



Appeal Decision

Site visit made on 29 October 2021

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/X1355/W/21/3281490

Aldi Chester-le-Street, Picktree Lane, Chester-le-Street DH3 3SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval 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 MBNL against the decision of Durham County Council.
 - The application Ref DM/21/02272/PNT, dated 18 June 2021, was refused by notice dated 11 August 2021.
 - The development proposed is 20m telecommunications installation and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require such proposals to be assessed on the basis of the proposal's siting and appearance, taking into account any representations received, and the policies of the development plan and National Planning Policy Framework (the Framework) only in so far as they are material considerations in relation to siting and appearance. I have determined the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposed development upon the character and appearance of the surrounding area.

Reasons

4. The proposed 20m high telecommunications installation is intended to provide coverage for EE, H3G LTE and ESN (Emergency Services) and new 5G coverage for EE. It is stated that the appeal proposal, which follows an earlier application for a taller monopole installation¹ at the same location, is required as a consequence of a Notice to Quit (NTQ) served upon the appellant in respect of an existing site on Pelaw Bank, nearby.
5. The appeal proposal would be situated in the corner of an existing surface car park serving a nearby superstore. The proposed installation and associated

¹ LPA Ref No: DM/20/02387/PNT

- works, including equipment cabinets within a fenced compound, would take the place of three car parking spaces and an area of low-level shrub planting.
6. A network of pavements and paths run across and around the car park, providing access to and from the car park and store, and linking Picktree Lane to the east with the former Civic Centre car park and Chester Road to the west. There is a bus depot and residential terraces on the opposite side of Picktree Lane to the east, further residential areas beyond the superstore to the south and allotments to the north of the appeal site.
 7. Although located within the commercial setting of the superstore and its car park, and with the added presence nearby of the bus depot buildings, there is nevertheless a distinct residential presence close to the appeal site, even if the area around the appeal site is not entirely or wholly residential in character. It is however located alongside a busy vehicular and pedestrian approach to the town centre and the appeal site is in an open and prominent position, elevated slightly above Picktree Lane. It would as a consequence be widely visible from a range of directions.
 8. The part of the car park where the installation is proposed is, I understand, an extension to the original superstore car park. It is an open expanse of hardstanding, bounded by neat, low-level shrub planting and kick-rail fencing. The installation and its fenced enclosure would instead be an abrupt intervention into the car park setting. The harsh nature of the high security fence topped with barbed wire would be entirely at odds with the pleasant, landscaped surrounds of the car park, and the more informal and open nature of the adjacent former Civic Centre car park, and on a significantly larger and altogether overwhelming visual and physical scale when compared with the more modest nature of the immediate surrounds.
 9. The trees referred to by the appellant as tall and mature are significantly shorter than the proposed monopole would be. Moreover, they are patchy in terms of the length of backdrop / foreground they would provide and vary considerably in their own height. Their effectiveness in providing a meaningful screening feature would therefore be limited, not just in terms of direction of view, but also in terms of overall height.
 10. Nor would existing street furniture provide much in the way of meaningful context for the proposed installation. There is a mix of streetlight column heights in the immediate area, some of which appear taller due to their position on elevated ground, but none would come close to the overall height of the appeal proposal. Whilst they may provide a very limited degree of context in terms of vertical structures within the streetscape, their slender profile means that they would share very little with the type of monopole proposed in this instance.
 11. The proposed monopole installation is described by the appellant as a 'slimline' variant. That may be so in the context of telecommunications installations of this height but compared with the slender street lighting columns nearby and the context in which it would be sited, it would be incongruous, obtrusive and visually dominant.
 12. It would not, as the appellant claims, have a 'near benign' visual impact. There may be positions along Picktree Lane where close foreground structures, such as the group of buildings at the Durham Army Cadet Force site existing hedges

- and trees to the south, or from the Picktree Lane pavement immediately adjacent to the allotment hedge to the north, would more effectively screen or shield the proposed monopole. However, the installation would be experienced dynamically where its substantial height relative to its surroundings would be stark and harmful.
13. Given the mixed character of the surrounding area, particularly the residential context of Picktree Terrace, not all experiences of the installation would be dynamic. From residential properties opposite, the monopole would instead be experienced in a static manner. Here, the site's more open foreground across the car park, slightly elevated position and overall height would combine with the relatively short distance between the site and nearby properties to the extent that it would be an oppressive and dominant feature so close to residential properties.
 14. The appellant's submission acknowledges densely populated residential areas to the north, south and west of the appeal site and that the site was carefully selected to protect the amenity of residents further whilst providing 5G coverage. However, in so doing, those areas closest to the proposed installation appear to have been overlooked, and from where the proposal would cause clear and significant harm to the character and appearance of the surrounding area.
 15. It is stated by the appellant that telecommunications installations are not unusual in urban locations and do not therefore appear as alien features. That may be so, but that is also not to say that such proposals cannot and would not cause harm to the character and appearance of a particular area. The role of nearby trees, shrubs, hedges and street furniture in assisting in this process is significantly overstated by the appellant and would do very little to ameliorate the strident, obtrusive and incongruous presence of the proposed monopole installation, whilst the relatively open nature of the surrounding area and modest scale of existing buildings provide limited context for an installation of the nature and scale proposed. The proposed monopole would not therefore, be capable of being successfully absorbed within the surrounding area without significant harm to the character and appearance of the surrounding area.
 16. In addition to the appellant's stated aim of improving existing mobile coverage and rolling out 5G coverage, the appeal proposal and its predecessor which sought prior approval for a 25m mast at the same site have both been predicated by receipt of an NTQ in relation to an existing site on Pelaw Bank. Although a range of discounted site options have been set out in submissions accompanying both the initial application and this appeal, the detail submitted falls significantly of what would be expected to robustly demonstrate that alternative sites are either not available or not feasible.
 17. A list of seven alternative sites provides some evidence of a site selection process. However, the level of detail for each is scant, there are no coverage maps or location plans and, without full or detailed justification for each, the reasons for dismissing other sites are flimsy and make it difficult in comparison with the appeal site to understand how or why it was arrived at. It has not, therefore, been satisfactorily demonstrated that there are no other less harmful sites than the site that is the subject of this appeal.
 18. Whilst County Durham Plan (CDP) policy 27 is supportive of telecommunications development, that support is subject to a range of factors.

It states that it must therefore be demonstrated that the proposal would not cause significant adverse impacts or that benefits outweigh any adverse negative effects. For new sites it must also be demonstrated that existing sites have been fully explored and are not feasible.

19. The Framework recognises the importance of advanced, high quality and reliable communications infrastructure to economic growth and social well-being. It goes on to state that planning decisions should support the expansion of networks, including next generation mobile technology such as 5G. The number of masts and sites for installations should be kept to a minimum consistent with the needs of customers and efficient operation of the network, and existing masts, buildings and other structures should be utilised. Where new sites are required, such as for new 5G networks, equipment should be sympathetically designed and camouflaged where appropriate.
20. A range of alternative, and subsequently discounted, sites have been submitted but, having carefully considered the evidence, I share the Council's view that the level of detail provided is not sufficient to fully assess their suitability, or otherwise. I have also carefully considered the appellant's stated technical limitations in terms of cell size, height of monopole and the drive to improve service and coverage. The social and economic benefits arising from these factors carry considerable weight. However, whilst giving these matters due consideration, I cannot be certain that there are not sequentially preferable alternative sites or that the appeal site is the only viable option within the cell search area.
21. I accept that the appeal site's location is such that it does not lie within a conservation area or affect the setting of any listed buildings. It is also clear that the site lies within an urban area and that telecommunications infrastructure is a commonly seen feature within such urban areas. However, the siting and appearance of the proposal would cause significant harm to the character and appearance of the surrounding area. The benefits identified above are not sufficient to outweigh the harm to character and appearance and, as such, the proposal would be contrary to CDP policy 27 and the Framework, having particular regard to the content of parts 10 (Supporting high quality communications) and 12 (Achieving well-designed places).
22. It has been indicated that the associated ancillary equipment cabinets are within the size limits to be classified as permitted development without prior approval. This matter does not alter my findings above with regards to the harm from the proposed mast.
23. Although the appellant makes a pointed remark that the Council failed to respond to a pre-application consultation approach the approach of both parties to the value of pre-application consultation is a matter for them to resolve and does not alter my findings above with regard to harm to character and appearance that I have identified.

Conclusion

24. There would be economic and social benefits arising from the upgrading of the existing telecommunications infrastructure to cater for the roll out of 5G technology as well as accommodating existing technologies. As such, the proposal would be consistent with the Framework's recognition of the

importance of high-quality communications to economic growth and social well-being.

25. However, for the reasons I have set out above, the proposal would be harmful to the character and appearance of the surrounding area. Taking all these matters together, and having considered all other matters raised including the development plan as a whole, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR