
Appeal Decision

Site visit made on 4 April 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 16th May 2017

Appeal Ref: APP/J4525/W/16/3165288

Whitburn Road, Seaburn, Sunderland, Tyne and Wear SR6 9NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 16, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by EE Limited and Hutchinson 3G UK Limited against the decision of Sunderland City Council.
 - The application Ref: 16/01809/TEX, dated 28 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is replacement of existing 10m high telecommunications tower with 9.25m high tower and installation of new pogona cabinet on new root foundation.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application describes the proposal as a 4G (fourth generation) upgrade to existing equipment, whereas the decision notice issued by the Council is more specific about what is involved in the proposal. I have therefore used the description used by the Council for the purposes of the appeal as it is more accurate.

Main Issue

3. The Council are satisfied that the proposal is permitted development when applying the criteria in Part 16, Schedule 2 of the GPDO¹ and I have no reason to disagree. Nevertheless, development under Part 16, such as the appeal scheme, is subject to a condition that the prior approval of the Council must be sought for the siting and appearance of the development. The Council have concluded that its prior approval is required and has subsequently withheld it, being of the view that the proposal would harm the character and appearance of the area as a result of its appearance. Consequently, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Reasons

4. The appeal site is part of a grass verge located at the rear of the footway on Whitburn Road (A183), a principal through route along the coast linking Sunderland to the Tyneside conurbation. The verge separates the footway from Seaburn Park, a relatively large area of public open space enclosed by a metal paling fence. The park forms a visual break in the frontage development that runs the along the sea front. On the opposite side of Whitburn Road is a further park between the road and the beach.
5. For the majority of its length as it runs parallel to the coast, the A183 is developed only on western side with a promenade and areas of open space between the road and the beach on the eastern side. The presence of the two areas of public open space give the section of Whitburn Road where the appeal site is located a much more open character. The distinctive lighting columns which run for a significant distance along the A183 to the south are another prominent characteristic of the road. The spacing of these is staggered for the majority of the length of the road, but in the vicinity of the appeal site, at the approach to the roundabout junction with Seaburn Terrace, the lighting columns are paired with a column on each side of the road. Due to the openness of the area, the lighting columns are prominent features on this section of the road. At the roundabout the lighting columns change to a different type which is used on the section of road north of the roundabout.
6. The GPDO requires that prior approval is sought for the siting and appearance of the proposed installation. Saved Policies B2 and B26 of the City of Sunderland Unitary Development Plan 1998 (UDP) are relevant to siting and appearance. Saved Policy B2 requires that the scale, massing, layout or setting of new developments should respect and enhance the best qualities of the locality, and Saved policy B26 relates specifically to telecommunications development stating that telecommunications development will be permitted where it would not have a serious adverse effect on the appearance of an area. Although these policies are now of some age, they are in general conformity with requirements of National Planning Policy Framework (the Framework). The City of Sunderland Supplementary Planning Guidance – Development Control Guidelines 2000 (SPG), which is to be read alongside these policies, set out a number of general criteria which will be applied to proposals for the siting of telecommunications equipment.
7. The proposal would replace an existing telecommunications mast which is located approximately 3 metres to the south of the proposed new mast. This mast has been designed to replicate the form of the lighting columns used in the area, and whilst the dimensions and form are not identical, they are sufficiently close that the mast is only distinguishable from the lighting columns on close inspection. Additionally the existing mast is directly opposite the lighting column on the other side of the road and forms one of the three pairs of columns on the southern approach to the roundabout.
8. Although it is slightly lower in height, the proposed replacement mast would have a different appearance, being a monopole of uniform width that is wider than the lighting columns, and without the dummy luminaire that is present on the existing mast. Because it would not be located in the same position as the existing mast it would no longer read as part of a pair of columns on opposite sides of the road and the resulting spacing would be inconsistent with the

staggered spacing of the columns to the south. As such, and due to the openness of the appeal site, the proposed mast would be inconsistent with the other vertical features in the area and would be a visually prominent and incongruous addition that would detract from the appearance of this open space in the otherwise built up frontage of the seafront.

9. I saw when I visited the site that further south on the A183 a mast of similar appearance to that proposed for the appeal site has been installed amongst the lighting columns and that, despite being painted to match the lighting columns, due to its different form, it was highly noticeable and stood out as an discordant feature in the regular rhythm created by the lighting columns. This reinforces my view that the siting of a similar mast at the appeal site would be harmful to the character and appearance of the area.
10. The Council suggest that the proposed new equipment cabinet would add to the proliferation of street furniture and detract from the appearance of the area. I note that the appellant considers that the proposed cabinet, of itself, would not require prior approval, however, I am required to consider the scheme as a whole. The proposed equipment cabinet is a relatively small structure and would be located in the grass verge adjacent to the footway. Whilst this would increase the number of cabinets present in the verge, within the wider context of the site, I do not consider that a small scale addition such as this would materially alter the appearance of the area.
11. Whilst I accept that masts of the type proposed are used in other urban locations and that the appeal site is not located in a conservation area, the area around the appeal site is, as a result of its openness on both sides of the road, a distinctive and important visual feature on the seafront and has a different character to the other parts of it. The proposal would be harmful to the appearance of the area and as such would be contrary to Saved policies B2 and B26. There is no substantive evidence that all reasonable steps have been taken to minimise the impact of the development as required by Policy B26.
12. Policy B26 states that when a proposed telecommunications development will cause harm to the appearance of an area a number of other factors will be taken into account including the significance of the proposed development as part of a telecommunications network and whether there are possibilities for mast sharing.
13. The appellant suggests that the proposal is to address lack of cell coverage in the area, however, there is no evidence before me to show that network coverage is deficient. Indeed, the presence of the existing mast is indicative that there is coverage. The proposal would facilitate an antenna upgrade to extend fourth generation coverage, but again there is no evidence before me in respect of the existing level of coverage and how this would be improved by the proposed installation. The appellant also suggests that the proposal would make a direct contribution to the delivery of economic growth through improved communications. However, the principal difference between 3G and 4G coverage is the speed of the internet connection over the mobile network, and I am not persuaded that an increase in connection speeds would have any noticeable effect on economic growth to the extent that it would outweigh the visual harm that would be caused by the proposal.
14. I have noted the appellant's point that the proposal would facilitate mast sharing, which is encouraged by Policy B26 and the Framework. However, I

also note that from the International Commission on Non-Ionising Radiation (ICNIRP) certification submitted with the proposal that the mast would only accommodate one set of antennae, which indicates that the antennae are shared rather than the mast accommodating separate equipment for two network operators. Whilst this is perhaps a semantic point, in the absence of any evidence that the antenna on the existing mast are not shared in a similar manner, this leads me to give less weight to the appellant's argument that an additional mast would be required in the event that the proposed new installation were not to proceed.

15. The appellant also suggests that the proposal utilises an existing structure, which is not the case as the submitted plans show a new mast being erected approximately three metres to the north of the existing mast. From the above, I find that the mitigating factors set out in Policy B26 which would justify causing harm to the appearance of the area have not been met.
16. I therefore conclude that the proposed development as a result of its siting and appearance would cause harm to the character and appearance of the area. It would be contrary to the relevant requirements of Saved Policies B2 and B26 of the UDP and the Development Control Guidelines SPG, which seek to ensure that telecommunications development respects and enhances the best qualities of the locality and does not have a serious adverse effect on the appearance of an area.

Conclusion

17. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR