
Appeal Decision

Site visit made on 21 March 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 12 April 2017

Appeal Ref: APP/R1845/W/16/3165099

**Chester Road Sports and Social Club, Chester Road North, Kidderminster
DY10 1TL**

- 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 Shared Access against the decision of Wyre Forest District Council.
 - The application Ref 16/0566/FULL, dated 27 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is the erection of a 15m shrouded monopole to support 3 No. telecommunications antennae for use by Telefonica which, together with the installation of 2 No. dishes and 4 No. ground based equipment cabinets, will provide 2G, 3G and 4G mobile electronic communication services from the installation.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 15m shrouded monopole to support 3 No. telecommunications antennae for use by Telefonica which, together with the installation of 2 No. dishes and 4 No. ground based equipment cabinets, will provide 2G, 3G and 4G mobile electronic communication services from the installation at Chester Road Sports and Social Club, Chester Road North, Kidderminster DY10 1TL in accordance with the terms of the application, Ref 16/0566/FULL, dated 27 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Other than in respect of the olive green colouring to the mast indicated therein, the development shall be carried out in accordance with the following approved plans:

Drawing 100B - Site Location Maps

Drawing 201B - Proposed Site Plan

Drawing 301B - Proposed Site Elevation
 - 3) No development shall take place until full details of the colour finish to the proposed mast has been submitted to and approved in writing by the local planning authority. The mast shall be painted or otherwise coated in the approved colour before any of the telecommunications equipment hereby approved is brought into operation.
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- 4) No development shall take place until additional planting has been carried out, in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority, to increase the density of trees to the Chester Road North and Offmore Lane frontages of the Sports and Social Club site.
- 5) Within 6 months of the mast hereby approved ceasing to be required to support operational antennae or other telecommunications equipment, the mast and all related cabinets and equipment shall be permanently removed from the land and the site shall be restored in accordance with details submitted to and approved in writing by the local planning authority prior to these works being carried out.

Main Issue

2. The main issue is the effect on the character and appearance of the area surrounding the sports and social club.

Reasons

3. Paragraph 42 of the National Planning Policy Framework (Framework) states that advanced, high quality communications infrastructure is essential for sustainable economic growth and that the development of high speed broadband and other communications networks plays a vital role in enhancing the provision of local community facilities and services. Paragraph 43 advises that local planning authorities should aim to keep the number of telecommunications masts and sites for such installations to a minimum consistent with the efficient operation of the network, and that existing masts, buildings and other structures should be used unless the need for a new site has been justified. Policy SAL.CC5 of the Wyre Forest Site Allocations and Policies Local Plan (SAPLP) applies this policy approach at a local level and includes a number of criteria that such proposals should meet.
4. The Council's committee report accepts the need for the proposal and the issue of need forms no part of the reason for refusal. No part of the cell to be served by the installation has no mobile communications coverage. However, the appellant's coverage maps demonstrate the less than satisfactory existing coverage, particularly in respect of the 4G network, and that an upgrade is required to meet the government's aspiration for the provision of advanced, high quality communications infrastructure. Given the relatively smaller cell size of the 3G network, the site is well located to facilitate the extension of such provision within the urban area of Kidderminster.
5. The 'stealth' design of the proposed mast, within which the antennae are shrouded, is appropriate for equipment proposed in an urban area. That design provides for a less obtrusive form of development compared to external antennae mounted on a supporting framework. The small dishes to be fixed at the top of the mast would be relatively inconspicuous in all but close up views.
6. At 15 metres (m) the mast would be taller than the street lighting columns in Chester Road North and the tallest, existing infrastructure in other nearby streets. However, masts of this type and scale are increasingly common in urban areas. As the appellant points out, many sports grounds within built up areas have floodlights and other infrastructure of a similar height. Its upper section would be visible from various points outside of the perimeter wall but

the mast would not be out of place in the context of the existing use of the sports ground site. Neither would it have any material effect on the role of that site as an important green space within an otherwise built up area. The siting of the mast to the rear of the club house and the screening provided by the 2.3m high perimeter wall would ensure that the ground based equipment cabinets would be fully hidden from public view.

7. The houses on Lyndholm Road are some 170m from the appeal site and views are heavily filtered by trees and vegetation alongside the railway cutting. The nearest houses on Hardy Avenue are over 155m from the site and potential views would be extensively screened by tall conifer planting within the club's parking area and a 2 storey pavilion building. Although they are slightly closer (at around 100m distant), views from the nearest properties on Chester Road North would largely be restricted to the upper floors. These views would be filtered by mature trees within the sports ground and the visual effect of the proposed mast could be further softened by additional planting in the larger gaps between the existing trees.
8. The nearest residential properties on Offmore Lane do not face directly towards the appeal site and views from the ground floors of Nos. 2-5 would be screened by the site boundary wall and tall hedging to the front of those properties. The mast would be visible from No. 6 but these would be oblique rather than direct views and would be filtered by the boundary hedge to that property and the trees within the sports ground. That filtering could be increased by additional planting between the existing trees.
9. The mast would project above the wall on the site boundary but, even in close-up views, would appear as relatively slim, vertical structure. Views from Offmore Lane itself would be transient as the viewer moves along the lane and the mast would be seen against the background of trees extending to about 10m in height. The mast would not appear as over-dominant or oppressive in those views. Neither would it be likely to affect the willingness of local people to use the lane as a pedestrian route or their enjoyment in doing so.
10. Although it would be visible from the western section of Offmore Lane, including from the elevated path over the railway, the mast would be seen alongside the group of buildings within the sports ground and would be partially filtered by the large tree on the corner of that site. In these longer distance views, an olive green finish could make the mast stand out more clearly against the normal blue/ grey of the sky and a light grey finish might be preferable. That change could be secured by means of a planning condition.
11. Even with a different colour treatment, the mast would be visible to people walking or travelling along this part of Offmore Lane but would not be unacceptably dominant or intrusive. Oblique views would be possible from Chester Road North but these would be heavily screened by the perimeter wall and filtered by trees within the sports ground. These would be transient views and, given the busy nature of Chester Road North, users of the road are likely to be focused on other traffic and pedestrians rather than what is on the skyline.
12. In summary, the proposal would introduce a new vertical structure into views from a limited number of public vantage points but the mast would not appear as an alien or over-dominant feature in those views. It would have minimal

effect on the role of the sports ground as a significant open space within the built up area and on the use and enjoyment of pedestrian routes adjacent to the site. Hence, it would not cause any harm to the character and appearance of the area. Neither would there be any material harm to the outlook of the occupiers of any nearby residential properties.

13. My observations on my site visit do not lead me to conclude that the area surrounding the appeal site comprises a sensitive landscape or townscape. However, as I have found no material harm to the character and appearance of the area, no conflict arises with that part Policy SAL.CC5 which requires that proposals should not have a serious adverse impact on such areas. There would be no adverse effect on the setting of the two nearby locally listed buildings.
14. Clauses iv and v of the policy reflect the Framework's requirements that existing masts, buildings and other structures should be used unless the need for a new site has been justified. The appellant's planning statement identified that there are no existing masts within 500m of the appeal site and that, in those circumstances, the option of fitting additional equipment to an existing mast or tower would be unlikely to provide the coverage required. The appellant has also assessed the potential for increasing the height of an existing mast within 2 kilometres of the site. The alternative sites assessment report sets out clear and cogent reasons why that would neither be an appropriate nor a preferable solution.
15. That report also considers the possibility of fixing the equipment to an existing building or structure including various schools, churches, the railway station, an army reserve centre and residential apartments. These options have been ruled out on grounds relating to their proximity to existing telecommunications installations, the height and suitability of the structures to support such equipment, and whether they would be capable of effectively serving the area where improved coverage is needed.
16. Taken together, these two parts of the alternatives sites assessment satisfy the requirement in paragraph 42 of the Framework that new sites should only be developed where the need for such a development has been justified. I consider that this assessment has been carried out in a comprehensive manner and I do not accept the Council's assertion that the appellant's business model calls the validity of that exercise into question. Subject to the painting of the mast in a suitable colour the proposal would also meet the requirement that installations on new sites should be appropriately designed and camouflaged where appropriate.
17. Clause iii of SAPLP Policy SAL.CC5 sets out a test that there are no satisfactory alternative sites. In my view, this goes further than the Framework as there is no requirement in paragraph 42 that an applicant proposing a new site should demonstrate that there is no alternative or less harmful new site where that infrastructure could be located. However, this matter has been addressed in the alternative site assessment and I am satisfied that none of the alternative sites considered by the appellant represent a more appropriate location for the proposed installation. The test set out in clause iii has, therefore, been met.
18. The supporting text to Policy SAL.CC5 provides no explanation as to what is meant by the reference in clause ii of the policy to *'interests of national*

importance'. Neither has the Council produced any evidence of a conflict with that part of the policy.

19. Accordingly, I find that the proposal would comply with the requirements of Policy SAL.CC5. As this is the only policy of direct relevance to the proposed development I also find that the proposal would comply with the development plan as a whole.

Other Matters

20. Concerns have been raised in the third party representations about potential effects on health. The appellant has provided a certificate that confirms that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The Framework advises that, in these circumstances, 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.
21. The Framework is clear that local planning authorities should not question the need for telecommunications equipment and Planning Practice Guidance advises that the effect of a development proposal on the value of neighbouring properties is not a material consideration in the determination of the appeal. The effect on drainage within the sports ground is a private matter between the appellant and the Club.
22. The proposal would bring substantial economic and social benefits through the provision of a much improved mobile telecommunications network to serve local businesses, services and residents. The sports ground is a privately managed facility but I noted that it hosts a range of different sports and teams and have no doubt that its presence facilitates participation in outdoor sports by a large number of people. By making available a capital sum for the improvement of the sports facilities the proposal would also be likely to bring significant social benefits for the local community.
23. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise. No such material considerations have been identified and, in accordance with paragraph 14 of the Framework, the proposal benefits from the presumption in favour of sustainable development and should be approved without delay.

Conditions

24. Planning permission is granted in accordance with the terms of the planning application but, in the interests of certainty, a condition is needed to tie the permission to the approved plans. That condition has been caveated to clarify that permission is not granted for an olive green colouring to the mast and an additional condition has been included requiring the submission of an alternative colour scheme before development commences. This is necessary to minimise the visual effect of the mast against the sky.
25. I have found the proposal to be acceptable with regard to its effect on the visual amenity of the area. However, in reaching that conclusion, I have had

regard to the opportunity that exists to provide additional filtering of key views by planting in the larger gaps between existing trees on the Chester Road North and Offmore Lane frontages of the sports ground. Because the red line of the application site excludes these frontages, and the Sports and Social Club was not a joint applicant, that mitigation can only be secured by means of a 'grampian' type condition requiring that these works be completed before the commencement of development. That timing is necessary because of the need for certainty that the additional planting will be carried out.

26. Finally, in the interests of safeguarding the visual amenity of the area over the longer term, a condition is needed that requires the removal of the mast and equipment, and restoration of the site, should the mast no longer be required to support operational telecommunications equipment.

Conclusions

27. For the reasons set out above and having regard to all matters raised I conclude that the appeal should succeed.

Paul Singleton

INSPECTOR