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## Appeal Decision

Site visit made on 12 March 2020

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 March 2020**

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**Appeal Ref: APP/P4605/W/19/3241791**

**SW Crown PH Walsall, Walsall Road, Sutton Coldfield, West Midlands B74 4RA**

- 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 (EE Ltd and Hutchinson of 3G UK LTD) against the decision of Birmingham City Council.
  - The application Ref 2019/07090/PA, dated 15 August 2019, was refused by notice dated 14 October 2019.
  - The development proposed is a proposed telecoms upgrade. Proposed phase 8 monopole, c/w wrapround cabinet at base and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for a proposed telecoms upgrade. Proposed phase 8 monopole, c/w wrapround cabinet at base and associated works at SW Crown PH Walsall, Walsall Road, Sutton Coldfield, West Midlands B74 4RA in accordance with the terms of the application, Ref 2019/07090/PA, dated 15 August 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002 Site Location Drawing; 003 Access Plan; 005 Cherry Picker/Crane Location(s); 215 Maximum Configuration Site Plan Issue A; and 265 Maximum Configuration Elevation Issue A.

### Main Issue

2. The main issue is the effect of the proposed development on the visual amenity of the area, with particular regard to the proposal's scale and siting.

### Reasons

3. The appeal site lies within a grassed triangle of land at the junction of Crown Lane, Walsall Road and Four Oaks Common Road next to The Crown public house. An existing telecommunications installation can be found within the grassed area of land. The existing mast which is around 12.5 metres in height would be replaced by the proposed monopole, with some equipment being retained and new associated equipment installed. The appeal scheme seeks to upgrade the existing apparatus to improve the existing mobile signal offering in the area and to provide a '5G' network.
4. Ground levels in the area generally fall from the north-east and south-east to

the north-west and south-west. The site and the highway junction have an open character, which is aided by the public house, residential dwellings and a small parade of shops being set back from their respective highways. A variety of uses populate the immediate area, but buildings are typically two storeys high. Street trees line the highway verge on Walsall Road. Trees and other street furniture, such as street lighting columns, telegraph poles, bus stops and a further telecommunications installation populate the wider area.

5. Paragraph 112 of the National Planning Policy Framework (the Framework) outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). Framework paragraph 113 sets out that the number of masts should be kept to a minimum and where new sites are required (such as for new 5G networks), equipment should be sympathetically designed and camouflaged where appropriate.
6. The site is not in a sensitive area according to saved Policy 8.55A of 'The Birmingham Plan', Birmingham Unitary Development Plan 2005 (UDP). Saved UDP Policy 8.55B explains that in assessing visual obtrusiveness, views from neighbouring properties and the street will be considered. Detailed guidance on telecommunications equipment is laid out in the Council's Telecommunications development: mobile phone infrastructure Supplementary Planning Document (SPD). As there is an existing ground-based telecommunications mast, the appeal site is a 'less sensitive location' based on the SPD. Given this and Framework paragraph 112, I agree with the Council that the principle of the proposed upgrade should be looked upon favourably.
7. That said, consideration does need to be given to the proposal's effect on the visual amenity of the area. The proposal would be roughly in a similar location to the existing apparatus, which is an accepted part of the street scene. The relatively sleek design of the existing mast is broadly comparable to the height of the street lighting columns. Even so, the site is still located in a prominent position and there are numerous short and long-range opportunities to view the site. The proposed new mast would rise above built form in the locality and street furniture. The Council estimate that the proposed monopole would be around 60% higher and around 30% wider, with the antenna being around 20% wider also. The appellant company does not dispute these figures.
8. The width of the proposed monopole would not be a significant visual change, especially as the mast would be viewed in the context of nearby street trees, street furniture and buildings. Street trees would also, to an extent, screen or lessen the effect of the proposal especially when viewed from either direction on Walsall Road. However, the height of the mast would, at roughly 20 metres, be considerably higher than the existing mast and that of existing buildings, trees and street furniture. So, despite the appellant company's efforts to create a discreet design, the proposal would be of a scale that would harm the visual amenity of the area as it would unduly dominate what is a relatively low-scale suburban environment to the extent that it would be overbearing. The degree of harm caused would vary locally due to the undulating ground levels.
9. While the proposed monopole would be static does not change my view about the harm that I have identified. As such, the proposal would not respond to the site's conditions and those of the local area. I am also not satisfied that

colouring the mast would overcome the harm.

10. However, saved UDP Policy 8.55A recognises that modern and comprehensive telecommunications systems are an essential element in the life of the local community and the economy of the City. I am also mindful, in the context of saved UDP Policy 8.55B that the proposal has been designed to make use of an existing site and with sharing in mind, as H3G and EE have a network sharing agreement and the Emergency Services Network uses EE equipment.
11. There is no evidence to counter the appellant company's view that the area suffers from poor access to digital services. Hence, the proposed upgrade would contribute to delivering a modern, advanced, high quality and reliable communications infrastructure that supports a range of consumers, including the emergency services. It follows that the upgraded mast would support economic growth and the local community by enabling fast and reliable communication to take place, for example by helping people gain employment, access services, support their health and well-being, whilst also assisting new technologies. There is also no substantive evidence before me to suggest that the proposal could be lowered in height without: compromising the scheme's ability to comply with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines; or the coverage that the proposed upgrade would provide. In short, the benefits outlined would not be realised.
12. The associated cabinets may well be permitted development, but as the Council has not raised any concerns to the cabinets, I have no reason to form a different view. Reference is made by an interested party to the grassed triangle of land already having two monopoles. This was not the position that I observed on site as only a single monopole was present. Furthermore, the resident refers to the approval of a third monopole and an associated set of cabinets. However, there are no details of this before me, and my decision is based on the submitted evidence.
13. Despite concerns about potential health and wellbeing impacts, the appellants have provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the ICNIRP. Framework paragraph 116 explains in these circumstances, that health safeguards are not for the decision-maker to question. As there is no substantive evidence to suggest that the ICNIRP guidelines would not be met, there are insufficient grounds to depart from the position explained in the Framework.
14. In this case, the proposed development would result in harm to the visual amenity of the area, with particular regard to the proposal's scale and siting. As such, conflict would arise with Policy PG3 of the Birmingham Development Plan insofar as the development would not reinforce local distinctiveness with a design that responds to site's conditions and the context of the local area. However, I conclude that this harm would, on balance, be outweighed by the economic and social benefits that would stem from the proposed upgrade which would not be realised whilst reducing the height of the mast. Therefore, in the round, the proposal would accord with saved UDP Policies 8.55 and 8.55A-C, the SPD and Framework paragraphs 112 and 113. Collectively, these seek to support the expansion of shared next generation mobile technology to create a modern, high quality and reliable communications infrastructure that is essential for economic growth and the life of the local community.

**Conclusion and conditions**

15. In addition to the standard time commencement condition, I have imposed an approved plans condition in the interests of certainty. For the reasons set out above, I conclude that the appeal is allowed.

*Andrew McGlone*

INSPECTOR