



Appeal Decision

Site visit made on 6 December 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/P4605/W/22/3300486

Queslett Landfill Site, Off Aldridge Road, Great Barr, Birmingham B43 7HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 appeal is made by MBNL against the decision of Birmingham City Council.
 - The application Ref 2022/02597/PA, dated 18 March 2022, was refused by notice dated 18 May 2022.
 - The development proposed is NTQ telecommunications installation: Proposed 25m high valmont slimline monopole on new piled foundation base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

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.
3. The Council's decision notice referred to policies from the Birmingham Development Plan (adopted January 2017) (BDP) and the Development Management in Birmingham Development Plan Document (adopted December 2021) (DMB), as well as the National Planning Policy Framework (the Framework) and the Telecommunications Development: Mobile Phones Infrastructure Supplementary Planning Document (adopted March 2008) (TDSPD). I am aware though that since the determination of the application, the TDSPD has been replaced by the Birmingham Design Guide (adopted September 2022) (BDG).
4. However, 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 to be had to the development plan. Nonetheless, although not determinative, I have taken account of the above-mentioned policies and supplementary planning documents in so far as they are relevant to matters of siting and appearance. Similarly, the Framework is a material consideration and includes a section of supporting high quality communications.
5. The appellant considers that the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site

without prior approval. However, it is reasonable to assume that these would only be constructed as part of the proposed works as they are intrinsically connected to the functioning of the proposed mast. They would not be built if the mast were not built, and equally the mast would not be built without the ground level works. I have therefore considered the cumulative effects of the proposed mast and ground level works as shown on the submitted plans.

Main Issues

6. The main issues are:

- the effect of the siting and appearance of the proposal on (i) the character and appearance of the area; (ii) the biodiversity of Queslett Nature Reserve, with particular regard to trees and protected species; and
- if any harm is identified, whether it would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and Appearance

7. The appeal site is an area of wooded land situated within Queslett Nature Reserve close to the junction of Aldridge Road and Old Horns Crescent. Immediately to the south of the site is Great Barr Sawmills, with the former Queslett Landfill site also located nearby. The wider surrounding area is of mixed use with various industrial and commercial premises located to the east, a large supermarket to the north-west, and residential dwellings a short distance away on Aldridge Road.
8. Whilst there are vertical features nearby, including streetlights, telegraph poles, flag poles, and an existing telecommunications mast, these are generally of more slender design and considerably shorter than the proposed scheme. The proposed monopole would therefore be significantly taller, bulkier, and more prominent than these existing features, as well as being substantially taller than other surrounding built form which comprise predominately single and two storey commercial and residential properties. Though the associated equipment cabinets at ground level would be largely screened by surrounding trees and palisade fencing, the proposed monopole would appear an incongruous and obtrusive feature that would be at odds with the prevailing size and scale of existing street furniture.
9. Although the site is located within a wooded area containing several mature trees which would provide an element of screening of the proposed development, their effect would be limited due to the overall height of the proposed monopole which would project significantly above the top of the trees. As a result, the proposed development would appear unduly prominent within the street scene.
10. The visual prominence of the proposal would be further exacerbated by the sites elevated position. Aldridge Road rises steeply when approaching from the north with the appeal site situated near its summit before the road levels out to the south of the site. In addition, the ground levels of the appeal site itself are approximately 1 metre above the level of the footpath on Aldridge Road. The proposed development would therefore occupy an elevated position with long

distance views of the monopole being afforded from both directions along Aldridge Road and the immediately surrounding area.

11. In addition, I observed during my site visit that the proposed development would be in close proximity to two existing masts, with a 12-metre-high mast situated immediately adjacent to the appeal site and a second mast located to the rear of Great Barr Sawmills. Whilst I acknowledge that the proposed development seeks to replace an existing site on a nearby commercial premises on the eastern side of Aldridge Road, the proximity of the proposed development to these existing masts and the resulting cumulative impact would further aggravate the visual harm caused by the appeal proposal to the street scene and the character of Queslett Nature Reserve.
12. Accordingly, having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area. In so far as they are a material consideration, the proposal would be contrary to Policy PG3 of the BDP, Policy DM16 of the DMB and guidance contained within the Framework and BDG. These seek, among other matters, to ensure that new development responds to the local area context and is sited and designed to minimise its impact on the character and appearance of the surrounding area.

Biodiversity

13. Queslett Nature Reserve is recognised as a site of local importance for biodiversity and is a Site of Importance for Nature Conservation (SINC). It is apparent from the submitted plans and documents that an area of land would need to be cleared and several trees removed in order to facilitate the proposed development. I also find it likely that the proposal would result in works taking place within the root protection areas of other nearby trees which could result in further harm or loss of trees.
14. Though the appellant contends that there is no foreseeable reason as to why the proposal would result in a loss of biodiversity, and that it would be unlikely that there would be any harm caused to protected species, the appellant has not submitted any supporting information such as a tree survey or ecological appraisal which demonstrates that there would not be any detrimental impacts.
15. Given the appeal sites sensitive location within a SINC, and that the proposal would clearly involve clearing an area of land and removing several existing trees, I cannot be certain that the proposed development would not result in a loss of biodiversity or result in harm to protected species. Harm to protected species or the damage or loss of biodiversity would have the potential to cause significant harm to the Nature Reserve and SINC.
16. Therefore, having regard to its siting, it has not been suitably demonstrated that the proposed development would not result in the loss of biodiversity or harm to protected species. In so far as they are a material consideration, the proposal would be contrary to Policies DM4 and DM16 of the DMB, Policies TP7 and TP8 of the BDP and guidance contained within the Framework and BDG. These seek, among other matters, to ensure that developments seek to avoid the loss of woodland and do not result in unacceptable harm on areas of ecological interest.

Alternative Sites

17. For a new mast or base station paragraph 117 c) of the Framework requires the developer to submit evidence that they have explored the possibility of erecting antennas on an existing building, mast, or other structure. I note the appellant's argument that the cell search area is very constrained with options limited, and that the proposed location is the most viable option.
18. On behalf of the appellant, it has also been argued that there are no opportunities for mast or site sharing, and no suitable structures or buildings available within the designated search area that could facilitate a rooftop or site share installation. Although I acknowledge that some industrial or commercial buildings and sites have been considered and discounted, there remains a number of other industrial, commercial, and retail sites within the search area which do not appear to have been assessed.
19. Furthermore, the level of detail for the discounted options is somewhat limited and there is a lack of a detailed justification for each discounted site. Indeed, the appellant acknowledges that one such discounted site at Selecta Business Park could be revisited for both temporary and permanent installations. The appellant also contends that any move from the appeal site would result in the mast being placed closer to other more sensitive receptors or require a monopole of increased height. Particularly considering that the appeal sites location within a Nature Reserve and SINC which is recognised as a sensitive location, the appellant fails to advise why alternative sites would be more harmful than the appeal site.
20. On this basis, in my view the evidence does not convincingly demonstrate that the appellant has properly explored all the potentially available alternative options. Consequently, on the evidence before me, I find that it has not been proven that less harmful alternative sites are not available. As a result, the harm I have identified to the character and appearance of the area and potential harm to the biodiversity and protected species within Queslett Nature Reserve would not be outweighed by the argument for installing the development on the appeal site.

Other Matters

21. In order to meet health safeguards, 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). In these circumstances, the Framework advises that health safeguards are not something which a decision maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Planning Balance and Conclusion

22. Whilst reference has been made to various social and economic benefits, these have not been taken into account, as the prior approval considerations are limited only to matters of siting and appearance. Notwithstanding this, paragraph 114 of the Framework provides that, amongst other things, planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).

23. In light of this and considering the constrained nature of the cell search area, the need for a mast within the designated search area has been demonstrated. In particular, I note that the proposal is to replace an existing installation and would enhance 5G coverage levels and network capacity within the B43 postcode area.
24. Nevertheless, the proposal would cause harm to the character and appearance of the area as well as potential harm to biodiversity and protected species. In addition, the lack of a robust alternative site search has failed to demonstrate the need for the installation to be sited as proposed and that the benefits could not be achieved in a less harmful location.
25. For the reasons given above, I conclude that the appeal should be dismissed.

David Jones

INSPECTOR