



Appeal Decision

Site visit made on 23 February 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/X3405/W/20/3263022

Avon Road SW, Avon Road, Cannock WS11 1LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 (1) and 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 Vodafone Ltd against the decision of Cannock Chase District Council.
 - The application Ref CH/20/238, dated 1 July 2020, was refused by notice dated 28 August 2020.
 - The development proposed is 12.5m Pole with 3no antennas, 1no GPS Module, 2no Hercules cabinets.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the siting and appearance of a 12.5m Pole with 3no antennas, 1no GPS Module, 2no Hercules cabinets at Avon Road SW, Avon Road, Cannock WS11 1LH in accordance with the terms of the application Ref CH/20/238, dated 1 July 2020, and the plans submitted with it.

Application for costs

2. An application for costs was made by Vodafone Ltd against Cannock Chase District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. In light of the above, the main issue in this case is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site is a grassed area on Avon Road, adjacent to the Asda supermarket. Immediately to the rear of the proposed site is a row of trees that are subject to a Tree Preservation Order (TPO) that, from the evidence in front of me, were planted as part of a landscaping scheme relating to the supermarket.
7. The mast is to be sited in the proposed location in order to replace an existing mast that was located on a building in the locality that is to be demolished as part of improvement works, and the appellants have identified this site to ensure that coverage is still retained to an acceptable level.
8. An application has been refused previously, due to insufficient information being supplied in relation to the impact of the development on the protected trees. Subsequently the current scheme was supported by a tree report which summarised that the root protection areas of the TPO trees would not be affected and that some limited pruning was required to allow the siting of the proposals.
9. Both parties agree that close proximity of trees to the mast will affect the signal, but other than the initial pruning required, the appellants are satisfied with the proposed location. The proposed mast is taller than the protected trees.
10. The conflict comes with the Council's assertion that the protected trees can grow up to 20m tall for that species and in future, pressure would be brought to bear for removal of protected trees to facilitate the use of the mast.
11. This appeal proposal is to replace the existing Vodafone mast, but has provisions to share with another user, and is capable of being upgraded to Fifth Generation (5G) use.
12. Paragraph 113 of the National Planning Policy Framework (the Framework) encourages the use of existing masts, buildings and other structures and Paragraph 115 states that applications for new masts should be supported by evidence that the applicant has explored those possibilities. The appellant considers that the proposed location is the only viable solution and has carried out the necessary site surveys and has also stated that there is no alternative mast in the area for sharing purposes.
13. The proposal would provide social and economic benefits through the retention of bandwidth, system capacities and the potential for delivery of next generation coverage. This could enable significant improvements for private and business users, and facilitate innovation, efficiency and user security. It could also accommodate use by emergency services. Furthermore, the mast could facilitate use by more than one operator to avoid a proliferation of masts dedicated to individual providers. These are matters that weigh in favour of the development.

14. I find that the mast would not look out of place in the locality, and not being excessive in height, will assimilate well, in light of surrounding structures and the layout of the area.
15. I find I cannot agree with the reason forwarded by the Council. The issue regarding future maintenance and any pressure for removal of the tree would be dealt with under separate legislation, and the Council still have full control over the issue. A Prior Approval notice is not the correct method to address any such issues.
16. As a result, I consider that the proposals are consistent with the requirements set out in Policy CP3 of the Cannock Chase Local Plan (2014) as it relates to good design, and the telecommunications aspects of the Framework.

Conditions

17. The General Permitted Development Order does not provide any specific authority for imposing conditions beyond the deemed conditions for development, and the Council have not asked for any so therefore I am not adding additional conditions.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

Paul Cooper

INSPECTOR