



Appeal Decision

Site visit made on 17 April 2024

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st May 2024

Appeal Ref: APP/U4610/W/23/3335644

The Newlands, Tile Hill Lane, Coventry, West Midlands CV4 9DJ

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL (EE and H3G) against the decision of Coventry City Council.
 - The application Ref: PL/2023/0001242/PAEC, dated 16 June 2023
 - The development proposed is the installation of a 20m high Phase 7 monopole with a wraparound cabinet at its base to support 12no. antenna apertures and 2no. 600mm diameter transmission dishes, along with 5no. cabinets and development ancillary thereto.
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Decision

1. The appeal is allowed and prior 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) for the installation of a 20m high Phase 7 monopole with a wraparound cabinet at its base to support 12no. antenna apertures and 2no. 600mm diameter transmission dishes, along with 5no. cabinets and development ancillary thereto at The Newlands, Tile Hill Lane, Coventry, West Midlands CV4 9DJ, in accordance with the application Ref: PL/2023/0001242/PAEC, 16 June 2023, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Council 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 provisions of Schedule 2, Part 16, Class A of the Order do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues relevant to this appeal are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area;
- the effect of the siting and appearance of the proposed installation upon the setting of the Locally Listed Building of the Newlands Public House;
- the effect of the siting and appearance of the proposed installation on the living conditions of the occupiers of neighbouring properties with particular regard to outlook; and
- if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed taking account of any suitable alternatives.

Reasons

Character and appearance

5. The appeal site consists of a public house's car park. The boundaries of this car park are marked by substantial planting and trees. The surrounding area features a variety of uses, including leisure and community activities; retail; and housing. Buildings are therefore of varying designs, but typically of two storeys in height. Furthermore, buildings are set-back from the road by varying amounts. On account of these set-backs, the presence of the car park and areas of landscaping in the wider area; the appeal site, and the surrounding area has a less dense character.
6. The proposed installation would be of a relatively slender design and have a maximum height of 20m. Owing to the height of the mast, it would be viewable over the height of the landscaping and the neighbouring buildings. Given the positioning of the proposed development and lack of vertical structures in the surrounding area, it would be viewed against an open backdrop. In consequence, the development would punctuate the skyline rendering it an incongruous addition to the locality.
7. The surrounding area features some street furniture including road signs, street lighting, telegraph wires and a bus stop. However, although these are incursions into the character of the area, they are substantially smaller than the proposed telecommunications mast. In consequence, the development would be a more prominent addition in the site's environs.
8. The buildings nearest the appeal site are set back from the highway by a greater amount than the appeal scheme would be. In result, the nearest buildings do not offer any substantial amounts of screening. Therefore, the proposed development, and its discordant design, would be perceptible from Tile Hill Road, including its junction with Westcotes.
9. However, the different form and siting of buildings in the wider area, combined with landscaping, such as the dense band of trees adjacent to the site's western boundary means that views of the development from the wider area would either not be possible, or significantly screened. This means that any adverse effects would be limited to the immediate vicinity of the site, rather than leading to an erosion of the wider area's character.
10. The development and associated equipment cabinets would be sited on land that features an engineered appearance given it would be within the public

house's car park. This means that the equipment cabinets would not lead to a significant change to the appearance of the site. Furthermore, views of them would be screened significantly by the boundary treatments at the site.

11. Nevertheless, my overall finding is that, on balance, the development, would conflict with the requirements of Policies C2 and DE1 of the Coventry Local Plan (2016) (the Local Plan). Amongst other matters, these seek to ensure that developments have particular regard to the visual amenity, character or appearance of the surrounding area; and positively contribute towards the local identity and character of an area.
12. Given the localised effects of the development, I conclude that the development would have a moderate adverse effect upon the character and appearance of the area.

Setting of the Locally Listed Building

13. The proposed installation would be in the public house's car park and close to its western boundary. Although the area surrounding the public house is predominantly open, there have been several additions such as the creation of the car park, the installation of seating areas, a lighting column and free-standing advertisements. Nonetheless, owing to the proportions of the building, the style of architecture and its proximity to the junction between Tile Hill Lane and Beech Tree Avenue, the public house forms a local landmark. In consequence, the presence of surrounding open space means that its setting contributes to the public house's significance.
14. The proposed development would have a height greater than the highest point of the public house building. In result, in views of the public house, the proposed telecommunications mast would protrude above its roof line. Therefore, the role that the public house plays as a landmark in the locality would be eroded given that an alternative structure would compete with the public house's dominant position.
15. Furthermore, the proposal would result in the installation of modern apparatus into the car park of the public house. This would contrast with the traditional style of architecture that is a feature of the public house and would lead to a diminishing of the open space surrounding the public house. In consequence, the setting of the public house would be eroded.
16. However, this effect would be reduced by reason of the notable separation distance between the public house and the precise siting of the installation. In addition, except for the telecommunications mast, the proposed equipment cabinets are of relatively small proportions. Furthermore, the area surrounding the public house also features engineered additions such as a lighting column, outdoor seating and area and free-standing advertisements.
17. Therefore, in this context, the development would be viewed alongside other modern installations that are a feature of the setting of the public house. However, given that the monopole would be larger, the presence of other structures and installations would not overcome the adverse effects arising from the provision of the installation. Furthermore, although the setting of the public house would be eroded, there is no evidence that the development would erode any other points of historical significance, beyond the public house's architectural value.

18. Overall, the development would conflict with the requirements of Policy HE2 of the Local Plan. Amongst other matters, this seeks to ensure that developments conserve and, where appropriate, enhance the historic environment.
19. I therefore conclude that the proposed development would have a moderate adverse effect upon the setting of the locally listed building.

Living conditions

20. The proposed development would be sited adjacent to a house in Tile Hill Lane. This is a two-storey building. Between the site and the neighbouring house is a relatively dense line of planting and trees. This house is set further back into its respective site than the appeal proposal would be. The house is also set in from the shared boundary with the public house.
21. The proposal would be visible from the first-floor windows of the neighbouring house. However, due to its positioning, any such views would be at an oblique angle and limited to the monopole only. By reason of this relationship, the monopole would not have an enclosing effect upon the windows of the neighbouring house.
22. Although the proposed monopole would be visible from the area in front of the neighbouring house, this area is in use as a driveway. This means that any enclosing effect would be minimal and would not impede the use of this area.
23. Although the proposed monopole would be visible from other properties on the southern side of Tile Hill Lane and the eastern side of Beech Tree Avenue, any such views would be over a notably large distance and would be disrupted by the presence of landscaping, parked cars in the public house car park and general activity in the vicinity. In consequence, the development would not lead to a loss of outlook for the occupiers of the other properties in the surrounding area.
24. The equipment cabinets would be integral to the operation of the development. However, these would be obscured by the relatively dense landscaping that is a feature of the site's boundaries. There is no evidence before me that indicates that this planting is likely to be removed, or that it is in poor health. Therefore, these items would not impinge upon the outlook of neighbouring occupiers.
25. The development, in this regard, would comply with the requirements of Policy DE1 of the Local Plan. Amongst other matters, this requires that developments respond to the physical context of the site. I therefore conclude that the development would not have an adverse effect upon the living conditions of the occupiers of neighbouring properties.

Alternative sites

26. Paragraph 121 of the Framework provides that, amongst other things, applications for electronic communications development (including applications for prior approval under the Order) should be supported by the necessary evidence to justify the proposed development, and that this should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
27. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. It is noted that, as is often the case

with 5G cells, the relevant cell search area is constrained; with most buildings being of two storeys in height, and that the designated search area is intended to cover a densely populated residential area. Despite the search area being constrained, there is no evidence before me that seeks to challenge this or suggest that a wider search area should be utilised.

28. The appellant's Statement of Case has utilised a numbering system of the alternative site and I have adopted the same numbers. Sites 3 and 6 are located on relatively low-level buildings and the proposed telecommunications installation would erode the character of these buildings. It has therefore been indicated that these are not appropriate for the installation of a telecommunications mast. Having visited these locations, I agree.
29. Sites 7 and 15 are in grass verges containing trees. It is likely that to facilitate the installation of the proposed development, including the associated equipment cabinets, trees would need to be removed, or reduced in size. Such an outcome would lead to an erosion of the verdant character at these locations and can therefore be discounted as the trees, which I have viewed, are a defining feature of their individual surroundings. This would not be applicable to the appeal site.
30. The area surrounding Site 8 contains an open area of grass, with little other structures or landscaping, such as trees or planting that might provide some screening. In consequence, the introduction of the proposed development at this location, which would be viewed from many houses, would be a more stark and incongruous addition that would have a significantly greater adverse effect on the character of the surrounding area than the appeal scheme and, potentially, impede the use of the grassed area for recreation.
31. Site 11 would be sited closer to the public house than the chosen location. It would therefore have a greater adverse effect upon the setting of the locally listed building than the site under consideration would have. It can therefore be reasonably discounted.
32. Sites 12, 13 and 14 are in areas where pavements are relatively narrow. Therefore, the proposed installation of the equipment at this location would impede the flow of pedestrians, particularly if such pedestrians were to have items such as push chairs. The development would therefore erode highway safety at these locations.
33. The area surrounding Sites 16, 18, 19 and 20 contains a prominent grass verge and would be nearer to residential accommodation than the appeal site would be. In result, these would have a greater adverse effect on the character of the area and would lead to an erosion of the outlook for the nearby occupiers.
34. The remainder of the search area can be broadly characterised as being relatively dense residential accommodation and some mature trees. I therefore do not believe that these areas would be conducive to the siting of the proposed installation in a less harmful manner. Other alternative locations are outside of the search area.
35. There is no substantive evidence that challenges the rationale for discounting the alternative sites and I have no robust evidence before me to suggest that there would be other more suitable sites either within, or near, the search

area. Consequently, on the evidence before me, I find that it has been demonstrated that less harmful alternative sites are not available.

Other Matters

36. Concerns have been raised about potential effects on health. However, 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.
37. I also note concerns regarding the potential effect upon wildlife. However, there is no convincing evidence before me that the siting and appearance of the proposed installation would lead to an adverse effect upon this matter.
38. Given the scale of the development and its position, I have no reason to believe that the installation of the proposed development would lead to an adverse effect upon the viability and vitality of the public house.
39. Comments regarding a potential adverse effect upon the value of private property are not a material consideration that I can give weight to in deciding this appeal.

Conditions

40. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within five years of the date of the approval and 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.

Heritage Balance

41. Paragraph 209 of the Framework states that in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. In this instance, the significance of the building is local and arises from its architectural interest. Although the development would erode the setting of this building, the harm would only be of a moderate level.
42. However, Paragraph 118 of the Framework makes clear that advanced, high quality and reliable communications infrastructure is essential and that planning decisions should support the expansion of electronic communications networks including 5G technology. Furthermore, one of the drivers for the proposed development has been the fact that an existing site will soon be no longer available for use by the appellant. Therefore, should this appeal not succeed, there is a likelihood that the existing service would be reduced, and future capacity would be lost. The proposal would provide those public benefits and I therefore give them substantial weight.

43. The appellant has submitted information to show that there is a need for additional telecommunications equipment in this area, and while residents have expressed concerns, I am satisfied that there is a need for a mast in this near vicinity. The appellant has also demonstrated that it has looked at alternative sites to meet the specific need and again I am persuaded that these would have greater adverse effects. Accordingly, I find that the adverse effects to the setting of the public house are outweighed.

Conclusion

44. The proposal would cause moderate harm to the character and appearance of the area and moderate harm to the setting of the locally listed building (a non-designated heritage asset). However, the principle of development within the search area has been established through the grant of permission under Article 3(1) of the GPDO and it has been demonstrated that there are no less harmful sites to accommodate the proposal. Accordingly, the harm is outweighed by the need for the installation to be sited as proposed, taking into account the lack of suitable alternatives. Accordingly, for the preceding reasons, I conclude that the appeal should be allowed.

Benjamin Clarke

INSPECTOR