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## Appeal Decision

Site visit made on 09 February 2021

**by J Williamson BSc (Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 March 2021**

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**Appeal Ref: APP/Z4310/W/20/3262543**

**Aigburth Road, Liverpool L17 0BD**

- 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 GPDO).
  - The appeal is made by Telefonica UK Limited against the decision of Liverpool City Council.
  - The application Ref 20PT/1627, dated 22 June 2020, was refused by notice dated 11 August 2020.
  - The development proposed is the installation of a 20m high streetworks column supporting 6no. antennas, 2no. 0.3m dishes and ancillary equipment. The installation of 2no. equipment cabinets and development ancillary thereto.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant confirms in their statement that the proposal consists of x1 cabinet with 2 openings, and not x2 cabinets as described on the application form. I have made my decision on this basis.
3. The appellant has submitted photomontages with the appeal which were not part of the information the Council made its decision on. However, I consider no one would be prejudiced should I accept the documents at this stage, and I have therefore taken them into account in reaching my decision.
4. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have therefore only had regard to policies of the development plan, the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) in so far as they are a material consideration relevant to matters of siting and appearance.
5. With regard to the Emerging Local Plan (ELP), taking account of the advice in the Framework (paragraph 48), although I consider that preparation of the ELP is at an advanced stage, given that there are unresolved objections to policies (the details of which are not before me) which may have a bearing on policies considered by parties to be of relevance to this appeal, in particular Policy STP5, I attach no weight to this Policy.

6. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraphs A.3(4) and (7) 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 the appeal has been made on the same basis.
7. I note that there is no definition of the terms siting and appearance in the GPDO or in extant national policy or guidance. The Council's concerns are confined to the siting and appearance of the proposal due to the existence of other masts and associated cabinets within the vicinity of the site, and the appearance of the proposed headframes. I have confined my assessment to these aspects.
8. The Council has reiterated in its statement, in line with advice in paragraph 116 of the Framework, that the need for the proposal is not questioned. I have no grounds for questioning the need either.

### **Main Issues**

9. Bearing in mind the matters outlined above, the key issues are
  - whether the siting and appearance of the proposed development is acceptable with regards to its effect on the character or appearance of the area, and
  - whether any harm caused is outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

### **Reasons**

#### *Effect on the character or appearance of the area*

10. As I cannot be certain what may or may not happen in the future regarding other masts within the proximity of the site, I have assessed the proposal in the context of the site and its surroundings as they existed at the time of my visit.
11. The site is located approximately opposite number 369 Aigburth Road, within a grass verge to the south-west of the Road. The section of the road within the vicinity of the site also has a grass verge down its centre, and there are grass verges north-east of the footpath on the north-eastern side of the road. There are grey coloured steel crash barriers alongside the edge of the central and south-western verges. There are mature trees (up to around 15 m high) located within the central and south-western verges and in a dense wooded area, extending up to the footpath boundary, within the public outdoor space located south-west of the site. There are numerous grey coloured streetlamps (around 10 m high) sited within the grass verges; and there are other lower streetlamps, telegraph poles, road signs, traffic lights and information/directional signs along the road/within the vicinity of the site.
12. There are also 3 existing telecommunications masts, between around 15 to 20 m high, and associated cabinets located within the grass verge along the south-western side of the road. One is located broadly opposite the end of Milner Road, coloured light grey, and the other 2 are sited between this one and broadly opposite the end of Chermside Road, both are coloured dark

- green. The land use to the north-east of the road is primarily residential, with most of the houses sited on streets that extend north-eastwards from the road, resulting in the houses being oriented at right-angles to Aigburth Road. There are some properties that front the road near the site, which have commercial uses on the ground-floor.
13. The character of the area can be summarised therefore as consisting of a busy dual carriageway with a range of street furniture, some of which is relatively high, often sited between and/or with a back-drop of relatively high mature trees. The frontages of the residential properties north-east of the site are mainly turned away from the site and there is an extensive area of public open space, with woodland area, to the south-west.
  14. The proposed mast would be a 'slim-line' style monopole 20 m high. It would support 6 No antennas, in 2 clusters of 3, at different heights but both towards the top of the mast, and 2 micro-wave dishes of 0.3m diameter. The proposal includes 1 No cabinet. The prior approval application form states that the mast and cabinet would be coloured grey.
  15. I note the Council's concerns regarding the appearance of what is referred to as the 'headframes'. However, in my opinion, the proposed antennas, micro-wave dishes and associated equipment would not extend out from the pole in an obtrusive manner, would not be significantly wider than the pole itself and would not appear incongruous in the area. Additionally, the appearance and extent of the upper equipment proposed would not be substantially different to the upper section of the 20 m high mast sited around 130 m south-east of the site. Bearing these factors in mind, I do not consider that the appearance of the proposed 'headframes' would harm the character or appearance of the area.
  16. The mast and associated cabinet would be sited within the grass verge on the south western side of Aigburth Road; at this location the top of the grass verge is somewhere between 0.5-1 m higher than the adjacent footpath, thereby accentuating the height of the proposed mast, particularly to viewers walking along the adjacent footpath in a southerly direction from the nearby crossroad. Additionally, in contrast with the siting of the existing masts, the proposal would not be sited close to any trees within the verge - there are no trees within the sections of verge between the site and the crossroad north of it, or between the site and the existing telecommunications pole and cabinets nearest to the site.
  17. I accept that the trees located within the open space south-west of the site would act as a back-drop to the proposal when viewed from certain vantage points. However, siting the grey coloured 20 m pole and associated cabinet within the grass verge at the point where it is notably higher than the adjacent footpath and where there are no trees within the verge to screen it, would in my opinion result in it being in a prominent position and highly visible from several public vantage points, eg when viewed from the opposite side of the road from near the end of Chermside, Cromer and Milner Roads, and when travelling in a southerly direction on the footpath on the south-western side of the road from the nearby crossroad. Furthermore, from several of these vantage points both the proposed equipment and the existing equipment it would be sited closest to would be viewed together. For these reasons, within the context of the character of the area, I consider the siting of the proposed

equipment would cause harm to the appearance of the area, which I consider would be of a moderate degree.

*Potential availability of alternative sites*

18. The appellant proposes that the proposed equipment would allow one operator, Telefonica (the appellant), to provide 5G services in the area whilst maintaining and enhancing its existing 2G, 3G and 4G services. These are currently provided via the telecommunications equipment sited around 30 m from the appeal site, which is shared with another operator, Vodafone.
19. The appellant contends that it will no longer be possible to utilise all shared base stations to provide 5G services as all operators use different technology spectrums (allocated to them by Ofcom). Furthermore, it is asserted that as each part of the radio frequency spectrum has variations in terms of radio propagation, it is not possible to directly compare the networks of each of the operators and their sharing arrangements. It is stated that Telefonica and Vodafone have different network configurations they need to fit within and develop 5G services around. It is contended that there will be variations in how the networks of all operators are deployed and developed.
20. Due to the constraints outlined above, it is suggested that the networks of each of the providers will have to be built differently, which will lead to necessary infrastructure variations, depending on site specific demand and local constraints.
21. The Framework (paragraph 113) advises that the number of telecommunications masts and the sites for such installations should be kept to a minimum; and that the use of existing masts, buildings and other structures should be encouraged.
22. Paragraph 115 of the Framework advises that applications for electronic communications development, including applications for prior approval under the GPDO, should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
23. I note that the Council, whose Officers will know the area better than I, has not suggested that there are suitable alternative sites in the form of existing buildings or structures, and I have no evidence to suggest that alternative sites of this nature are available. The question raised by the Council, justifiably in my opinion, is whether the existing telecommunication site close to the appeal site, shared by the appellant and Vodafone, could be used to provide the 5G services in the area which the appellant seeks to provide, along with upgrading existing 2G, 3G and 4G services.
24. Contrary to what is stated in the Supplementary Information submitted as part of the application for prior approval, and notwithstanding the technical constraints of mast sharing to deliver 5G services outlined by the appellant, in its statement of case (paragraph 24) the appellant states that in order for Telefonica and Vodafone to continue to share the existing monopole close to the appeal site, significant redevelopment of the existing structure would be required. Hence, the appellant confirms that use of the existing mast is possible. However, the appellant rules out the option of redevelopment of the

existing mast on the basis, it is contended, that the resultant mast would not be the slimline design/style. As such, the appellant concludes that having a second slimline pole is the most appropriate option.

25. I acknowledge that in addition to the Framework advising that telecommunications sites should be kept to a minimum and use of existing sites is encouraged, paragraph 113 also advises these factors must be consistent with the needs of consumers, the efficient operation of the network and provide reasonable capacity for future expansion. Paragraph 113 of the Framework also recognises new sites may be required for the delivery of some services, such as 5G. I also appreciate that it may be the case that 2 slimline mast options may cause less harm to the appearance of the area than the design, style and size of equipment that would be required for the option of redevelopment of the existing mast.
26. However, in confirming that use of the existing site is possible, the appellant has indicated that the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion could all be achieved by redeveloping the existing mast. Additionally, the appellant has not provided any details of what the appearance of the existing site would be like should it be redeveloped; as such it is not possible for me to compare the 2 options and reach an opinion regarding their respective effects on the appearance of the area.
27. Sub paragraph 115(c) of the Framework advises that applications for electronic communications equipment, including prior approval under the GPDO, should be supported by the necessary evidence to justify the proposal. In the case of a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
28. Bearing all the above factors in mind, I conclude that, given the presence of the existing mast close to the appeal site, an additional mast would cause moderate harm to the appearance of the area. Furthermore, the appellant has not provided evidence to clearly demonstrate that use of the existing mast, which the appellant currently shares with another operator, cannot be utilised, thereby avoiding the need for the erection of an additional mast. As such, the proposal does not accord with saved Policy HD27 of the City of Liverpool Unitary Development Plan (2002), which I consider to be consistent with the Framework, or paragraphs 113 and 115 of the Framework. Policy HD27 permits telecommunications equipment proposals provided that, among other things, there are no suitable alternative sites or reasonable possibility of sharing existing facilities; the proposal would not have a detrimental effect on the appearance of the area and the proposal will either replace an existing mast or facilitate future network development by reducing the need for additional masts or structures.

## **Other Considerations & Conclusion**

29. Paragraph 80 of the Framework advises that significant weight should be attached to the economic benefits of providing and enhancing electronic communications infrastructure. Paragraph 112 advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of electronic

communications networks, including next generation mobile technology, such as 5G, should be supported.

30. As noted above, the need for the proposal is not questioned. Furthermore, I acknowledge the public benefits that would result from the proposal. These are outlined in detail in the appellant's statement; therefore, it is not essential for me to repeat the details here. However, in summary, the provision of 5G services and up graded 2G, 3G and 4G services would collectively increase network capacity and provide ultra-fast and more reliable mobile connectivity, capable of handling ever-increasing data requirements. Such developments would be of social and economic benefit to individuals, businesses, and public services. Such factors weigh in favour of the proposal.
31. However, as I consider that it has not been demonstrated that the need for the proposal and the economic and social benefits outlined above could not be achieved on the existing site close to the appeal site, which would be preferable as regards siting and appearance, the benefits carry limited weight. Consequently, they do not outweigh the moderate harm I have identified in respect of the appearance of the area.
32. For the reasons outlined, I conclude that the siting and appearance of the proposed development are not acceptable; therefore, the appeal is dismissed, and prior approval is not granted.

*J Williamson*

INSPECTOR