



Appeal Decision

Site visit made on 1 September 2022

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2022

Appeal Ref: APP/P4605/W/21/3283027

Yardley Fives, 21-25 Sedgemere Road, Birmingham B26 2AX

- 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 MBNL against the decision of Birmingham City Council.
- The application Ref 2021/06355/PA, dated 9 July 2021, was refused by notice dated 6 September 2021.
- The development proposed is a telecommunications installation comprising a 25m High Valmont Slimline Climable Monopole on 5.8m x 5.8m x 1.4m deep concrete base, with 6 Antenna Apertures at 0°/120°/240° and 4 600mm Dishes RRU's, MHA's, Active Routers and BOB's to be fixed to support poles below Antennas, and associated ancillary works.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are
 - a) the effect of the development on the character and appearance of the area and the setting of nearby designated heritage assets;
 - b) its impact on living conditions and
 - c) its effect on aviation safety.

Reasons

Character and appearance

3. The proposed monopole is to be sited in the middle of a large sports complex, with artificial football pitches to the north, and grassed rugby and football pitches to the south. The area is generally open, apart from some low-level floodlights and fencing around the artificial pitches, the club house and bar to one side, and a few occasional taller trees that are found mainly around the boundary. It is in a suburban area of Birmingham, which is generally characterised by 2-storey housing.
4. In such a context, the proposed monopole would be much higher than anything else in the vicinity. Moreover, its position in the midst of these open sports pitches means it would be visible over a wide area. However, it would be well away from roads and surrounding houses, and across the intervening distance it would appear to be a slim feature, and would be seen in the context of the lower floodlights to the north. I therefore find that the proposal would not detract unduly from the character and appearance of the area.

5. A few hundred metres to the west of the appeal site is the Old Yardley Conservation Area. Its significance lies, partly, in the way the cluster of buildings at its heart still reflect the organic character and appearance of a historic, rural settlement, because of their age, siting and design. This significance is enhanced by the large grassed open space that forms the eastern side of the conservation area, and serves to emphasise the rural origins of this village, as it now sits amongst the Birmingham suburbs.
6. There are a variety of listed buildings within the conservation area. Most striking of these are the Grade I listed Church of St Edburgha, and the adjacent Grade II* listed 422-424 Church Road (the former Trust School). The church originates from the 13th Century, but what is now present principally dates from the 14th and 15th Centuries with subsequent changes. The former Trust School is a timber-framed building from the 15th Century, albeit again with later alterations. Their special architectural and historic interest rest in part in their detailing and in the roles they have played in the village over time. The significance of both of these buildings lies therefore in their historic, artistic and architectural value. To the north-east is the Grade II listed house called Holly Croft, which was built in the early 19th Century. Its significance and special architectural and historic interest lie partly in it still reflecting the fact that it was originally simple rural housing. With all these buildings, the setting, with the older village on one side and the open grassland on the other, very much adds to their significance, by emphasising their origins in a historic settlement surrounded by countryside.
7. Due to its height relative to what is around, from within the conservation area and from some of these listed buildings there may well be places from where the monopole is visible. However, it would be a distant, slender structure, albeit with various pieces of apparatus attached to or near its top. Furthermore, it would be clearly distinct from these historic assets. This is because it would be separated from the conservation area and listed buildings by the intervening modern housing, with the semi-detached dwellings on the east side of Queens Road already forming a firm and distinctive break between the conservation area and the newer 20th Century development that lies beyond. As a result, I find the proposal would not affect the character or appearance of the conservation area, or the settings of these various listed buildings. Consequently, it would not harm the significance of the conservation area when looking eastwards, and its impact on the settings of the listed buildings from that direction would not harm their significance.
8. Sedgemere Road runs along the northern side of the sports complex that contains the appeal site, and terminates at the eastern boundary of the conservation area where it forms a T-junction with Queens Road. As a result, whether driving or walking along this road, the grassland and the church beyond are clearly visible across the end, very much acting as a visual focus, and alluding to the interest the conservation area offers. The openness of the sports complex pre-empts the undeveloped and pastoral nature of the grassland, so making a positive contribution to the conservation area's setting on this approach.
9. The monopole would be well before the junction of Sedgemere Road and Queens Road. Moreover, it would be separated from the road by the intervening artificial football pitches and would be behind the tall hedging that runs along the northern side of the sports complex. Views of the monopole

from the road would therefore be limited, and where it could be seen it would not be viewed in the context of the conservation area. Moreover, the monopole's presence, location or scale would not be sufficient to undermine the openness created by the pitches and playing areas at Yardley Fives. Accordingly, the setting of the conservation area would not be harmed when travelling west along Sedgemere Road.

10. There could be other viewpoints to the east, such as in dwellings or maybe from estate roads, where the monopole could be seen with the church spire in the background and maybe housing in between. The dominance of the spire would not be challenged though as it would be clearly a historical and more substantial feature, and from those points there would be little appreciation of the conservation area, its significance, or any contribution the appeal site made to its setting. Moreover, given the separation and the intervening development, I have no reason to consider the proposal would cause harm to the significance of the other listed buildings as a result of its impact on their settings when looking from this direction.
11. In assessing this matter I have noted the Supplementary Planning Document called '*Telecommunications development: mobile infrastructure*' (the SPD). I see nothing in that document that leads me to a different finding on this issue.
12. Accordingly, I conclude that the proposal would not harm the character or appearance of the area, and would not adversely affect the settings of the Old Yardley Conservation Area, the Church of St Edburgha (Grade I listed), 422-424 Church Road (Grade II* listed) and Holly Croft (Grade II listed) so would not harm the significance of any of these designated heritage assets. As such it would not conflict with Policies TP12, PG3 and TP27 in the *Birmingham Development Plan*, Policy DM16 in the *Development Management in Birmingham DPD* (the DPD), the SPD, and the *National Planning Policy Framework*, all of which seek to safeguard the character and appearance of an area, maintain local distinctiveness, and protect the significance of designated heritage assets.

Living conditions

13. The SPD highlights the sensitivity of telecommunications development that is '*close to and visible from*' homes and gardens, stating that it should be avoided '*immediately in front of habitable room windows*'. Although this monopole may be in line of site from the windows and gardens of houses around the playing fields, the distances involved and the intervening planting that is present mean it would not be dominant or intrusive from those properties. Furthermore, the size of the separation means I consider it could not be defined as '*close to*' or '*immediately in front of*' the homes, gardens, and windows of dwellings around this sports complex.
14. As the appellant has confirmed compliance with the ICNIRP standards, I have no reason to consider health issues would arise. I recognise that being visible may mean the residents may nonetheless have such concerns, but again the distances mean these should not be widely apparent, and would not offer a basis to resist the scheme.
15. Accordingly I conclude that the proposal would not detract unreasonably from the living conditions of those around, and so would not conflict with Policy PG3

in the *Birmingham Development Plan*, DPD Policy DM16, or the SPD, which all seek to protect living conditions of local residents.

Impact on aviation

16. The Aerodrome Safeguarding Officer at Birmingham Airport has objected to the development on 2 grounds, both of which have been taken up by the Council and used as a reason for refusal.
17. The first is that the mast would encroach by some 4.5m into the protected Inner Horizontal Surface, the purpose of which is to protect airspace for visual manoeuvring. In response to this, and using Government guidance to calculate such matters, the appellant has said the structure would in fact be some 100m or so below this surface. The second concern is that being within 7km it needs to be shown the spectrum used by 5G would not interfere with the RADAR bands. The appellant though has drawn attention to a research publication that says aircraft may be impacted by 5G interference to the RADAR altimeters at a distance of up to just over 0.75km from the base station. As the site is 2.3km distant, the appellant contends the monopole would be sufficiently far away to have a benign effect.
18. On both of these matters the positions of the parties are therefore well apart. However, I have no knowledge as to the authority of the publication on which the appellant has based its comments concerning the impact on the RADAR, and so the weight I can place on that evidence is limited. With regard to the vertical encroachment of the mast, the Aerodrome Safeguarding Officer is aware of the appellant's methodology and conclusions. They have advised though that the impact of the development should be calculated against published Instrument Flight Procedures at the airport. I have no evidence of such a calculation being undertaken.
19. Accordingly, on the submissions before me I conclude it has not been shown the proposal would not adversely affect aviation safety. I am unclear as to how this conflicts with the *Birmingham Development Plan* Policy TP46, but it would be contrary to paragraph 116(a) in the *National Planning Policy Framework*, which requires infrastructure not to interfere with air traffic services.

Planning balance

20. I appreciate the emphasis on delivering high quality telecommunications systems. I have no reason to question that a mast of this height is needed, or that other sites could not be found. However, given my concerns revolve solely around the matter of aviation safety, I consider that harm is not outweighed by any benefits the proposal may bring.

Conclusion

21. Accordingly, I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR