



Appeal Decision

Site visit made on 17 May 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/V4305/W/22/3291298

Club 3000 Bingo Huyton, Poplar Bank, Huyton, Liverpool L36 9US

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL against the decision of Knowsley Council.
 - The application Ref 21/00678/TEL, dated 13 August 2021, was refused by notice dated 14 January 2022.
 - The development proposed is a NTQ 25m High Valmont Slimline Climvable Monopole on concrete base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on this basis.
3. The principle of development is established by the GPDO and the provisions of the Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies of the Knowsley Local Plan: Core Strategy (Core Strategy), Knowsley Replacement Unitary Development Plan (UDP) and the National Planning Policy Framework (Framework) insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on (i) the character and appearance of the area; (ii) the living conditions of nearby residential occupiers, with regards to outlook; and (iii) 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 alternatives.

Reasons

Character and Appearance

5. The appeal site is a grass verge area between the footway on Ellison Grove and the car park to Club 3000 Bingo. The surrounding built form, in terms of scale and appearance, and in the range of uses, exhibits a high degree of variance which is typical of a town centre location. Despite this variation, many of these buildings are served by car parks which contain landscaped areas. These open areas, alongside the grass verges that are planted with trees and other vegetation, contribute to a spacious, verdant character.
6. The proposed mast, at 25m high would be over twice the height of the nearby mature trees which are said to be around 12m in height or any vertical street furniture items such as streetlights along Ellison Grove. The proposed mast would also be significantly higher than the Rafa Club and Priory Court whose ridge heights are given as around 5m and 10m respectively.
7. Although the appellant states the site is on highway land that it is well screened, the appeal site is situated adjacent to a large car park which would result in it appearing as a prominent feature in largely open surroundings. The trees to the east of the site would only provide limited screening given their positioning and the height of the pole in relation to these considerably shorter trees.
8. I do not doubt that the appellant has sought to minimise the mass and scale of the installation and note that it is a static structure. Reference has also been made to a slimline pole design, but from the submitted plans, the pole would be noticeably wider than nearby street lighting columns. The top section of the mast would be wider still and the base would be enclosed by a 2.4m high fence and gates. This would result in the proposal having a bulky, dominant appearance which would not be overcome by selecting the colour of the pole or other ancillary items. The open, verdant character of the area would not therefore be maintained as the appellant sets out.
9. The appellant has stated the proposal is in a location where telecommunications installation would not appear unusual. Whilst I accept such installations are seen in town centre locations amongst commercial uses, it is necessary to consider the effect of the proposal's siting and appearance on the character and appearance of the area.
10. On this issue, for the reasons set out, I conclude that the siting and appearance of the proposed installation would result in significant harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 115 of the Framework, Policies CS2 and CS19 the Core Strategy and Policy ENV8 of the UDP, which seek, amongst other matters, for the development to not have an unacceptable impact on the character or appearance of the surrounding area.

Living Conditions

11. The appellant has set out that the appeal site maintains a reasonable distance from sensitive receptors and in this regard, I note reference to the residential streets that are separated by the railway line. Although reference has been made to the backdrop of streetlights and floodlights, from my site observations, these are noticeably shorter and of a more slender form than the proposal. There are no trees or buildings that would be apparent in the backdrop of the pole. The proposal would however be clearly visible from a number of windows to Priory Court, a short distance to the north of the appeal site. Given these views are over the highway or open land with little screening, and the overall height and bulk of the pole, I consider it would cause significant harm to the outlook of the neighbouring residential occupiers.
12. I therefore conclude, on this issue, that the siting and appearance of the proposed installation would result in unacceptable harm to the living conditions of nearby residential occupiers, with regards to outlook. As such, the proposal would be contrary to, insofar as they are material considerations, paragraph 130 of the Framework, Policy CS19 of the Core Strategy and Policy ENV8 of the UDP, which seek, amongst other matters, for development to not have an unacceptable impact on the amenity of nearby residents. Although Policy CS2 is referenced within the second reason for refusal, this is not relevant to living condition matters relating to outlook.

Alternative Sites

13. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage and a number of potential benefits have been set out by the appellant relating to improved connectivity, such as supporting the economy and digital inclusion. Reference has also been made to the Government's Future Telecoms Infrastructure Review (2018) and 'Planning for Growth' (31 March 2011). The Council acknowledge the benefits that would be provided but have set out that there is a lack of robust evidence on why alternative sites are not suitable.
14. The appellant states that the proposal is in a highly constrained cell search area geographically and the wider cell search area is dominated by residential uses. Prior to submission, the appellant examined the Ofcom Site Finder mast register. The site selection process has also been influenced by the existing network and the presence of existing surrounding base stations. Within the search area, a number of sites were considered, including Greenfield sites and rooftop installations, but all were discounted for various reasons.
15. The Council has stated that not all alternatives have been considered and reference the Huyton Job Centre and other town centre buildings which they suggested. I also note one of the sites considered by the appellant (site 'D8') has been discounted due to the site backing on to residential properties. From my site observations, the area between the referenced site D8 Huyton Police Station, and Asda to its north are not close to any residential properties, and I am not clear why the proposed site represents a better solution than it. Given that there may well be other locations that could potentially accommodate the

proposal, I find the analysis by the appellant to be not sufficiently comprehensive to eliminate all other reasonable options.

16. I appreciate the need for this installation is to provide comprehensive digital 5G coverage in the area. It would provide benefits in terms of access and speed to a multitude of users and this weighs in favour of the proposal as does the potential of this proposal to facilitate future site sharing and the use for future technologies negating the need for subsequent new installations. The proposal would provide infrastructure that would be of benefit to surveillance and emergency services communications, and the appellant has drawn my attention to the policy support the proposal receives in this respect. I have no reason to question the need for this proposal following a notice to quit. The appellant has followed the sequential approach in considering existing base stations/structures and site sharing. In this regard, the provision of 5G requires different equipment and antennas to previous and existing service requirements.
17. The proposal would, however, for the reasons set out above, be harmful by virtue of its siting and appearance to the character and appearance of the area and to the living conditions of nearby residential occupiers. I note that a height below 25m would not provide adequate coverage as it is required to clear surrounding clutter. The appellant has also sought to avoid a shared 5G structure which would require multiple levels of open antenna headframes on a more bulky support structure. On the evidence before me though I am not convinced that less harmful alternatives have been properly explored and that other locations would necessarily place the mast close to sensitive receptors. It is my overall view that the need for the proposal does not in this case, outweigh the harm.

Other Matters

18. The proposal would not impede the flow of pedestrians or compromise safety along Ellison Grove and there have not been any objections from statutory consultees. The site is not on Article 2(3) land, in close proximity to listed buildings or schools and is also separated from parks and the nearest Conservation Area. A lack of harm in these areas are neutral matters and do not weigh in favour of the proposal.
19. I note the concerns in relation to the potential effects on health but the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).
20. I note the appellant sought pre-application discussions and no comments were received from the LPA. There was also cooperation during the consideration of this appeal application by the Council to find a solution, including reference to an alternative tree design. I am required to assess the proposal on its own merits having regard to siting and appearance. Having done so in this case, I have found the proposal to be unacceptable for the reasons set out.
21. The appellant has also stated that the number of cabinets have been kept to a minimum and these are Permitted Development without the need for prior approval. These matters would not alter my conclusion in relation to the main issues.

Conclusion

22. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR