



Appeal Decision

Site visit made on 8 November 2021

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal Ref: APP/V4630/W/21/3278390

Owen Road, Willenhall, Walsall, WV13 2AB

- 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 appeal is made by Hutchison UK Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref: 21/0588 dated 11 April 2021 was refused by notice dated 9 June 2021.
 - The development proposed is a 15m phase 8 monopole C/W cabinet at base and associated ancillary works.
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Decision

- 1) The appeal is allowed, and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 15m phase 8 monopole C/W cabinet at base and associated ancillary works at Owen Road, Willenhall, Walsall, WV13 2AB in accordance with the terms of the application Ref: 21/0588 dated 11 April 2021, and the plans submitted with it: WLL 12712_M003 - 002C; WLL 12712_M003 - 100C; WLL 12712_M003 - 150C; WLL 12712_M003 - 210C; WLL 12712_M003 - 260C; WLL 12712_M003 - 303C; and WLL 12712_M003 - of the GPDO303C.

Main Issue

1. The main issue in this case is the effect of the proposal on the character and appearance of the street scene and surrounding area.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), 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 based on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning Policy

3. The *National Planning Policy Framework* (The Framework) was revised in July 2021, after the application was determined, and I have had regard to it in my

decision. However, the relevant paragraphs, other than being renumbered, have not significantly changed in content.

Reasons

Character and Appearance

4. The appeal site is located on highway land in an area of mixed residential and industrial character. The closest residential property is 'The Junction', a 3-4 storey development of flats on the opposite side of the road. The proposal has been revised following refusal of an earlier scheme for a taller (20m) mast. Both the location and overall height have been revised in an attempt to address the Council's concerns regarding the effect of the proposed monopole on the character and appearance of the street scene and the wider area.
5. While it is not a prerequisite for prior approval cases to be determined in accordance with the development plan, the Council's policies are relevant as material considerations. Several policies from the Black Country Core Strategy and the Walsall Unitary Development Plan (UDP) have been referred to. Saved UDP Policy ENV38 covering telecommunications development is most relevant and sets out this is: (a) unlikely to be acceptable in visually sensitive locations; (b) that operators need to have fully investigated the possibility of mast and site sharing; (c) that measures to reduce the impact of the equipment such as screening and mast camouflage will be required where necessary; and (d) That all proposals should comply with the radiation safety requirements and other relevant technical guidance. Amongst other things, saved UDP Policy ENV32 requires the visual relationship of the proposed development with adjacent areas and the character of the neighbourhood to be considered.
6. Paragraph 114 says planning policies and decisions should support the expansion of electronics communications networks, including next generation mobile technology (such as 5G), whilst encouraging the use of existing masts where possible, and that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.
7. The Council says the monopole would be widely visible and prominent in this location and would dominate the street scene. It also says it would be harmful to the outlook from the nearby flats. To a large extent the nearby highway trees would mitigate the impact of the mast, and from some viewpoints would mask all but the upper portion of the structure. However, it still would rise considerably above the height of the trees in views in both directions along Owen Road and would thus stand out as a highly visible and discordant feature. Although it would be seen from some of the windows of the nearby flats, the views would be at an oblique angle. Given this factor, together with the separation distance, I consider that any impact on outlook from the flats would not be materially harmful.
8. I note that the height of the pole is well below the maximum permitted through the prior approval process. I also accept that its slim design is the minimum width possible for this type of installation, that views of the structure would be filtered by the highway trees, and that it would be seen in the context of a background of commercial buildings and existing street furniture.
9. Notwithstanding these mitigating factors, the mast would still be a prominent and incongruous feature when seen from certain viewpoints, and I conclude

that its siting and appearance would be moderately harmful to the character and appearance of the streetscape and surrounding area.

Alternative Sites

10. Paragraph 117 of the Framework says applications for telecommunications development should be supported with the necessary evidence to justify the proposal. This should include evidence that the applicant has explored the possibility of erecting antennas on an existing mast, site, or other structure.
11. There are no available masts or sharing opportunities within the coverage area and there is an operational need for the installation. This is not disputed by the Council. The appellant has explored several other siting options, but after due consideration all were discounted for various reasons including coverage, topography, and the proximity of residential property, services, trees, and overhead cables.

Other Matters

12. The appellant submitted evidence to show that the proposal would comply with the public exposure guidelines of the International Commission on Non-Ionising Radiation (ICNIRP). According to the Framework, it is not necessary to determine health safeguards where the proposal meets these guidelines.
13. The Council is concerned that the proposal may result in harm to the closest trees. However, the chosen site is well clear of the crown spread of these trees, and I satisfied that the trees (and their root systems) would not be harmed by the monopole and associated apparatus.

Planning Balance

14. Given the need for the facility, which weighs in favour of the proposal, a balance needs to be carried out against any harm identified. In this case the moderate harm I have identified in relation to the character and appearance of the area would be significantly outweighed by the benefits provided by the improved network coverage and capacity for the local community and businesses.

Conclusion

15. Therefore, for the reasons given above I conclude that the appeal should be allowed, and prior approval should be granted.

Conditions

Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO is subject to conditions set out in paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must be carried out in accordance with the details submitted with the application, must begin no later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed after it is no longer required for electronic communications purposes and the land restored to its previous condition.

Nigel Harrison INSPECTOR