



Appeal Decision

Site visit made on 28 September 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/V4630/W/21/3276312 Broad Lane, Bloxwich, Walsall WS3 2TZ

- 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 Walsall Metropolitan Borough Council.
 - The application Ref 21/0391, dated 18 March 2021, was refused by notice dated 17 May 2021.
 - The development is proposed 15.0m AGL EE/H3G street pole and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a 15.0m AGL EE/H3G street pole and associated ancillary works on Broad Lane, Bloxwich, Walsall WS3 2TZ in accordance with the terms of the application Ref 21/0391, dated 18 March 2021 and the plans submitted with it, including drawing Nos: 002 Issue B, 215 Issue B, 266 Issue B, 304 Issue B, and 306 Issue B¹.

Preliminary Matters

2. 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.
3. The principle of this development is established by the GPDO. Notwithstanding the provisions of Schedule 2, Part 16, Class A of the GPDO, I have had regard to the policies of the development plan, related guidance and the National Planning Policy Framework (the Framework, published 20 July 2021) only in so far as they are a material consideration relevant to matters of siting and appearance.

¹ All five of these drawings are covered by Master Drawing No 1243692_WLL073_63226_WS0158_M002.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding area.

Reasons

5. The appeal site is in the verge between the pavement serving Broad Lane and a petrol station served by Tintern Crescent. There is an existing mast at the appeal site which has been designed to look like a telegraph pole; the proposal is intended to replace that mast. The existing pole is taller than the surrounding buildings, in part due to the change in land levels where Broad Lane rises up towards a bridge, but is of a similar height to the nearby lampposts. It is, however, an inherently slim and lightweight structure.
6. Trees provide some screening on the opposite side of the road, although they could be removed or reduced, and the screening they provide would only be effective while the trees were in leaf. As such the existing mast is in a prominent position due to its elevated position at the side of a road, and is visible from a distance from neighbouring roads. While in a similar location, as the proposed mast would be taller and bulkier, it would be somewhat more prominent than the existing mast.
7. However, in closer views the mast would be primarily read in relation to the fairly utilitarian appearance of its surroundings comprising the distributor road, petrol station and car park. In longer views the mast would punctuate the sky, but this would be seen against a backdrop of similar punctuations from streetlights, telegraph poles and trees and would not be significantly different to the existing situation. Therefore, although the proposed mast would be larger, as a result of its surrounding context it would not entail any meaningful additional effects on the character of its surroundings. In my view its presence would be consistent with the character of its immediate surroundings rather than incongruous.
8. The mast would be simple in design and the antennas at the top of the mast would be uniform and relatively compact in appearance. Although slightly more prominent, as a result of its simple linear form, the proposal would not be intrusive in views, including from nearby dwellings on Cresswell Crescent and Minewood Close. Therefore, and given its location near other commercial features, it would not be harmful to the street scene. The cabinets associated with the mast would be relatively modest in scale and similar to the existing cabinets. Whilst it would increase their number, they are a common feature along roads and would not adversely affect the street scene.
9. A recent appeal decision has been brought to my attention for a taller (20m) mast at the appeal site². Whilst I note that the previous Inspector found harm and dismissed the appeal, I find the reduction in height is sufficient to allay the issues raised and nevertheless, I have reasoned above that there would be some similarity between the proposal before me and other items in the surroundings such as street lights. All proposals must be considered on their own merit. I note that the previous Inspector has also referred to an earlier appeal associated with the existing mock telegraph pole. However, I have been

² APP/V4630/W/20/3261099

provided with only limited details of this appeal and nonetheless, for the reasons outlined above, the proposal would not result in unacceptable effects.

10. I have taken into account, and find the proposal would comply with, Policy ENV3 of the Black Country Core Strategy and saved Policies ENV32, GP2 and ENV38 of the Walsall Unitary Development Plan which restricts telecommunications development and requires development generally to be of a high quality design which relates to the context of its surroundings. It would also comply with the guidance on character set out within Designing Walsall Supplementary Planning Document for Urban Design, as well as the overarching character and appearance aims of the Framework.

Other Matters

11. Whilst it has been suggested that alternative sites should be considered, this proposal is for the replacement of an existing mast. This is shown on the submitted plans and the development must be carried out in accordance with them. As such I find it would be unnecessary to assess alternative locations for what is an established set up. Moreover, I must consider the appeal as it is before me and have reasoned that it would be acceptable regardless.
12. While the proposal may result in some very limited noise associated with the electronic devices, given the distance to the nearest residential properties it is unlikely that any unacceptable level of noise would affect living conditions. Moreover, although I am mindful of the concerns that the mast and cabinets would be susceptible to vandalism, it has not been demonstrated that it would be at any greater risk than the existing.
13. Concerns have been raised that the Council's consultation was insufficient given the site's location. However, from the evidence before me it appears that the Council fulfilled their statutory duty, and no evidence has been submitted to demonstrate otherwise.
14. Whilst I note the concerns of third parties, the Planning Practice Guidance makes it clear that private interests such as the alleged impact of a development on the value of a neighbouring property are not a material consideration.

Conditions

15. Any planning permission granted for the erection of telecommunications equipment, including a mast and cabinets under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
16. The GPDO does not provide any specific authority for imposing additional conditions beyond those deemed conditions raised above. As such, while the Council have suggested that the colour of the proposal be controlled, it is not within my powers to impose this condition. Nevertheless, I find such a

condition would be unnecessary given the varied colours present within the street scene and street furniture. Moreover, whilst the Council also suggested a time limit condition for the commencement of works this would conflict with the condition set out in the GPDO for this type of permitted development.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Samuel Watson

INSPECTOR