



Appeal Decision

Site visit made on 7 June 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/C2741/W/21/3270774

Land at York Road, Woodthorpe, York YO24 4NR

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL and H3G against the decision of City of York Council.
 - The application Ref 20/01776/TCMAS, dated 11 September 2020, was refused by notice dated 13 November 2020.
 - The development proposed is the installation of a new 20.0m column supporting 6 no antennas, together with ground-based equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description and location of the development have been taken from the application form as these accurately represent the proposal.

Main Issue

3. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, with due regard to the Acomb Conservation Area (CA).

Reasons

4. The mast and cabinets would be located to the rear of the pavement on the north side of York Road. They would be placed adjacent to a low retaining wall which forms the boundary of an open grassed area which includes a number of trees. The retaining wall is of an understated appearance, and due to the relationship with the open space this extent of the streetscape has an uncluttered and open character, even allowing for existing features such as streetlights and signage.
5. York Road is one of the main roads leading through the area, and the proposal would be prominent in views from the highway and the surrounding area, including from a nearby roundabout. There are existing telecommunication masts and associated cabinets adjacent to the roundabout. Despite their proximity to the site, the existing telecommunications features are relatively

- sympathetically located within the streetscape due to their relationship with a higher wall to the rear and a backdrop created by nearby buildings.
6. In contrast to the existing apparatus, the appeal proposal would be seen as an obtrusive feature located in an open part of the streetscape. The proposal would detract from the understated and pleasant character of the retaining wall, and would introduce clutter adjacent to an attractive open landscaped area. The projection of some of the cabinets above the retaining wall would be jarring features which would add to this incongruous and unsympathetic appearance.
 7. Although the site is on the edge of the CA, it is located at one of the main entrances to it. The site is located some distance from elements within the CA that contribute to its character and appearance as identified in the CA Appraisal Note, including Acomb Green and Acomb Front Street. The proposal would have a neutral impact on those features.
 8. However, the CA Note also refers to the interest generated by the topography of the area, which generally rises to the north and west of the appeal site. The appellants accept that the topography of the area is of interest, and it is apparent that it contributes to the importance of the CA as a designated heritage asset. This topography is of some benefit as it would screen the proposal in some medium to longer distance views. However, in closer views from within the CA, the appeal proposal would be an obtrusive feature due to its prominence in a location where the sloping topography becomes increasingly apparent.
 9. In views on the approach to the CA the proposal would be seen against the rising topography of the area. Nevertheless, when viewed against the adjacent open area, the mast would be an unduly prominent feature to the detriment of the character and appearance of the CA. There are existing vertical features in the area such as trees and lampposts, but these would not suitably mitigate for the impact of the mast due to its relative height and unsuitable location.
 10. There is a mile stone set against the retaining wall. As a traditional feature, this contributes to the appreciation of the streetscape as well as the character and appearance of the CA. Views on the approach to this mile stone would be obscured by cabinets placed on either side, to the significant detriment of the positive contribution this mile stone makes to the area and the CA.
 11. The appellants state that the proposed cabinets can be installed under the operator's permitted development rights. However, I am not persuaded that there is a greater than theoretical possibility that the installation of the cabinets on their own may occur. My concerns in respect of the main issue and the siting of the installation therefore remain. The appellants also submit that the principle of development is already established by the General Permitted Development Order. However, matters of siting and appearance still need to be addressed.
 12. It is proposed to remove the existing monopole and cabins in the vicinity of the site. However, as stated previously, this infrastructure is more sympathetically located in the streetscape and its removal therefore carries very limited weight in favour of a scheme as harmful as the appeal proposal.

13. I have had regard to the technical issues referred to by the appellants, including the required mast height to achieve 5G coverage in the existing cell as well as constraints regarding installation on nearby existing buildings, masts and other structures. However, the appellants have not demonstrated that alternative installations in the vicinity are unfeasible, including a new mast or base station which is more appropriately located within the streetscape. I have assessed this proposal on its own merits, but on the basis of the sensitivities of the appeal site and the harm I have identified, I am not persuaded that a new site is required in this specific location. Although it may be that a new mast located elsewhere in the vicinity would need to be higher, it has not been demonstrated that this would lead to greater harm compared to the appeal proposal.
14. I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure. The appellants emphasise that the proposal would provide increased speed and more capacity in the network. Furthermore, the Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported. The benefits of improved telecommunications are also reflected in the various documents and other evidence referred to by the appellants. The proposal would also be shared by 2 operators which would reduce the proliferation of electronic communication equipment in comparison to separate installations.
15. The benefits identified above weigh in the proposal's favour. However, it has not been demonstrated that these benefits would not be possible on other sites in the vicinity of the appeal proposal which are more suitably located in respect of character and appearance. These matters therefore carry limited weight in favour of the appeal.
16. I have had regard to the appeal decisions referred to by the appellants. However, the circumstances of those decisions are not the same as the appeal before me, including in respect of the height of the masts, the effect on designated heritage assets and the scale of identified harm. Whilst I note the balancing exercise undertaken in those decisions, this does not lead me to a different conclusion in respect of this appeal based on the evidence before me.
17. I conclude that the proposal due to its siting and appearance would lead to significant harm to the character and appearance of the area. The proposal would also fail to preserve or enhance the character and appearance of the CA. Within the terms of the Framework the harm to the CA would be less than substantial. However, mindful of my concerns in respect of the visual impact of the proposal and potential alternatives, I do not consider that it has been demonstrated that the public benefits of the proposal in this location are sufficient to outweigh that harm.
18. The proposal would therefore be contrary to policies D1, D4 and C1 of the Publication Draft Local Plan 2018 with regards to the harm to the public realm and the CA, as well as the effect of communications infrastructure on visual amenity. The evidence suggests that the examination into the emerging Local Plan has not concluded, although whilst this reduces the weight I give to those policies this does not negate the weight I give to the identified harm. The proposal would also conflict with paragraph 196 of the Framework in respect of

harm to a designated heritage asset as well as paragraphs 113 and 127 with regard to the sympathetic design of telecommunications installations and local character.

19. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR