



Appeal Decision

Site Visit made on 6 July 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2021

Appeal Ref: APP/Z4310/W/21/3272854

Walton Sainsbury's SF, Rice Lane, Liverpool L9 1DG

- 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) Ltd against the decision of Liverpool City Council.
 - The application Ref 20PT/1858, dated 31 July 2020, was refused by notice dated 15 October 2020. The development proposed is described simply as mast, and the further details provided on the application form state: 20m monopole, grey; equipment cabinets, grey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development on the Council's Decision Notice differs to that on the application form. I have not been provided with any evidence that the appellant agreed to a change of description. However, the proposal as described in the 'Supplementary Information' is the same as that used by the Council on its Decision Notice; also, the description of development provided by the appellant on the appeal form is the same as that used by the Council on its Decision Notice. As the appellant evidently agrees with the more detailed description, and as I consider it more accurately describes the proposal, I have made my decision based on the following description: The installation of a 20m high streetworks column supporting 6 no antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto.
3. The provisions of the GPDO require the local planning authority to assess the proposed development solely based on its siting and appearance, taking account of any representations received. My determination of the appeal has been made on the same basis. I note, however, that there is no definition of the terms siting and appearance in the GPDO or in extant national policy or guidance.
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 development plan policies in so far as they are material to matters of siting and appearance. With regard to policies in the Emerging Local Plan, I agree with the Council's conclusion that due to outstanding general objections relating to the soundness and procedural aspects, and specific objections to the policies that may have

been of relevance to the proposal, these policies are considered to have limited weight.

5. I note that a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. As the assessment of the proposal is to be made primarily against the relevant details of the GPDO, and as the sections in the Framework dealing specifically with communications infrastructure and the economy have not been altered (other than changes to numbering of paragraphs), the parties were not asked to comment on the revisions. I consider neither party would be prejudiced as a result.
6. The appellant has submitted photomontages with the appeal which were not part of the information the Council made its decision on. I consider no one would be prejudiced should I accept the documents at this stage; I have therefore taken them into account in reaching my decision.

Main Issues

7. The main issues are:

- whether the siting or appearance of the proposed development is acceptable with regards to its effect on the character or appearance of the area and pedestrian movement, and
- if any harm is found, whether this is outweighed by the need to site the installation in the location proposed, having regard to the availability of suitable alternative sites.

Reasons

Character and appearance

8. The site is located within the pavement on the eastern side of Rice Lane, adjacent to the access of a footway that extends from Rice Lane to the site of a superstore, associated car parking area and petrol station. This section of Rice Lane is a busy dual carriageway.
9. Immediately to the rear of the site is a small, landscaped area, which sits between the site and a day centre, Lancaster House. The footpath that extends off Rice Lane passes between Lancaster House and the petrol station, which is south of the appeal site. There are further retail and commercial properties immediately north of Lancaster House, after which Rice Lane extends into an area of mixed retail, commercial and residential uses; there are residential properties (one of which is a residential care unit), opposite the site on the western side of Rice Lane. These buildings are set back behind the footpath, which has a row of trees running along its edge, and the parking areas associated with the accommodation. There are residential properties and a school beyond the northern, north-western, and southern boundaries of the superstore site.
10. Buildings within proximity of the site vary in height, being of 2, 3 and 4 storeys high. The dual carriageway has streetlamps on both sides of Rice Lane and within the central reservation, which are around 12 m high; there is other street furniture in the area along with free-standing advertisement structures. Additionally, there are 2 telecommunications masts and associated cabinets within proximity of the site. One is around 13 m high and is located north-east

of the site on the western side of Rice Lane, sited within a grass verge behind the footpath, around 95 m from the site. The other is around 20 m high and is located on the eastern side of Rice Lane, sited within the pavement, around 45 m south-west of the site.

11. Due to the lower height of the mast located north-east of the site and its siting within the grass verge against a backdrop of trees, I consider the equipment is not prominent in the street scene; nor is it prominent in views travelling in a north-easterly direction along Rice Lane from its south-western end. I accept that the existing mast south-west of the site and the proposed mast, if installed, would both be visible in the street scene simultaneously from several public vantage points. However, I do not consider that the proposal would result in visual clutter or that the presence of 2 masts and associated equipment, around 45 m apart, would have an overbearing visual impact within the pedestrian areas.
12. Overall, I consider the character of the site area to be shaped more by the busy dual carriageway, retail and commercial buildings/uses and existing street furniture than the residential properties/uses, which are located mainly beyond the perimeters of what is broadly a centralised retail/commercial area adjacent to a busy dual carriageway. Within this context, I consider the siting and slim-line appearance of the proposed 20 m mast, associated cabinets, and ancillary equipment would not harm the character or appearance of the area.

Pedestrian movement

13. I appreciate that the footway within which the proposed would be sited is relatively wide. However, in contrast with the appellant's view, from my observations on site of the 'desired line' pedestrians were taking when walking along the footpath on the eastern side of Rice Lane from its north-eastern end, travelling in a south-westerly direction and turning into the footpath leading off Rice Lane to the superstore, I consider pedestrian movement would be impeded. This would also be the case for people travelling in the reverse direction.
14. I therefore conclude that the siting of the proposed equipment, set forward of the boundary of the landscaped area to the rear of the site and in particular very close to the north-eastern corner of the junction of the footpath that leads off Rice Lane to the superstore and petrol station, would impede pedestrian movement in this location. I consider that the degree of harm to pedestrian movement would be significant.

Potential availability of alternative sites

15. Paragraph 115 of the Framework 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. It is also recognised in paragraph 115 that these factors must be consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion; and that new sites may be required for the delivery of some services, such as 5G.
16. Additionally, paragraph 117 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 existing buildings, masts, or other structures.
17. The appellant contends that there is a specific technical requirement to provide 5G coverage in the area, and I have no grounds to doubt this. Although there is an existing street-works style base station in the area, currently shared by the appellant and another provider, the appellant considers it cannot accommodate the requirements of the existing 2 operators to deliver 5G. Consequently, an additional street-works style base station is required to upgrade the service of one of the users, the appellant. For technical reasons, including ensuring that existing 2G, 3G and 4G services are provided along with introducing 5G, the additional site needs to be both within proximity of the existing equipment and horizontally separated from it by at least 30 m.
 18. In addition to the existing site, I acknowledge that the appellant has considered other alternative sites (as outlined in the application and emphasised and expanded upon in the appellant's statement), such as other sections of footway on Rice Lane and rooftops, car parking and incidental open spaces within the area. Following investigations, all were discounted due to various physical and technological constraints.
 19. I note that the Council consider there may be sites in the area which would be preferable in terms of visual impact. However, as I have found that the proposal would not harm the character or appearance of the area sited and designed as proposed, I consider an alternative site is not necessary in respect of visual impact.
 20. That said, I have found that the siting of the proposal would impede pedestrian movement to a significant degree. I acknowledge that as the Council objected to the visual impact of the proposal it did not approach the appellant on the matter of re-siting the proposal to overcome the impact on pedestrian movement. I also acknowledge that the appellant has not sited the proposed equipment closer to the rear of the pavement to avoid underground services and allow maintenance of existing railings. Nevertheless, even if the proposed equipment cannot be sited closer to the rear of the pavement, it appears to me, and the appellant's evidence does not indicate otherwise, that it could be sited a little further north-east of the site. This, in my opinion, would enable pedestrians to walk the 'desired line' when pursuing the footpath off Rice lane leading to the superstore, thereby not impeding pedestrian movement, whilst also providing 5G services in the area and retaining 2G, 3G and 4G services.
 21. In light of all the above, although not determinative, with regard to visual impact, I consider the proposal accords with Policy HD27 of The City of Liverpool Unitary Development Plan 2002, (UDP), which I consider to be broadly consistent with paragraphs 115 and 117 of the Framework. With regard to pedestrian movement and whether there is a suitable alternative site, although the policy refers to suitable alternative sites, my reading of the policy as a whole is that it deals with visual impact, and not pedestrian movement. As such, I consider Policy HD27 is not relevant to the effect of the siting of the proposal on pedestrian movement. The Council has not referred to any other development plan policies in its reasons for refusal.

Other Considerations

22. Paragraph 81 of the Framework advises that significant weight should be placed on the need to support economic growth and productivity. Paragraph 114 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.
23. As noted, the need for the proposed equipment is not questioned. Furthermore, I acknowledge the extensive economic and social benefits (detailed in the appellant's submissions, which it is not necessary for me to repeat), that would ensue from the proposal for individuals, businesses, and public services. These factors weigh in favour of the proposal.
24. However, it seems to me that the proposal could be readily sited not far from the proposed site thereby avoiding pedestrian movement being impeded. As such, I consider there to be a preferable, alternative site as regards siting. Therefore, as the economic and social benefits outlined above could be achieved on a preferable site, I attach limited weight to the benefits. Consequently, the benefits do not outweigh the significant harm I have found in respect of impeding pedestrian movement.
25. I note the range of other appeal decisions the appellant has drawn my attention to. I have considered the range of principles and issues raised within them and their relevance to this case in reaching my decision. However, notwithstanding that I do not know the full details of either of these cases, each proposal must be assessed on its own merits, within the specific circumstances of the site. As such, I attach little weight to these matters in support of the proposal.

Conclusion

26. Notwithstanding my conclusion regarding character and appearance of the area, for the reasons outlined above, I conclude that the siting of the proposal is not acceptable due to the impact on pedestrian movement. The appeal is therefore dismissed, and prior approval is not granted.

J Williamson

INSPECTOR