



Appeal Decision

Site visit made on 18 January 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 15th February 2022

Appeal Ref: APP/Z4310/W/21/3280685

Riverside Drive, Aigburth, Liverpool L17 5BD

- 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 & Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
 - The appeal is made by Hutchison UK Ltd against the decision of Liverpool City Council.
 - The application Ref 21PT/1447, dated 7 May 2021, was refused by notice dated 6 July 2021.
 - The development proposed is described as 'Proposed 18.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The name of the applicant is given as Hutchison UK Ltd in the original planning application forms, but the appellant's details are specified as Hutchinson 3UK in the submitted appeal forms. Nonetheless, it has been confirmed in writing that the appellant is Hutchison UK Ltd and I have used this name in my decision.
3. The provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The Council has referred to a number of development plan policies in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. As such I have had regard to the policies of the development plan and The National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area, including its effect on nearby trees.

Reasons

6. The appeal site comprises an area of a grassed verge on a corner location next to the junction of Riverside Drive and Bempton Road. Bempton Road is

residential in character, comprising a mixture of bungalows and two storey detached properties. However, the appeal site adjoins a grassed area of public open space and there is a similar area of landscaped open space on the opposite side of the Riverside Drive highway.

7. Street furniture is common along Riverside Drive and there is a regular pattern of lighting columns to either side of the road, which due to its relatively straight alignment, are visible for some distance in either direction. A backdrop of tall mature trees and hedgerows screen views of the areas of open space from this highway.
8. The proposed site plan shows that the slimline monopole, which would be approximately 18 metres high, and equipment cabinets would be positioned at the back edge of the verge and next to a streetlight and telegraph pole.
9. The appellant has emphasised that the siting and height of the proposed mast arises from technical and operational requirements, and that the proposed design is the only version available for deploying 5G technologies and to clear the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines. It also states that the proposed location benefits from being pulled away, as far as possible, from amenities such as pedestrian crossings and cycle lanes so as to prevent any negative impact upon the surrounding area.
10. The siting, appearance and number of associated equipment cabinets have not been questioned by the Council in its delegated officer report. The appellant considers these to be within the size limits to be classified as permitted development. However, I am not convinced that there is a greater than theoretical possibility that the installation of the cabinets on their own may occur. In any case, the proposal before me relates to the whole installation, and I have therefore considered the effect of all of the proposed equipment on the character and appearance of the area. In this regard, I acknowledge that the cabinets are proposed to be coloured dark green and would be sufficiently camouflaged by the natural vegetation. Accordingly, I have no reason to question the Council's lack of objection in this regard.
11. The Council also accept that although the proposed monopole would be taller, at approximately 18 metres in height, than other vertical street furniture, the presence of the mature trees would lessen the visual impact of the proposal when viewed along Riverside Drive. I share this view and consider that whilst being visible from some vantage points, the backdrop of tall trees would provide effective mitigation, filtering and screening the proposed monopole from the majority of views.
12. Nonetheless, I have little substantive evidence before me, including any professional arboricultural advice, to sufficiently demonstrate that these trees would be adequately protected during or after the construction of the development. The appellant argues that the proposal is sited a sufficient distance away from the canopies and bowels of the trees to avoid damage to their long-term health. It has also been put forward that they have installed numerous such infrastructures within close proximity to trees and have not experienced any negative impact upon the trees and surrounding features. However, in the absence of any compelling evidence to the contrary I am unable to be certain that the proposed installation would not harm the future health of these trees.

13. Without such camouflage and mitigation, the proposal would stand out as a visible, prominent and discordant feature from certain viewpoints along Riverside Drive, and from closer quarters on Bempton Road. As a consequence, it would cause substantial harm to the character and appearance of the area.
14. In so far as they are a material consideration, the proposal would therefore be contrary to Saved Policies HD22 and HD27 of The City of Liverpool Unitary Development Plan (2002). Amongst other matters, these require new development layouts to provide adequate spacing between trees, taking into account the existing and potential size of trees and their impact both above and below ground level. Proposals for masts and other structures are also required to have regard to the visual impact on the built and natural environment and to ensure attractive residential neighbourhoods across the city.
15. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G. As such I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure and 'levelling up' digital connectivity. In this case, there is no dispute that the equipment is needed to provide a 5G network and to infill coverage and capacity, and future projected increases in demand for this part of Liverpool. Nor is there any contention of the substantial benefits to mobile connectivity and the network (access and speed) to a multitude of users, device, services and sectors, which would improve things such as health and wellbeing. These public benefits, weigh in favour of the proposal.
16. The appellant argues that the 5G installation is required to ensure that it can facilitate 'multiple sharers' and remove the need for any future additional telecommunications masts in this location at a future date. Nonetheless, the Framework requires the number of masts and the sites for such to be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. It states that the use of existing masts, buildings and other structures is encouraged. 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 has submitted a list of alternative sites investigated, including along other parts of Riverside Drive, Bempton Road, Aigburth Road and St Michael's Road which have all been discounted. The Council has not questioned these but considers that there may be nearby roof top installations in the area which would be preferable in terms of visual impact.
18. On my site visit I saw that most development within the immediate area is of relatively low density and height. As such, it is understandable that an appropriate siting on an existing building has not been identified. Nonetheless, there is no evidence to substantiate the appellant's claim that opportunities for site sharing have been investigated and exhausted. Furthermore, I have recently allowed an appeal (Ref: APP/Z4310/W/21/3282207) for a 15 metre

high monopole and equipment, to provide 5G, within a mile of the appeal site, further along Riverside Drive. As I do not know the limits of the search area, I am therefore not in a position to fully review the appellant's conclusion on this matter or be satisfied that there is still a coverage gap in this part of Liverpool, or that less harmful alternative sites are not available.

19. As a result, it has not been demonstrated that the public benefits outlined above could not be achieved elsewhere, which would be preferable in respect of siting and appearance. In this instance the public benefits associated with the proposal therefore carry limited weight.

Other Matters

20. It has been put forward that the appellant submitted a pre-application enquiry for this scheme and that no responses were received from the Council or Ward Councillors. The appellant contends that the site has been selected in a location as feasibly distant as possible from houses and lines of sight from windows to minimise any encroachment on residential amenity. I have also been made aware that it would not be on Article 2 (3) land or in close proximity to any listed buildings and that no statutory consultees objected to the proposal, including landscape experts, during the planning application and pre-consultation stage. However, these matters did not appear to be contentious in the appeal and the absence of harm in these respects, would be neutral factors, that do not weigh in favour of the proposal.

Conclusion

21. Having regard to all relevant considerations, including national planning policy and the potential availability of alternative sites, I do not consider that the benefits of the installation in terms of the enhancement of the telecommunications network, including the possible sharing capabilities of the structure, its contribution to economic growth, well-being and the operational and locational needs of the operators outweigh the harm that would arise to the character and appearance of the area, including nearby trees. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR