
Appeal Decision

Site visit made on 2 August 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15TH December 2016

Appeal Ref: APP/U3935/W/16/3150989

Land at Redhouse Way Roundabout, Swindon, Wiltshire SN25 2AU

- 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 UKB Networks Ltd against the decision of Swindon Borough Council.
 - The application Ref S/TC/16/0018, dated 4 January 2016, was refused by notice dated 11 February 2016.
 - The development proposed is described as "the installation of a 15 metre high monopole supporting 3 no. antennas and a 0.3 metre transmission dish, the installation of a radio equipment cabinet and electricity meter cabinet and development works ancillary thereto (revised siting)".
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Decision

1. The appeal is allowed and approval is granted under the provisions of Class A of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a 15 metre high monopole supporting 3 no. antennas and a 0.3 metre transmission dish, the installation of a radio equipment cabinet and electricity meter cabinet and development works ancillary thereto on land at Redhouse Way Roundabout, Swindon, Wiltshire SN25 2AU. The approval is granted in accordance with the terms of the application Ref S/TC/16/0018, dated 4 January 2016, and the plans submitted with it.

Background and Main Issues

2. Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") permits development including the installation of electronic communications apparatus subject to compliance with various restrictions and conditions, one of which is that the developer must apply for a determination as to whether prior approval of the local planning authority is required as to the siting and appearance of the development.
 3. The Council issued two notices of decision, one advising that prior approval was required for the siting and appearance of the development and the second refusing such prior approval. Accordingly, siting and appearance are the matters which can be taken into account and I have determined the appeal on this basis.
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4. The **main issues** in this appeal are therefore the effect of the proposed installations on the character and appearance of the area and on the living conditions of adjacent residential occupants in terms of outlook and whether any harm caused as a result of these or any other matters is outweighed by the need to site the installation in the location proposed.

Reasons

5. The proposal is described as a slimline 15m high monopole on a concrete base. The three antennae would be shrouded such that the topmost section of the monopole would be of greater diameter than the lower section of mast. The 0.3 m diameter transmission dish would be fixed externally to the monopole just below the shrouded antennae. During the processing of the application by the Council the appellant confirmed that the monopole would be finished in black and the cabinets in Fir green.
6. The site is part of the grassed highway verge between Brook Park and the carriageway of Redhouse Way immediately to the south east of the Redhouse Way roundabout. The land in the vicinity of the site is relatively flat. On the north side of the roundabout is the North Swindon Learning Campus which accommodates a number of schools, whilst to the west and south of the roundabout is residential development.
7. Approaching the roundabout from the south, the monopole would be viewed in the context of the existing lampposts with the school buildings behind and trees to the right. However, the monopole would be significantly taller than the lampposts and the trees. The trees, whilst providing some softening of views from the south, would not screen the monopole from this direction.
8. Approaches onto the roundabout from the west are related to the Learning Campus and the installations would be seen in the context of the lampposts and trees although would not be screened by them. In approaches to the roundabout from the east along Redhouse Way, the trees on the south side of Redhouse Way would provide some screening to the proposed installations. The extent of such screening would vary with the seasons.
9. In addition to views from the roads leading into the roundabout and the footpaths alongside them, the monopole would be visible from substantial sections of Brook Park. There are trees on either side of the central footpath through the park and these will filter some views of the monopole from this path and from the eastern section of the park. However, there will be clear views of the monopole from the western side of the park.
10. Although local residents refer to two storey housing in the vicinity of the site, from what I observed during my site visit the closest residential development to the appeal site is a full three storeys in height and some is three storeys plus an attic storey. Consequently, although the monopole would be taller than these buildings, the difference in scale would not be unacceptable. The monopole would be a slender structure, relatively simple and uncluttered in appearance. Finished in black, it would be seen against the sky in most views including those from the western side of the park.
11. The cabinets, both to be dark green in finish, would be set back from the monopole and would be close to the railings which edge the park. The larger cabinet would be somewhat taller than the railings and be sited parallel to

them. The smaller cabinet would be only slightly taller than the railings and would be positioned end-on to the railings. Whilst there are no other service cabinets in the immediate area, the proposed cabinets are modest in scale and would be recessive in colour. Moreover, their siting close to the railings and the line of trees to the north east would assist in minimising any visual intrusion.

12. The closest residential properties are those to the south on Redhouse Way and on Muirfield which the appellant estimates as being 30 – 35 metres away from the appeal site. The monopole would be evident in direct views from a limited number of these properties whilst other properties would have indirect views. Nonetheless, given the slender nature of the proposed monopole and the distance from these properties to the appeal site, I am satisfied that the visual impact would not be sufficient to cause any significant harm to the outlook from residential properties.
13. Attention is drawn by interested parties to guidance set out in the Cabinet Siting and Pole Siting Code of Practice¹ and also to the Code of Best Practice on Mobile Network Development². The Council's evidence confirms that the former refers to fixed electronic telecommunications equipment and is therefore not relevant to 'wireless' infrastructure' whilst the latter relates to the mobile network and is less rigid with regard to specific siting measures. These voluntary codes are not formally adopted by the Council and therefore have limited weight.
14. The installations would provide 4G network coverage to help meet demand for wireless data. The operator's 4G service is based on a network of radio base stations which need to be located close to customers. The evidence indicates that the coverage to be provided is to fill a gap in the network coverage in this part of North Swindon which the appellant's evidence shows to include residential properties and the complex of school buildings. The appellant is stated to be working with the Borough Council to provide a 4G network within the borough making super-fast wireless broadband services available to residents and public in general.
15. Section 5 of the National Planning Policy Framework (Framework) sets out the government's support for high quality communications infrastructure including the vital role of high speed broadband in enhancing the provision of local community facilities and services. Paragraph 43 of the Framework confirms that where new sites for equipment are required, such equipment should be sympathetically designed and camouflaged where appropriate.
16. Paragraph 46 of the Framework confirms that decision makers should not seek to prevent competition between different operators or question the need for the telecommunications system. In this case, there is clear evidence that the appellant has considered other options and sites in a sequential manner before submitting the proposals for the site which is the subject of this appeal. The appellant confirms that there are no existing masts within the search area and therefore no opportunities for sharing; nor are there buildings or structures which could be used taking into account that the antennae need to be above the height of buildings and trees.

¹ Cabinet Siting and Pole Siting Code of Practice June 2013

² Code of Best Practice on Mobile Network Development in England, Code of Best Practice 2013 Edition Published 24 July 2013

17. The search for a site for a new ground based installation included sites deemed unsuitable as they would require 20 to 25 metre masts to achieve coverage rather than the 15 m mast which would be required on the appeal site. The evidence also demonstrates that a mast within the North Swindon Learning Campus would not be possible due to restrictive covenants and other restrictions. Around a dozen sites have been investigated and discounted. Additionally, I note that a previous application to site the monopole and cabinets within the trees immediately to the east of the appeal site was submitted but subsequently withdrawn because of the potential for harmful impact of the concrete bases on the root protection zones of the trees.
18. It is clear that as part of the pre-application process consultation has been undertaken with the Council, ward members and representatives of the schools. The Council has also undertaken public consultation as part of the application for prior approval.
19. The Council has acknowledged that other sites have been investigated by the appellant. The Council's case refers to alternative sites having been found in respect of other parts of the Borough following refusals of prior approval for similar installations. However, no specific evidence is offered by the Council with regard to the site search carried out in relation to this area or that alternative and preferable sites are likely to be available. Given the site selection process which has been followed in the case of the appeal proposals, I find that the suggestion that the site selection process is not robust is not well founded. Given the relatively short distance over which the coverage is provided from the installation and taking into account the need to minimise impacts on residential properties as well as the wider area, I acknowledge that the opportunities within the site search area are constrained.
20. I have taken into account the policies of the Swindon Borough Local Plan 2026 (Local Plan) insofar as they relate to matters of siting and appearance. Policy DE1 is a wide ranging policy relating to high quality design and requires proposals be assessed in respect of context and character, particularly with regard to existing built characteristics and features such as trees.
21. Policy IN3 of the Local Plan is specific to information and communications technology and telecommunications. The policy requires proposals to be sited and designed with consideration to the appearance of the surrounding area and should be supported if the siting and any other additional equipment does not unduly detract from the street scene or is not unduly intrusive. The colour and profile of the equipment should be sympathetic to the site's surrounding and the size of the development should be kept to a technical minimum to minimise adverse impact on the environment. The second part of the policy refers to development where possible making provision to incorporate super-fast broadband.
22. Although not raised in the Council's reasons for refusal other parties have raised compliance with Policy EN5 of the Local Plan. Amongst other matters, section 'a' of Policy EN5 permits proposals only when the intrinsic character and local distinctiveness of landscape within the Borough are protected conserved and enhanced. Unacceptable impacts on the landscape are to be avoided and other unavoidable negative impacts are to be satisfactorily mitigated. Policy SD1 relates to sustainable development principles and including high quality

design and respect for the built environment as well as contributing to assessed local and infrastructure and service requirements.

23. Whilst there would be some adverse local impacts arising in particular from the proposed monopole, I am satisfied that they would not be unacceptably harmful and that the positioning of the proposal in an area where there is existing street furniture in the form of lampposts and landscaping in terms of trees goes some way to mitigating the appearance of the proposed monopole.

Other matters

24. The proposals have attracted opposition locally. The majority of matters raised relate to the siting and appearance of the monopole and associated cabinets and are addressed as part of the main issues above. In relation to the concerns of objectors about the health implications of the proposed installations, having particular regard to the nearby housing, schools and public open space, the appellant has provided a certificate in respect of the proposals to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The Framework confirms that in such circumstances health safeguards are not something which a decision maker should determine.
25. The proposed position of the cabinets, set back from the highway adjacent to the existing railings, is such that they are unlikely to impede views of children crossing the roads. I note that the Council's highway officers have not raised objections to the siting of the installations on highway safety grounds.
26. Potential adverse effects regarding the popularity of nearby schools has been raised by some interested parties but there is no substantive evidence that this would result and there is nothing in the Council's evidence in this regard. However, the Council's evidence does refer to the wider public benefits the facility would bring including to the Learning Campus.
27. It has been suggested that the installation would cause a reduction in property values in the area although I have not seen any convincing evidence that this would be the case.
28. The appellant has referred in evidence to appeal decisions relating to other sites outside Swindon Borough. However, given the limited information provided, I am unable to conclude that any of these cases are sufficiently similar to the proposals before me for these other decision to create a precedent. I have determined this appeal on its own planning merits.

Conclusions

29. There would be some harm to the character and appearance of the area as a consequence of the proposed installations and therefore a degree of conflict with those development plan policies which seek to maintain high standards of design and to protect local character including the built environment and the amenity of neighbouring sites. However it is clear that a significant amount of work has been carried out assessing alternative siting options, including the impacts on occupiers of residential properties and on the wider area. The Framework provides clear guidance on the benefits of providing good communications infrastructure.

30. Taking all of the above into consideration, I conclude that on balance the appeal should be allowed. No conditions are necessary as the development order imposes relevant conditions as standard.

J E Tempest

INSPECTOR