



Appeal Decision

Site visit made on 17 August 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21ST September 2022

Appeal Ref: APP/Z4310/W/22/3293885

Childwall Valley Road, Childwall, Liverpool L16 1LA

- 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 (EE (UK) Ltd and H3G (UK) Ltd) against the decision of Liverpool City Council.
 - The application Ref 21PT/2907, dated 24 September 2021, was refused by notice dated 18 November 2021.
 - The development proposed is the installation of a 17 metre phase 8 pole with wrap around cabinet built around the base, 4no. new equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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.

Planning Policy

3. The Liverpool Local Plan 2013-2033 was adopted on 26 January 2022. The parties have had the opportunity to comment on the updated policy position and these comments have been taken into account, where received. In any case, 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 only in so far as they are a material consideration relevant to matters of siting and appearance.
4. I note that, during the course of the application, the main parties agreed to the reduction of the height of the proposed monopole from 20m to 17m. While the decision notice and appeal form refer to a 20m pole, from the evidence it appears this was in error. I have amended the description of development accordingly and taken the amended plans submitted during the application process into account.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, 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

6. The appeal site comprises a grass verge on the south side of Childwall Valley Road. It is set back from the footpath in a raised position, close to a disused railway line now part of the National Cycle Network. The surrounds are primarily residential, with dwellings located across from the site and open playing fields to the south. Streetlights line the footpath and an existing monopole with associated cabinets is located at the bottom of the grass verge.
7. The proposal would reflect the vertical lampposts and monopole nearby. However, it would be notably greater in height, exacerbated by its positioning at the top of the verge. It would also contain additional bulk due to its antennas. The monopole height has been reduced and, along with the antennas, is necessary for technical and operational reasons. Similarly, the site at the top of the verge is required to secure foundations and avoid groundwater and pedestrian flow. Nevertheless, even though such installations are becoming commonplace in urban areas, the combination of the height and positioning of the proposal would result in it being a dominant addition to the streetscene.
8. While the bridge and surrounding trees would limit views of the proposal from the east, long views would remain in the opposite direction due to the straight, albeit sloping, nature of the road. It would also be readily visible from the nearby cycle network and dwellings. Despite the presence of vegetation and surrounding structures, the prominence of the proposal would remain evident from these locations, particularly when experienced alongside the open playing fields, against which it would appear unduly imposing.
9. The proposal is intended to replace the current monopole and some of the associated cabinets. However, as evident from the submitted plans, both would remain for an undisclosed period of time to ensure no break in network provision. While the GPDO imposes a condition for the removal of apparatus as soon as is reasonably practicable when no longer required for electronic communications, no timeframe has been given for when this is likely to occur.
10. Even if for a temporary period, the addition of the proposal alongside the existing monopole and cabinets would create an undue level of clutter at the site. The combination of apparatus would lend an overly busy appearance to this section of the footpath, that would appear visually jarring and out of place in the otherwise largely residential setting and against the backdrop of the open playing fields.
11. For the reasons given, I therefore consider that the siting and appearance of the proposal would cause significant harm to the character and appearance of the area.

Suitable Alternatives

12. Paragraph 117 of the Framework advises that advanced, 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 communication

networks. This is also acknowledged by other documents provided¹ with the appeal. The appellant has demonstrated that the area surrounding the site does not have the capacity to meet demand for the communication network which, along with the introduction of a 5G service, would be addressed by the proposal. Accordingly, the economic and social benefits of the proposal, particularly as a result of the COVID-19 pandemic increasing network demand and reliance, are acknowledged and attract significant weight.

13. Paragraph 117 further states that applications for electronic communications development, including for prior approval under the GPDO, should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts, or other structures.
14. The appellant has set out the sequential approach followed. It highlights that the proposal is an upgrade to the existing site, addressing the inability of the current monopole to accommodate further operators. The search area has been identified and, as the proposal is a replacement structure in an existing network, cannot be deviated from. Various alternative locations are also considered and discounted with reasonable justifications.
15. However, paragraph 117 refers to erection of apparatus on existing buildings. While I acknowledge that the residential nature of the search area would limit such possibility, the Site Specific Supplementary Information submitted with the application assesses a building, deeming it unsuitable as the proposal would be out of keeping. No precise information on the building or its location is given, such that I cannot identify it or assess the justification for it being deemed unsuitable. Furthermore, no such building is referred to in the assessment of alternatives undertaken at appeal.
16. There is no requirement to select the best feasible siting, and I have had regard to the appeal decisions provided on this matter². However, due to the limited and conflicting information submitted identifying and assessing existing buildings in the area, I am unable to conclusively determine that the appellant has adequately explored the possibility of erecting antennas on existing buildings in line with the Framework.
17. As such, even acknowledging the significant weight attached to the benefits of the proposal, I have insufficient evidence to conclude an absence of suitable alternative sites. Accordingly, on the information before me, the need for the installation to be sited as proposed, taking into account any suitable alternatives does not outweigh the identified harm that would occur to the character and appearance of the area due to the siting and appearance of the proposal.

Other Matters

18. The appellant has provided copies of appeal decisions³ relating to telecommunications development permitted across the country, to which I have had regard. However, the monopole dimensions, number of associated cabinets, and character of the area differs in each case, such that a precise comparison with the scheme before me cannot be made. In any event, the proposal has been considered on an individual basis and the acceptance of other such development elsewhere is of little weight.
19. The appellant states that the siting, appearance and quantity of the associated cabinets has not been raised by the Council in its assessment, and that these are permitted

¹ DDCMS & MHLG 'Collaborating for digital connectivity' 2019; DDCMS Connected Growth Manual; Ofcom Online Nation 2021 Report.

² APP/E5330/W/16/3159250; APP/J4423/W/17/3188962

³ APP/L1765/W/18/3197522; APP/G4240/W/21/3268575; APP/J4525/W/21/3272048; APP/M5450/W/20/3244354; APP/G5750/W/20/3249160; APP/P4605/W/19/3242513

development. However, the appeal before me relates to the scheme in its entirety, and I have assessed the proposal on this basis. In any event, I am not persuaded that there would be a greater than theoretical possibility of the cabinets being installed at the site without the associated monopole, such that I attach limited weight to this argument.

20. The appellant has further suggested that the colour of the proposal could be amended. However, the GPDO does not provide any authority for imposing additional conditions beyond those within Class A of Part 16. It would not therefore be reasonable to impose such a condition which, in any event, would do little to address the harm identified as a result of the siting and appearance of the proposal.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR