
Appeal Decision

Site visit made on 28 May 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Appeal Ref: APP/C2741/W/20/3245047

Land at Unit 5 (City of York Council Museums Dept), Birch Park Industrial Estate, York YO31 9BL

- 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 Mr Peter Hickson of Galloway Estates Ltd (on behalf of MBNL, EE Ltd & H3G UK Ltd) against the decision of City of York Council.
 - The application Ref 19/00497/FUL, dated 13 March 2019, was refused by notice dated 19 July 2019.
 - The development proposed is an upgrade to the existing communications apparatus consisting of a replacement monopole of 20m in height, supporting new antenna, dishes and ancillary apparatus along with new and replacement/relocated cabinets at ground level within the existing compound footprint.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. There is no development plan for York. The reason for refusal refers to policies within the City of York Publication Draft Local Plan 2018 (the Emerging Local Plan) and the Draft Development Control Local Plan (DCLP). The emerging plan is currently going through the examination process and the DCLP was approved by the Council for development control purposes in April 2005. Although the DCLP does not form part of the statutory development plan for the purposes of S38(6) of the Planning and Compensation Act 2004, it is a material consideration in determining planning applications.
3. In its reason for refusal, the Council refers to Policy C1 of the Emerging Local Plan and Policy GP20 of the DCLP. Whilst there are minor inconsistencies with the wording of the National Planning Policy Framework (2019) (the Framework) and despite not being adopted, I find that there is sufficient accordance between the aims of Policy C1 of the Emerging Local Plan and those of the Framework for it to be given moderate weight in the appeal. Similarly, I find that there is sufficient accordance between the aims of Policy GP20 of the DCLP and those of the Framework for it to be given moderate weight in the appeal.

Background

4. The proposal involves the replacement of an existing 15m high monopole and associated equipment. It is required to facilitate the roll-out of the 5G (fifth generation) mobile telecommunications network in the area.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site is located within a small industrial estate, at the junction of Birch Park and Birch Close. The surrounding industrial buildings are around two storeys in height and have parking areas to the front. The area surrounding the industrial estate comprises residential properties in the form of two-storey dwellings and three to four storey blocks of flats. The monopole is proposed to be sited forward of the building, where the site boundary abuts the footpath.
7. The existing installation, which is proposed to be replaced, is 15m in height with antenna and associated equipment mounted on a headframe. It is one of two telecommunications installations within the industrial estate, the other being a more slender monopole of a similar height with shrouded antenna, located on the footpath on Birch Park. These existing monopoles, particularly the latter, are relatively innocuous installations. They are not overly obtrusive and sit comfortably with the other structures and buildings in the area. In comparison, the proposal, due to its height, width and bulky headframe would be significantly more prominent.
8. The installation would be significantly taller than the building it would sit in front of, or any other installation or piece of street furniture within the immediate vicinity. It would extend above the streetlights on the street. The width of the column and the headframe are also considerably greater than any of the other street furniture in the area. The exposed antenna and other equipment mounted on the headframe would give the structure a disjointed and cluttered appearance that considerably adds to its prominence. Due to its siting on a junction, and forward of the building to the rear, the installation would be highly visible from a wide area, particularly from longer range views along Birch Park and Birch Close and the residential areas that are located there.
9. Therefore, as a result of its scale and appearance, the proposal would be highly visible within the street scene and would in my view, represent an incongruous and dominant addition adversely affecting the character and appearance of the area.
10. For the reasons set out above, the mast would cause significant unacceptable harm to the character and appearance of the area. In this regard, it would be contrary to Policy C1 of the City of York Publication Draft Local Plan (2018) and Policy GP20 of the Draft Development Control Local Plan (2005). These policies outline, amongst other things, that telecommunications proposals will be supported unless it is particularly visually intrusive, and that the development is of an appropriate siting, scale and design to minimise its impact on visual amenity, and would not result in a significantly adverse effect on the character of the area.
11. The proposal would be contrary to the requirement in the Framework that planning decisions should ensure that developments add to the overall quality of the area and are visually attractive.

Other Matters

12. The Framework outlines the significance of high-quality telecommunications infrastructure including in relation to being essential for economic growth and social well-being. The Framework also outlines that masts and sites should be kept to a minimum, thereby site sharing between operators, as in the appeal proposal, would be consistent with this requirement. The appellant has also submitted a number of documents¹ that also outline the significance of, amongst other things, a high-quality telecommunications network and the constraints facing operators in providing the network. These documents echo the content of the Framework. Such factors weigh strongly in favour of the proposal, however, for the reasons outlined above, I do not consider that either singularly or collectively, they outweigh the significant harm I have identified would be caused.
13. I have been referred to a number of previous appeal decisions where the weight given to such matters as the need for the development in terms of its contribution to the provision of telecommunications infrastructure and the lack of suitable alternative sites outweighed any harm. I do not have full details of the proposals or their locations. However, each case must be decided upon its own merits.
14. I concur with the previous Inspectors that a balancing exercise should be carried out and the need to provide additional telecommunications coverage within the locality, the lack of suitable alternative sites, and the Government's support for telecommunications infrastructure, are essential parts of that exercise. However, in this instance I do not consider that the operational and locational needs of the operator, or the fact that two operators will be accommodated within the installation, outweigh the significant harm I have identified would be caused.
15. I note that as the appellant highlights, the site is not within an area with a statutory designation for a particular protection such as for heritage or ecological purposes. The lack of harm to such a protected area does not sufficiently weigh in favour of the proposal to overcome the harm I have identified.
16. The appellant has referred to an increase in height (by 5m) that could be undertaken without the need to seek either prior approval or planning permission. Be that as it may, I find that the harm caused to the character and appearance of the area is in relation to more than solely the height of the proposed installation. Barring the height of any such installation, any installation that could be carried out via such provisions would likely be very different in appearance to the proposal before me. I therefore give this argument little weight.

¹ MBNL - 5G and Future Technology – Delivering the UK's Telecoms Future
OFCOM - Communications Market Report (August 2018)
House of Commons: Written Statement (HCWS631) DCLG made by: Minister of State for Housing and Planning (Brandon Lewis) on 17 Mar 2016 – 'Boosting Mobile Connectivity'
HM Treasury (2015) Fixing the foundations: Creating a more prosperous nation

Planning Balance and Conclusion

17. I do not consider that the public benefits of the installation, in terms of the enhancement of the telecommunications network, its contribution to economic growth and the operational and locational needs of the operators, outweigh the significant harm that I have identified to the character and appearance of the area.
18. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR