



Appeal Decision

Site visit made on 16 November 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal Ref: APP/P4605/W/21/3278826

Fox Hollies Road SW, Fox Hollies Road, Hall Green, Birmingham B28 9EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Articles 3 (1) and 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 2021/03784/PA, dated 20 April 2021, was refused by notice dated 16 June 2021.
 - The development is NTQ Proposed telecommunications installation. Proposed 20.0m High EE/H3G Phase 7 Streetworks Pole on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), 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 development is established by the GPDO and 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.

Main Issues

4. In light of the above, the main issues are the effect of the development on the character and appearance of the area and a non-designated heritage asset.

Reasons

5. The appellants state that the proposed mast would facilitate Fifth Generation (5G) connectivity. The proposal would be easily visible and tower above the existing streetlights when seen in its context. The scale of the mast is strident, industrial in nature and has the external appearance of a structure more often seen in commercial or industrial areas and would be harmful to the local context of residential development and the nearby Public House, (which is a

- non-designated heritage asset). The mast would appear dominant in the locality and be harmful to the character and appearance of the area.
6. The mast would be relatively slender in design. However, I find that the mast and associated cabinets would create an unwelcome addition of street clutter, and harm the character and appearance of the area by adding such an industrial style of development into the wider residential area.
 7. Paragraph 114 of the National Planning Policy Framework (the Framework) states that such telecommunications development is essential, and the expansion of electronic networks should be supported, including the next generation of mobile phone technology. Based on the guidance in the Framework, there would be public benefits from the proposal.
 8. Paragraph 117 of the Framework states that evidence must be supplied to demonstrate that alternatives have been taken into consideration. Additions to an existing mast or base station are excluded. As the proposal is a new siting following a Notice To Quit issued at a previous site, alternative sitings must be assessed. Information has been supplied as evidence to show that this has been carried out, but I am not convinced that has been carried out to an acceptable level.
 9. On the evidence before me, the development would comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). As such, the Framework advises that health safeguards are not something which a decision-maker should determine. No substantive evidence is before me to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified. I also note that the Council did not object to the development for these reasons.
 10. The Framework recognises that planning decisions should support the expansion of electronic communications networks and the appellant has provided evidence to justify the proposed development. However, I have found the siting and appearance of the development would result in harm to the character and appearance of the area, which is not outweighed by these other considerations.
 11. The development would be close to a non-designated heritage asset (Bulls Head Public House). As heritage assets are irreplaceable, any harm requires clear and convincing justification. The Framework advises that harm which is less than substantial must be weighed against any public benefits of the proposal. It also provides that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
 12. Whilst there are streetlights in the vicinity of the appeal site, there is not a strong vertical emphasis of street furniture. I acknowledge the design attempts that seek to use a slimline pole to attempt to mimic a telegraph pole, however the differences in height and thickness of the pole, together with the additional clutter would be very apparent. The proposed mast would be a discordant feature unlike anything around it which would be detrimental to the experience of the non-heritage asset. Whilst I consider that in this instance the proposal would cause 'less than substantial' harm to the significance of the non-designated heritage asset, it must still be weighed in the planning balance.

13. I note the benefits of providing telecommunications equipment as encouraged by paragraphs 114-118 of the Framework. However, taking the above into account with regards to alternative options and the harm caused to the character and appearance of the locality including the non-designated heritage asset. I find that the public benefits in this case would not outweigh the harm. The scheme therefore conflicts with the Framework, which directs, at paragraph 199, *'that great weight should be given to the asset's conservation...irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'*.
14. Consequently, I find the proposals are in conflict with saved Paragraphs 8.55 A-C of the Birmingham Unitary Development Plan (2005), Policies PG3 and TP12 of the Birmingham Development Plan (2017), the Telecommunications Development : Mobile Phones Supplementary Planning Document, and the National Planning Policy Framework (2021), which, amongst other matters, expect development to take account of the impact on residential areas and the conservation of the City's heritage assets as well as being sympathetically designed and submitted with necessary evidence to justify the development.

Planning Balance and Conclusion

15. I have taken into account the economic and social benefits of the proposal, and the supporting documentation provided that demonstrate the merits of an effective communications network. Nonetheless, I do not find these benefits outweigh the harm that would be generated by the siting of the mast and associated works in such a location.
16. For the reasons set out, I conclude the appeal should be dismissed.

Paul Cooper

INSPECTOR