



Appeal Decision

Site visit made on 7 April 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2021

Appeal Ref: APP/P4605/W/20/3263316

Sedgemere Road, Yardley, Birmingham B26 2HU

- 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 appeal is made by MBNL against the decision of Birmingham City Council.
 - The application Ref 2020/07117/PA, dated 27 August 2020, was refused by notice dated 30 October 2020.
 - The development proposed is 20 m telecommunications installation and associated works.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). grants permission, within certain limits, for the development of telecommunications equipment subject to a prior approval procedure. The GPDO states that the relevant issues when assessing applications of this type are the siting and appearance of the proposal. The provisions of Schedule 2, Part 16, Class A 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) only in so far as they are a material consideration relevant to matters of siting and appearance.
3. Having regard to the Council's refusal reasons, the main issues are the effect of the siting and appearance of the development on (i) the character and appearance of the area, and (ii) the living conditions of occupiers of nearby dwellings in respect of outlook.

Reasons

Character and appearance

4. The site is a grass verge to the side of the pavement on Sedgemere Road. The surrounding area is urban in character with the gardens to residential properties behind the site and a school and shops nearby. Lighting columns and telegraph poles lie along the street and close to the site is a telecommunications mast with ground mounted cabinets.

5. As it would be tall and positioned close to the pavement, the proposed mast would be seen from some distance away in both directions along Sedgemere Road. Also, it would be clearly visible from a number of nearby properties. Therefore, pedestrians walking along the street as well as the users and occupiers of nearby buildings would have a clear view of the development.
6. The mast would be narrow but at 20 m high it would be markedly taller than any of the nearby buildings, structures or trees. Furthermore, it would be in a prominent position on the outside of a slight bend in the road. Also, there would be no meaningful backdrop to the mast and so it would be seen against the sky. Through a combination of its height and visibility, the proposal would be an incongruous feature in the street scene, despite the urban context and nearby poles and mast.
7. The appellant advises the installation needs to be at the proposed height to obtain the required signal coverage and for public health reasons. Also, the proposed cabinets would be low and similar in appearance to those nearby and so they would be in keeping with the street scene. However, these factors do not address the incongruity and harmful visual impact of the development as a whole. A planning condition that would require approval of the colour of the installation has been suggested. However, irrespective of its colour, the mast would fail to harmonise with the street scene due to its obtrusiveness.
8. For these reasons, the proposal would harm the character and appearance of the area. In this regard, it would be contrary to policy PG3 of the Birmingham Development Plan 2017 (BDP) and saved paragraph 8.55 of the Birmingham Plan 2005 (BP). These aim, amongst other things, to ensure development responds to the local area and to minimise the visual impact of telecommunication equipment.

Living conditions

9. The development would be near to and clearly seen from directly facing windows in flats on the corner of Averill Road and Sedgemere Road. It would also be seen at a short distance from other nearby residences on Averill Road and Billingsley Road. The proposed mast would rise significantly above these vantage points and it would appear as a dominating feature that would cause a marked overbearing effect.
10. As such, the proposal would harm the living conditions of the occupiers of nearby residences in respect of outlook. In this regard, it would not accord with BP saved paragraph 8.55 which aims, amongst other things, to avoid visual obtrusiveness of telecommunications equipment from neighbouring property.

Other Matters and Conclusion

11. The development would be to the side of the pavement and would not obstruct pedestrians. Also, the submissions show the installation would cause no public health issue. Acceptability in these regards is a neutral factor in my assessment.
12. The Framework states that for a new mast, evidence should be provided that shows the possibility of erecting antennas on an existing building, mast or structure has been explored. The appellants' submissions refer to other sites that have been considered although it is not stated whether these would allow use of an existing building or structure. Also, many of these alternatives appear

to have been discounted for the reason that they are close to residential properties. However, as the appeal site would itself be close to residences, it is unclear why it has been deemed preferable in planning or signal coverage terms compared to the discounted alternatives. As such, the evidence does not convincingly demonstrate that the proposal represents the only viable solution to ensure an appropriate telecommunication service for the area.

13. The Framework indicates that planning decisions should support the expansion of electronic communications networks. The proposal is required to replace an existing installation and to facilitate 5G coverage for the area. I attach positive weight to these benefits and the improved service to users. However, the overall harm caused in respect of the main issues is significant and the benefits of the proposal and other considerations do not outweigh this harm. As such, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR