



Appeal Decision

Site visit made on 7 December 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2022

Appeal Ref: APP/F0114/W/21/3277102

Larkhall Sports Club, Larkhall, Bath, BA1 8DJ, 375601, 167143

- 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 (EE UK Ltd and H3G UK Ltd) against the decision of Bath and North East Somerset Council.
 - The application Ref 19/05534/FUL, dated 23 December 2019, was refused by notice dated 17 December 2020.
 - The development proposed is installation of a 20-metre-high telecommunications monopole accommodating 6no antenna apertures, 4no transmission dishes, 8no ground-based equipment cabinets and development ancillary thereto. The proposed development will replace an existing 15 metre-high telecommunications monopole and 4no ground-based equipment cabinets within a fenced compound.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following clarification by the appellant I have amended the appellant's name in the banner heading above.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect upon the openness of the Green Belt;
 - The effect upon the character and appearance of the area, including the Cotswolds Area of Outstanding Natural Beauty (AONB); and
 - If the proposal would be inappropriate development, whether or not any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (2021) (the Framework) specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. The term 'building' is defined under Section 336 of the Town and Country Planning Act 1990 to include any structure or erection. The proposed 20m high monopole with antennas and

transmission dishes (the monopole) should thus be regarded as a building for the purposes of assessment against the Framework's Green Belt provisions.

5. The exceptions to new buildings being regarded as inappropriate include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In this case, the new monopole would be materially larger in terms of height and thickness than the existing column to be replaced (the existing pole). Thus, whilst a tight grouping of not dissimilarly sized equipment cabinets is intended (when compared to the existing cabinets to be replaced), the Framework's replacement building exception does not apply to the proposal when considered as a whole.
6. The proposal would not meet any of the Framework's inappropriate development exceptions, nor any of the development types considered appropriate within the Green Belt.
7. For the above reasons, the proposal would be inappropriate development in the Green Belt and conflicts with Policy CP8 of the Core Strategy¹ and with the Framework in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt.

Openness

8. The Framework at paragraph 137 states that the essential characteristics of Green Belts are their openness and their permanence, and a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The consideration of openness can have a spatial and visual dimension and for the purposes of this appeal, I have considered both of these aspects.
9. From the playing fields and to the north west along Wooley Road, direct views of the proposed monopole would be readily obtainable. Its increased height and thickness would have a greater visual presence from the aforementioned vantage points and from higher ground in the locality. As a consequence the proposal would lead to a loss of Green Belt openness in a visual sense.
10. In spatial terms the proposal would be sited in the same position as the existing monopole, while it would not extend beyond the existing compound. Despite there being no difference in horizontal coverage, the increased height of the proposal would result in the previously undeveloped space above the existing monopole being taken up by the development's additional height. A loss of spatial openness would therefore be incurred.
11. For the above reasons, the proposal would cause harm to the openness of the Green Belt. The proposal conflicts with Policy CP8 of the Core Strategy and with the Framework in so far as these policies set out that permission will not be granted for the replacement of existing buildings within the Green Belt that are materially larger and have a greater impact on the openness of the Green Belt, and confirm that the essential characteristics of Green Belts are their openness and their permanence.

Character and appearance

12. The appeal site lies within the Cotswolds AONB. In accordance with paragraph 176 of the Framework, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection

¹ Bath and North East Somerset Core Strategy – Part 1 of the Local Plan, adopted July 2014 (Core Strategy)

in relation to these issues. The scale and extent of development within AONBs should be limited.

13. Although the northern extents of Bath are located a short distance to the appeal site's south, the appeal site's immediate locality is predominantly characterised by a network of fields and green spaces subdivided by hedgerow and thick woodland. Built development is mostly characterised by a scattering of houses and farmsteads along Chilcombe and Wooley Lanes. Accordingly, the surrounding area has a verdant and attractive semi-rural character and appearance.
14. The proposed replacement monopole would be a much taller and thicker structure. It would rise significantly above the evergreen trees that border the south western corner of the playing fields and would appear as an incongruous and imposing feature in that predominantly undeveloped setting. It is acknowledged that there are existing lighting columns nearby, however, these are slimmer and shorter structures that, in contrast to the proposal, assimilate more sympathetically with the scale of the surrounding landscape.
15. Although the scale of the monopole would be well screened from close quarters to the south and west and from other medium/long range views, it would nonetheless be appreciable from Wooley Lane. From this perspective the mast would appear imposing, while the numerous apertures on its wide headframe would have an industrial appearance that would have a jarring presence above the adjacent evergreen trees. In this context, the mast's discordance would also be apparent against the backcloth of the wider landscape that surround Bath's hinterland, thus eroding those visual qualities.
16. The intended equipment cabinets would be tightly grouped around the proposed monopole's base in a not too dissimilar fashion to the existing ground-based apparatus. Although they would be more numerous than the existing ground-based elements, their modest scale set against the background of the adjacent tall boundary trees would have a negligible effect upon the area's character and appearance.
17. Even though I have found no issue with the proposed ground-based equipment, I conclude that the proposed monopole would have a detrimental effect on the character and appearance of the area, which would fail to conserve the landscape and scenic beauty of the Cotswolds AONB contrary to the Framework. It would also not accord with Policy CP6 of the Core Strategy and Policy NE2 of the Placemaking Plan², which in part, requires development to protect, conserve and enhance the landscape's local distinctiveness and its setting.

Other considerations

18. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As part of my assessment, the Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances.
19. As set out in the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. The scheme would support high quality communications and digital

² Core Strategy and Placemaking Plan, adopted July 2017

connectivity for local businesses and residents, as well as for transient users, by facilitating increased capacity and by providing 5G coverage for multiple nationwide networks, which would include the Emergency Services Network. These are benefits that attract significant weight.

20. The appellant has provided information to support the height of the proposed monopole in order to avoid interference from buildings and landscaping, and also in order to clear International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines. I therefore have no reason to dispute the specification and the height of the proposed monopole. These considerations also weigh in the proposal's favour.
21. The sharing of the proposed mast by two mobile operators would negate the need to deploy any additional base stations within the local area. This matter therefore attracts moderate weight in favour of the proposal.
22. Local interested parties are also in support of the proposal, on account of the improved connectivity and network coverage it would bring, and I have given moderate weight to this.

Other Matters

23. Similarities have been referred to between the appeal mast and a taller (23 meter high) mast in the north west corner of the playing fields. That scheme received planning permission in February 2021³ although was not in place during the time of my site visit. The approved drawings relating to that scheme show a slimmer, less prominent structure that would have significantly fewer apertures on its headframe. In addition, its immediate backdrop is formed of tall trees that will more effectively screen and filter the appearance of the mast. In view of these differences, I attach limited weight to the consented scheme as a compelling local precedent.
24. The submitted evidence includes two appeal decisions⁴ where smaller existing masts were replaced by taller installations. Although the appointed Inspectors found those schemes acceptable, the appeal scheme differs in that it is located within the Green Belt and AONB; both of which are landscapes that would be more sensitive to change. Moreover, I have not been provided with the full details of the appearance of those schemes referred to. I cannot therefore take those decisions as compelling precedents.
25. I note that Council officers have come to a different conclusion on the effects of the proposal, however, this does not alter my view of the scheme or overcome the concerns I have identified. Moreover, Members of the Council's Planning Committee were entitled to come to a different view and even though the appellant is frustrated that this did not place sufficient weight on the scheme's benefits, they nevertheless made a decision that had regard to local and national planning policy along with clear reasons for doing so.
26. The appellant considers that the principle of the development, and the very special circumstances to allow development within the Green Belt, have already been established by the Council's consent of the existing mast⁵ at the site. Yet, the proposal amounts to a new mast at the site, which would be of greater scale while having an altered appearance. Accordingly, I am assessing a new development and

³ Local Planning Authority Ref - 20/03255/FUL

⁴ APP/P4605/W/19/3241791 and APP/J4423/W/20/3256458

⁵ Local Planning Authority Ref: 04/01170/FUL

the requirements of the Framework, insofar as they relate to the Green Belt would still apply to the proposal before me.

Planning Balance and Conclusion

27. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. Moreover, it would lead to a moderate loss of openness to the Green Belt. I have also found that the proposed development would harm the character and appearance of the area including the Cotswolds AONB, a matter which attracts great weight.
28. The other considerations in this case, include the economic and social benefits brought about by improved digital communications networks, site sharing between operators, the technical requirements for the mast and the letters of support. When these considerations are combined, they attract considerable weight in favour of the proposal. However, they would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness), in addition to the significant harm I have identified upon the character and appearance of the area (in particular the AONB), so as to amount to the very special circumstances necessary to justify the proposal. The scheme conflicts with the development plan when read as a whole, and the Framework, while the material considerations identified do not outweigh that conflict.
29. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR