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
20. It is contended by the appellant that they have considered potential alternative sites, and that none are suitable for the proposed equipment and the required

¹ My emphasis

area of coverage. I note the claims made. However, the evidence to substantiate the claims, as required by sub paragraph 115(c) of the Framework, is lacking.

21. It is asserted that the existing site, which has the equipment of another provider in proximity, is not suitable, including the options of installing a replacement mast on or close to the site, due to the constraints of underground infrastructure services in the locality. However, no details of the underground infrastructure services in the locality have been provided.
22. It is claimed that none of the buildings within the area capable of meeting network requirements would be tall enough to meet the minimum requirements of a roof-top base station. To support this claim, a generic illustration is provided of a tall building with telecommunications equipment installed on it. This does not constitute evidence of the buildings that have been considered or why they are not capable of meeting network requirements.
23. It is asserted that 2 greenfield sites were considered, concluding that one would not meet network requirements; as the other was a Community Green, it is suggested that the impact on such a location would be unacceptable. However, again no evidence is provided demonstrating that network requirements could not be met, nor have any illustrations been provided to demonstrate the unacceptable impact the proposal would have on the Community Green.
24. I therefore conclude that it has not been demonstrated that the appellant has fully investigated the possibility of avoiding the need for the erection of a new mast. As such, the proposal does not accord with saved policy ENV38 of the UDP or sub paragraph 115(c) of the Framework.
25. The appellant has referred me to 3 appeal decisions related to sites in other areas. However, I have not been provided with the full details of either case and cannot be certain of the degree to which either site is comparable to the current appeal proposal. In any case, I must assess the proposal before me on its own merits having regard to the site-specific circumstances.

Planning Balance & Conclusion

26. In the absence of substantive evidence to demonstrate that the proposed site is the best available option, I consider that it has not been demonstrated that the economic and social benefits outlined above could not be achieved on an alternative site that would be preferable as regards siting and appearance. As such, the benefits carry limited weight in favour of the appeal. Consequently, they do not outweigh the significant harms I have identified in respect of character and appearance of the area and living conditions of existing occupiers.
27. For the reasons outlined, I conclude that the proposal would not be acceptable in respect of its siting and appearance, therefore the appeal is dismissed.

J Williamson

INSPECTOR