



Appeal Decision

Site visit made on 23 November 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/W4515/W/21/3282222

Off Hastings Avenue, Benton, Newcastle Upon Tyne NE12 9NX

E: 428082 N: 569177

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Railsite Telecom against the decision of North Tyneside Council.
- The application Ref 21/01259/FUL, dated 12 May 2021, was refused by notice dated 7 July 2021.
- The development proposed was described as *'Installation of a 30m high lattice mast accommodating antennas and transmission dishes for four mobile operators (overall height 31.3m) on land at Nexus Curve, off Hastings Avenue, Benton, Newcastle Upon Tyne NE12 9NX (428082E, 569177N). The proposal also involves the installation of 16No equipment cabinets and 1No meter cabinet within a compound surrounded by a 1.8m high fence'*.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development upon:
 - The character and appearance of the surrounding area; and
 - Designated open space, trees and habitat.

Reasons

Character and appearance

3. The appeal site lies within an area referred to locally as the 'Benton Triangle', an area of overgrown land, low-level scrub vegetation and pockets of more established woodland formed by the intersection of the East Coast Main Line railway (ECML), the 'Metro' line and a spur of former railway line linking the two. The residential garden plots of houses on Midhurst Road and Hastings Avenue, which lie within the Benton Conservation Area (the CA), back on to this triangular area of land. A footpath runs along the southern side of this area of land, immediately adjacent to the 'Metro' line, with a network of informal paths leading into and amongst this area of scrub vegetation.
4. The proposed lattice tower would be of considerable height. At 30 metres to the top and over 31 meters to the highest point of the antennae, the structure would be a significant and intrusive feature within the surrounding area. From the residential areas of Midhurst Road, particularly the sweep from Hastings Avenue to Lyndhurst Road, the looming presence of the mast above the rooflines of properties on the eastern side of the road would be starkly

incongruous and disruptive to the pleasant residential character and modest scale of this area.

5. The appellant's photomontages attempt to show, from selected and selective angles, that existing tree cover would provide substantial visual screening from residential areas. I visited the photo locations during my visit, but I am not persuaded that they would be as effective as the appellant seeks to suggest.
6. This would be particularly so in respect of location 1, a short distance to the west of Hastings Avenue on Midhurst Road. There are, I accept, a number and range of taller trees that act as a backdrop to the sweep of semi-detached properties on Midhurst Road. From viewpoint location 1, the taller trees align with the indicated position of the mast so that all but the topmost portion of the mast would be screened by the tree canopies. However, when not in leaf the skeletal branch structure would be significantly less effective in mitigating the visual impact of those lower portions of the tower still visible above the intervening rooftops. The upper portion of the mast would also remain a disruptive visual feature above the rooftops, perhaps more so at these times of the year when more of the structure would be discernible.
7. Nor would the relationship between the mast and the adjacent residential area be just static. Moving along Midhurst Road in an easterly and then northerly direction the alignment offered from viewpoint 1 would decrease and the mast become more visually dominant. It may well be that existing trees and buildings would prevent the entire structure being visible at once from any location other than gardens directly adjacent to the site or from the 'triangle'. However, as it would still be visible above intervening buildings and vegetation in dynamic views this would emphasise rather than mitigate its significant and harmful scale.
8. Moreover, in the context of the verdant sylvan residential setting offered by street trees and those which provide a soft backdrop, the proposed structure would be an incongruous and industrially utilitarian structure. As such, it would be starkly incongruous and wholly at odds with the pleasing appearance and character of residential properties in this Conservation Area location. Although the appeal site lies beyond the CA, it lies sufficiently close to it, and the structure sufficiently tall, to be a significant and detrimental factor to the character and appearance of the CA.
9. Nor would the mast's visual impact be limited to Midhurst Road and the CA. Additional photomontage locations seek to show how existing foreground and background trees would soften the proposal's appearance. Whilst this may be mildly successful in relation to location 3, although largely due to its greater distance from the viewpoint, it would be less so from viewpoint 2. Furthermore, the entire mast would become visible along Westcroft Road, from where ground cover vegetation and trees are more sparse and open views across the ECML of the mast and base station equipment would dominate the character and appearance of this otherwise pleasant verdant pocket within the urban area.
10. The appellant acknowledges that the proposed mast would cause harm to, and have a visual impact upon, the character and appearance of the surrounding area and that it would not change the character of the area to an unacceptable degree. Clearly, the area's character would remain residential if the mast were to be installed and its presence would not alter that. However, what is

proposed is not a slimline monopole with characteristics and an appearance not dissimilar to street furniture typically found in urban and residential areas.

11. The proposed lattice mast would be a substantial structure, not just in terms of its height but also by virtue of its lattice construction. It may be that its height and construction method is the minimum needed to provide the required coverage and capacity for sharing, but it would nevertheless still be a substantial structure. Whilst I accept that lower portions of the tower would be hidden or screened by existing buildings and tree canopies, particularly from public vantage points along Midhurst Road, this would not be true from all vantage points.
12. For residential properties on the eastern side of Midhurst Road from Hastings Avenue towards and beyond its junction with Lyndhurst Road, the tower would be a significant, constant and overwhelming presence at their rears. The substantial tree canopies shown in the photomontage location 1 would not apply in the vast majority of cases to properties along this stretch of road, whilst the lower scrub vegetation would offer very little in terms of meaningful visual mitigation or screening.
13. Nor, for the reasons set out, would the visual harm just be limited to the residential areas to the north and east of the installation. Although the area of land in which it would be sited is described as consisting of scrub vegetation, it nevertheless holds a particular place in the affections of local residents as a green haven, providing a network of short and informal paths. The proposal would be an incongruous, overpowering and overtly industrial feature within what is a pleasant and verdant buffer between and amongst residential areas and main public transport arteries.
14. Policy DM7.11 of the North Tyneside Local Plan (LP) sets out the Council's support for the development and extension of telecommunications services. This support is subject to a number of factors. Amongst other factors, the siting and appearance of the proposed apparatus and associated structures should seek to minimise impacts on visual amenity and must respect the character or appearance of the surrounding area. For the reasons I have set out above, the appeal proposal fails to satisfactorily demonstrate that it would do so and is therefore contrary to LP policy DM7.11.
15. I have considered LP policy DM7.11's supportive stance towards telecommunications installations. The proposal is intended to provide enhanced 'in-train' connectivity for users of the ECML, in addition to which connectivity would also be enhanced for mobile telecommunications users in the surrounding area. The Framework sets out the Government's support for advanced, high quality and reliable communications infrastructure and that it is essential for economic growth and social well-being. In times of recent lockdown, travel restrictions and greater dependency on such infrastructure in terms of homeworking, these are factors to which I give substantial weight.
16. The Council has not directly disputed the appellant's conclusions regarding alternative but discounted sites as a means to improve coverage to the ECML and surrounding areas. The proposed tower is described as being the necessary height and method of construction to accommodate multiple operators and to ensure that the coverage provided from it would not be compromised by external factors such as trees and buildings. The lattice tower, it is stated, would be a 'light' structure with views possible through its structure to soften

views and reduce its impact on the surrounding area. However, it would be unduly jarring in a residential context and at odds with the verdant character of the 'triangle' and the harm that I have identified in terms of the proposal's effect on character and appearance, and also that of the adjacent Conservation Area, would be significant.

Designated open space, trees and habitat

17. The creation of the fenced enclosure would require the removal of a small number of trees in the context of the wider 'triangle' area, and the clearance of ground level vegetation. Although essentially scrubby in nature, there is broad agreement that it provides a range of habitats which are likely to support a range of species. The appeal site does not however exist in isolation. Rather, it is currently an undefined part of a wider area of designated open space described locally as the 'Benton triangle' located within a designated wildlife corridor through which a number of informal paths wind.
18. In terms of the appeal site's value to the wider designated open space, the compound's positioning in a central area within the 'triangle' away from its perimeter would be visually disruptive and would, in part at least, sever the continuity of the wildlife corridor and erode the integrity of the area as designated open space. Although it is noted by the appellant that the appeal site would not compromise the network of informal paths through the area, those paths and the use of the land as a local resource are, essentially, informal, notwithstanding any questions over the access status thereto. As seasons change and vegetation varies however, existing informal paths may become overgrown and new ones sought out.
19. The use of the now largely overgrown former track-bed to access the site and the creation of a linking track and area to the front of the compound, would be likely to compound the limited local harm arising from the appeal proposal, as identified by the EIAB. However, I have confined my consideration of this matter to the limited local harm likely to arise from the appeal proposal itself.
20. Given the appeal site's relatively compact 12m by 12m site area, the extent of habitat lost would be limited, and I am also mindful of the description of the open space as being 'low quality and low value'¹. With the mitigation measures and landscape planting proposals set out in the EIAB the proposal would provide adequate mitigation for the loss of habitat directly arising from the appeal proposal. Thus, with a suitably worded planning condition to ensure compliance with the mitigation measures and conclusions of the EIAB, there would be no conflict with the overall aims and provisions of LP policies DM5.2, DM5.5, DM5.7 or DM5.9, or DM7.11 with particular regard to criterion (d).

Other Matters

21. Paragraph 115 of the Framework recognises the importance of advanced, high quality and reliable communications infrastructure as being essential for economic growth and social well-being. I am also mindful that this paragraph goes on to express support for the expansion of electronic communications networks, including next generation technology (such as 5G). Reference is also made to the support for communications infrastructure set out in various forms by the Department for Digital, Culture, Media and Sport and Ministry for

¹ The Council's Green Space Strategy as cited at paragraph 5.49 of the appellant's Statement of Case

Housing and Local Government [sic], Department for Digital, Culture, Media and Sport and Mobile UK and summarised in the appellant's Statement of Case².

22. It is stated that the proposal would enhance connectivity and eliminate 'not spots' for travellers on the ECML, for which LNER as an operator of train services along the ECML endorses the proposal, as well as providing enhanced telecommunications coverage across the surrounding area. The Council do not dispute that the proposal would achieve both, or that there are no other preferable sites to that identified as the appeal site.
23. The importance of, and reliance upon, mobile communications has been highlighted during various stages of lockdown during the Covid-19 pandemic. It is equally clear that that importance of such technology is a key element of recovery from the pandemic and embracing changing ways of working. The appellant has referred me to examples of recent appeal decisions³ for telecommunications proposal which also consider this matter. I do not underestimate the significance of these factors, or the substantial weight that I give to them in considering the matter before me, albeit that the examples referred to are not necessarily directly comparable to the appeal proposal in terms of height or setting.

Conclusion

24. Whilst enhanced and improved mobile coverage for travellers on the ECML is a matter to which I give weight in support of the proposal, the benefits provided by the proposal would be transient as users travel past the site. The visual harm and harm to the character and appearance of the surrounding area identified above would be significant and long-standing, and those experiencing that harm would not have the benefit of transiting past it quickly as those on the ECML would.
25. I acknowledge that the existing, and in some cases substantial trees, and existing buildings would provide some mitigation in visual terms, from surrounding streets, but this would only be from particular, static locations. The tower and antennae would be viewed dynamically and mostly within a residential context. From both distant and closer viewpoints, the tower's height and construction would be an unduly dominant, incongruous and industrial presence within a pleasant residential setting. When viewed in the context of the more verdant setting of the 'triangle' it would be equally incongruous and invasive.
26. Whilst attaching significant weight to the economic and social benefits of the proposal, I conclude that these, and all other considerations cited in support of the proposal would not clearly outweigh the substantial harm the development would cause to the character and appearance of the surrounding area, which includes the nearby Benton Conservation Area. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR

² As summarised in the appellant's Statement of Case – section 5

³ APP/A1910/C/20/3256772 & APP/A1910/C/20/3256773