



Appeal Decision

Site visit made on 31 March 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/Z4310/W/21/3282208

Land at Hale Road, Speke, Liverpool, L24

- 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 Liverpool City Council.
 - The application Ref 20PT/1724, dated 24 June 2020, was refused by notice dated 17 May 2021.
 - The development proposed is installation of a 17 metre phase 8 pole with wraparound cabinet built around the base, 3no. new equipment cabinets and ancillary development thereto.
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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 the siting and appearance of a 17m phase 8 pole with wraparound cabinet built around the base, 3no. new equipment cabinets and ancillary development, at land at Hale Road, Speke, Liverpool L24 in accordance with the terms of the application Ref 20PT/1724 dated 24 June 2020, and the plans submitted with it, including the plans and specifications contained within Master Drawing no. 1215303_LPL237_18717_L0508_M002 rev B.

Procedural Matters

2. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. The provisions of the GPDO require that applications for prior approval be assessed solely on the basis of siting and appearance, taking into account any representations received. I have therefore assessed the appeal proposal on this basis.
3. The GPDO contains no requirement to have regard to the development plan, but relevant policies may be material considerations where relevant to matters of siting and appearance. The National Planning Policy Framework (the Framework) includes a section on supporting high quality communications, and is also a material consideration.
4. Since the Council made its decision on the proposed installation, it has adopted the Liverpool Local Plan. This plan which has replaced policies contained within the Unitary Development Plan, including those referred to in the decision notice. The Council has indicated which policies in the newly adopted Local Plan it considers to be relevant to the proposal. Policy STP1 is a strategic

policy setting out the spatial priorities for the growth of Liverpool, but does not apply to detailed matters of siting and appearance so is not directly applicable. Policy STP4 is concerned with infrastructure provision and so is relevant to the proposed telecommunications installation. Policy TP2 requires that proposals would not be detrimental to the safety of all users of the transport network, including pedestrians and cyclists, so is also relevant to considerations of siting.

Main Issues

5. The main issues are:

- i) The effect of the siting and appearance of the proposed installation on the character and appearance of the area; the safety of pedestrians and cyclists, and the operation of air traffic services at Liverpool John Lennon Airport.
- ii) If any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternative sites.

Reasons

Character and appearance

6. The appeal site is located in an open area between Hale village and the edge of the urban area of Speke, close to Liverpool John Lennon Airport. There are houses nearby, but the area immediately surrounding the site has a semi-rural character, with undeveloped land on either side. The topography of the area is flat with long views across open land to the north and south. Travelling away from the site in either direction along Hale Road, the open character is replaced by trees, shrubs and built development.
7. The proposed installation would be sited at the back of the pavement on Hale Road, close to the entrance to a bridleway. It would provide 2G, 3G, 4G and 5G connectivity for the local area on behalf of two operators, EE and H3G. The equipment would replace the existing 12m monopole on the site. The appellant has confirmed that the existing mast is not capable of being upgraded to provide the necessary 5G coverage, and would be removed once the new equipment was operational, and the network stable.
8. When travelling along Hale Road in either direction, the proposed mast would be viewed in the context of the existing vertical features along the route, which include regularly spaced streetlights and an adjacent telegraph pole. Roadside trees and shrubs, together with the curvature of the road, would filter and limit views of the structure from further away.
9. The site is an established location for telecommunications equipment, but at 17m the proposed mast would be notably higher than the existing monopole and nearby streetlights, as well as being wider. As a result, it would be more prominent in the streetscene than the existing equipment.
10. The closest residential property would be 230 Hale Road, which is a short distance away to the side of the appeal site. Owing to the height of the proposed structure, it is likely to be visible from that property. However, the angle of view to the side, together with the existing trees and shrubs around the garden and along the roadside would provide screening, and prevent it from appearing overbearing.

11. A number of properties along Alderfield Drive look directly towards the site across open land, so would have uninterrupted views of the structure. However, the site is a reasonable distance away, and, like the existing mast, the proposed equipment would be viewed in the context of surrounding street lights and trees. Although higher and wider than the existing equipment, it would not appear unduly prominent when viewed from those properties.
12. The rollout of 5G technology means that telecommunications masts are increasingly higher and bulkier than their predecessors. I note comments that it would be an eyesore, but such equipment is increasingly common feature along roadsides, and would not be particularly unexpected on this site, which is an established location for telecommunications equipment. The proposed mast has been designed to be slimline, with the antennas being compact in form, and I have no reason to doubt the appellant's assertion that the height and girth would be the minimum necessary to achieve the technical requirements of both operators and the International Commission on Non-Ionizing Radiation Protection (ICNIRP), which is concerned with limiting public exposure.
13. Notwithstanding that, proposed mast would be more obvious in the streetscene than the existing monopole and would cause a modest amount of harm to the character and appearance of the immediate area.

Highway safety

14. Cyclists and pedestrians using the bridleway will need to cross Hale Road close to the appeal site. In this location the road is fairly busy, with vehicles travelling at some speed, and to enable safe crossing it is important that sight lines are not obscured.
15. The proposed equipment would be positioned at the back of the pavement, and at just under 1 metre, the height of the cabinets would be well below eye level for most adults. The mast itself would be a fairly slim feature. The pavement is sufficiently wide and open in this location to allow pedestrians and cyclists to move to a position where any potential obstruction to their sight lines could be avoided, to enable them to cross the road safely. Removal of the existing mast, which is sited close to the road edge, would help to reduce clutter and improve visibility.
16. Taking the above considerations into account, I am satisfied that the proposed siting would not cause unacceptable harm to the safety of pedestrians and cyclists. As such, the proposal would not conflict with Local Plan Policy TP2.

Effect on the operation of Liverpool John Lennon Airport

17. To comply with Framework paragraph 116, local planning authorities should ensure that proposed electronic communications equipment would not cause significant interference with air traffic services. This is relevant to the appeal proposal, as the site is within 7km of the air traffic control radar at Liverpool John Lennon Airport.
18. As part of the appeal submissions, information has been provided which confirms that the proposed installation would be operated at a frequency which would be below that identified by Ofcom in the 'Notice for Aeronautical Radar Co-ordination' (published 12 April 2018). The appellant has explained that interference issues are the domain of the regulator Ofcom, and that the equipment would be operated in accordance with the conditions of the

operator's licence from Ofcom. The proposal would therefore satisfy any statutory obligations in respect of interference to other UK based radio systems.

19. From the information provided, I am satisfied that this matter, which is controlled by other legislation and the appropriate regulatory body, has been addressed. I note that there has been no objection to the proposal from the Airport. There is therefore no conflict with the Framework in this respect.

Alternative sites

20. The proposed equipment falls within the scope of permitted development, and as such the principle of the development, including the need for the facility, has already been accepted. However, I have found that the proposal would cause a modest amount of harm to the character and appearance of the area. It is therefore necessary to consider whether other, less harmful, options may be available.
21. Paragraph 117 of the Framework requires that evidence is provided to justify the proposed development. In relation to a new mast, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. The appellant has confirmed that there are no other masts in the area which could be upgraded, and the predominately residential character of the area means that there are no suitable rooftops on which equipment could be sited. I have no reason to doubt these findings.
22. As part of the proposal, the appellant has provided details of alternative streetworks sites within the immediate vicinity. Compared with the appeal site, the suggested locations at Alderfield Drive, Almeda Road and Critchley Road would have a greater impact on the outlook from surrounding houses, with less opportunities for screening by surrounding trees and vegetation.
23. In the absence of a cell coverage map, the extent of the target area, within which the new mast could be located, is unclear. However, the proposed installation, which would replace the existing mast on the site, would need to operate within an existing network. This will limit the geographical area within which the equipment can be sited, and I note the appellant's comments that to deviate from the site would have knock-on impacts on the wider network, and not fulfil the operator's technical requirements.
24. The possibility of siting the equipment within the boundary of the airport has been suggested by the Council and neighbouring residents. However, as has previously been raised, there may be technical constraints associated with such a location, which could restrict the operation of the equipment. Other options may be available on undeveloped land in the vicinity, which would be further away from houses. However, I have found that the proposed siting would not have an unacceptable impact on the outlook from nearby dwellings. Furthermore, more isolated locations could have a greater visual impact than the proposed roadside site, along which the equipment would be seen in the context of existing streetlights and other vertical features.
25. Overall, whilst the proposed equipment would cause a modest amount of harm to the streetscene, I am not convinced that alternative options in the locality would be significantly less harmful. Furthermore, by upgrading the existing

site and providing for two operators to share equipment, the proposal would avoid the need for further base stations in the area. As such, the scheme would accord with the objective of minimising the number of electronic communications masts, contained within Framework paragraph 115.

Other Matters

26. Local residents have expressed concerns regarding potential health effects associated with the proposed installation. This is a legitimate concern, but as part of the application the appellant has provided a certificate to confirm that the equipment would not exceed the guidelines for public exposure set by the ICNIRP. As such, the proposal meets the requirements of Framework paragraph 117 in relation to public health, which makes no provision for further consideration of this matter.

Planning Balance

27. Paragraph 114 of the Framework advises that high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that planning decisions should support the expansion of electronic communications networks, including 5G mobile technology. Whilst I accept that there would be some harm to the character and appearance of the area, this would not be unacceptable when balanced against the Framework's expansion of mobile communication networks, including the 5G network.
28. Overall, I conclude that the proposed siting and appearance would be acceptable.

Conditions

29. Class A of Part 16 of Schedule 2 of the GPDO imposes relevant conditions as standard. 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.
30. The Council has suggested a number of conditions should the appeal be allowed, but the GPDO does not provide any specific authority for imposing additional conditions. I have not, therefore, considered the suggested conditions any further.

Conclusion

31. For the reasons set out, the appeal is allowed, and prior approval is granted.

R Morgan

INSPECTOR