



Appeal Decision

Site visit made on 1 April 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2021

Appeal Ref: APP/C4615/W/20/3262916

The Portway, West Midlands, Dudley DY6 8HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Hutchinson 3G UK Limited against the decision of Dudley Metropolitan Borough Council.
 - The application Ref: P20/1149/PN16A, dated 9 August 2020, was refused by notice dated 20 September 2020.
 - The development proposed is described as: 'Proposed 20m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. For the purposes of my Decision, I have taken the appellants' name, the site address, and the description of the original proposal and the date of the application from the covering letter submitted with the application. As the Council's decision is undated, I have taken the date of this from the appellants' appeal questionnaire.
3. The provisions of the GPDO 2015, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. During the application stage the appellant submitted a revised scheme proposing a monopole with a reduced height of 15m, the appellants have requested that I consider this as part of the appeal. As the Council is aware of the revised scheme and it reduces the extent of development originally proposed, I have proceeded with the appeal on the basis of the revised scheme, and I do not consider that the interests of any party have been prejudiced by my having done so.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area and, in the event that any harm is identified, whether that harm would

be outweighed by the need to site the installation in the location proposed and any benefits associated with the proposal.

Reasons

6. The appeal site is part of a grass verge along the side of Standhills Road at its junction with The Portway. Due to its location adjacent to two roads and proximity to the junction of Standhills Road with Granville Drive, the appeal site is prominent in views from the public realm.
7. The surrounding area has a predominantly residential character, with dwellings in all directions from the site. In particular, the grass verge where the proposed equipment is to be located, comprises one of a number of similar verges near the site which also incorporate some trees. These areas are complemented by tree lined, grass verges along both sides of Standhills Road. Together, these verges and landscaping give the area a distinct, open, and verdant setting.
8. The appeal site and nearby area does incorporate some small-scale elements of street furniture including, street signs, waste bins and equipment cabinets. There are a few examples of other vertical structures nearby such as lamp posts and pelican crossing lights, which are slender in form. Therefore, these and the nearby bus shelter due to its open design are not visually obtrusive and are settled within the street scene and do not detract from the character and appearance of the site and area.
9. The proposed 15m monopole is to be sited about 2m from the highway and would incorporate a wrap-around cabinet at its base, along with further separate cabinets adjacent to this. The proposal is part of an integral requirement to expand Fifth Generation (5G) telecommunications network across Dudley.
10. I have had regard to the appellants' submitted Zone of Theoretical Visibility (ZTV) drawings and although these are specific to a 20m monopole, I acknowledge that the ZTV would be reduced for a 15m monopole. Nonetheless, in the abovementioned context, the proposed 15m monopole would not visually integrate with the nearby street lighting due to its appreciably greater height and column width and more bulky and visibly distinct headframe design in relation to the supporting column. It would also rise appreciably above the height of the building behind it, appearing unduly visually prominent within the skyline. Its siting and appearance would introduce a stark and incongruous feature within the street scene, which would unacceptably detract from the open and verdant setting, characteristic of this area.
11. The position of the monopole and cabinets in proximity of the roadside would further contribute to the visual dominance of the proposal as perceived by passing drivers, particularly those waiting at nearby junctions.
12. The appellants assert that the equipment cabinets would be permitted development. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. The proposal before me therefore relates to the whole installation, including the cabinets.
13. For the above reasons, the proposal would result in significant unacceptable harm to the character and appearance of the area. The appellants advise that the equipment could be finished in colour appropriate to the location to

minimise its visual appearance. However, I am not persuaded that the visual impact arising from the design, height and siting of the structure could be mitigated by the use of a particular colour finish.

14. Consequently, the proposal would be contrary to Policy ENV2 of the Black Country Core Strategy and Policy D8 of the Dudley Borough Development Strategy. These policies, amongst other things, seek to ensure that new development proposals protect local distinctiveness, and that telecommunications proposals are sensitively designed and sited to minimise the impact on the environment and surrounding area, with the protection from visual intrusion being an important consideration.

Other considerations

15. Support for the delivery of advanced, high quality and reliable communications networks is afforded by the National Planning Policy Framework ('the Framework'), by other government documents and the development plan, and such networks bring significant social and economic benefits. Furthermore, the proposal would support new 5G coverage to a predominantly residential area. Based on the revised scheme the appellant has also reduced the extent of the monopole from 20m (as originally proposed) and advises that for technical reasons it cannot be reduced further in height.
16. Paragraph 115(c) of the Framework outlines that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be submitted.
17. The sequential approach to site selection includes: 1. Upgrading an operator's own existing base station(s); 2. Using existing telecommunications structures belonging to another code system operator, i.e. mast sharing; 3. Co-location or site sharing alongside existing telecommunications development; 4. Installing a base station on an existing building or tall structure. If 1-4 are unavailable, the only viable option is 5. Erection of a new ground-based mast.
18. Although the appellants have identified that there are no opportunities for upgrading existing base stations or site sharing available, on the information before me, I cannot be certain that they have also considered using any existing buildings or tall structure.
19. Furthermore, although Figure 4 in the appellants' appeal statement illustrates the parameters of the search area, on the available information the overall extent of this is unclear. Also, according to the appellants' appeal statement the coverage 'hole' extends into the commercial area. Whereas most of the alternative locations which have been considered and discounted for various reasons are in a residential area.
20. Notwithstanding the above, the appellants' Site Specific Supplementary Information, dated 9 August 2020, is based on the proposal for a for a 20m SW (Street Works) monopole. Accordingly, the siting options for a 15m monopole may have been different. Therefore, drawing on these reasons, I am not persuaded that the information before me demonstrates that a sequential approach has been adhered to or that an exhaustive analysis of all parts of the cell search area has been undertaken for the proposed 15m monopole. Consequently, and despite the lack of alternative sites being suggested by the Council, I am not certain that a less harmful location could not be found.

21. The fact that the proposal would meet the ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines for public exposure is a requirement of prior approval and does not influence my findings on the main issue. I also do not consider that the lack of a pre-application response by the Council has any significant bearing on the merits of the appeal.

Planning balance and conclusion

22. I acknowledge the potential economic and social benefits of the proposal detailed by the appellants, and the support given by the Framework in Paragraph 112 to advanced, high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.
23. However, in this case, for the reasons given above, 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 locational needs of the appellants outweigh the significant harm that I have found arising from the proposal due to its siting and appearance. I, therefore, conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR