



Appeal Decision

Site visit made on 22 February 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Appeal Ref: APP/Z4310/W/21/3283240
A561, Grassendale, Liverpool L19 0NQ

- 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 CK Hutchinson Networks (UK) Ltd against the decision of Liverpool City Council.
 - The application Ref 21PT/1672, dated 18 June 2021, was refused by notice dated 31 August 2021.
 - The development proposed is 20m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of the scheme at application stage, the Liverpool Local Plan has been formally adopted. At the time of decision, it had gone through full consultation and was awaiting formal adoption and the forthcoming policies were identified in the Reasons for Refusal and the parties made comment on those policies.

Main Issues

3. The main issues in this appeal are:-
 - The effect of the development on air traffic control radar at Liverpool John Lennon Airport.
 - The effect of the development on heritage assets, namely the Conservation Area and a Grade II Listed church.
 - That alternative sites for the proposal have been fully explored.
 - The effect of the development on trees.

Reasons

Air traffic control radar

4. Liverpool John Lennon Airport has raised a holding objection due to the potential for the works to interfere with radar installation and its safe operation. The request was for an assessment of protection thresholds, given the proximity to the airport. I find that it is not an unusual or unreasonable

request in order to confirm that works would not cause issues. No assessment has been carried out, just a comment that the frequency block used would not affect the radar at the airport.

5. I find that without the assessment to satisfy the consultee, I cannot be convinced that protection thresholds are not breached, and radar safety is not compromised in any form. As a result, I find that the appeal proposals are contrary to Policy STP5 of the Liverpool Local Plan (the LLP) and Paragraph 116 of the National Planning Policy Framework (the Framework) which collectively, amongst other matters, expects development to not cause significant interference with air traffic services.

Heritage assets

6. For development which affects a listed building or its setting, Section 66(1) of the (Listed Buildings and Conservation Areas) Act 1990 (the Act), requires a decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
7. St. Mary's Church is a Grade II Listed Building, and the proposal would be seen within the context of the Church. The proximity of the mast would form a competing feature when seen against the spire of the Church, especially from users of the highway. The spire overarches anything in the locality, and it would be seen as a local focal point. The mature trees on St. Mary's Road would not provide sufficient mitigation, especially in winter months when less coverage would be provided.
8. For these reasons, I find that the siting and appearance of the appeal proposal would detrimentally impact and unacceptably harm the setting of the Grade II Listed St. Mary's Church, the desirability and preservation of which the Act requires that special regard be given.
9. With regard to the effect on the Conservation Area, I find that the intervening buildings would mitigate to a fair degree, and glimpsed views between properties on Salisbury Road would be at best, a neutral effect on the Conservation Area. Nonetheless, there is still impact on the setting of the Listed Building.
10. In the context of the Framework, the extent of overall harm of the proposal would be less than substantial given the nature of the development and the intervening distance. Paragraph 202 of the Framework advises that such harm should be weighed against the public benefits of the proposals, to which I shall return later.

Alternative sites

11. There is a balance to be struck and consideration should be given to the need for the installation to be sited as proposed, taking into account any suitable alternatives. The proposal seeks to provide an installation to facilitate digital communications in the local area. An installation is needed to "offload" the congested sector in the locality cell area from suffering from under provision of the digital service it is expected to have. The proposal would be a standalone facility as other sharing options appear to have been exhausted.

12. Paragraph 117 of the Framework expects that an application for a new mast is supported with evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored. The appellant has suggested that the cell search area is extremely constrained, and the appeal site and design of the proposal represents the optimum environmental solution.
13. However, the level of detail of each alternative site and the subsequent reasons for discounting them is considerably lacking and there is little in the way of information to suggest that rooftop sites have been looked at, and if so, why discounted. I note that some sites have been explored however the reasons why they have been discounted are weak. I am not therefore satisfied that a thorough search for a site that is less harmful than the appeal site has been carried out.
14. Accordingly, as stated above, the siting and appearance of the proposal would cause harm to St. Mary's Church as it would be an unduly prominent and incongruous feature seen in the context of the Listed Building. Insofar as it is a material consideration, the proposal would be contrary to the aim for high quality design in Policy STP5 of the LLP and the Framework's objective of achieving well designed places and appropriate evidence supplied. I am not persuaded that this harm is outweighed by the need for the installation to be sited as proposed, having regard to the potential availability of alternative sites.

Trees

15. There are a number of trees of various stages of maturity in the immediate locality that could be affected by the proposals. In this instance it would be normal practice to provide an arboricultural report that would address any potential long-term health impacts on the trees for such issues as depth of excavation and canopy management.
16. In this instance no such report has been produced, and as such I cannot be convinced that the health and welfare of the established trees has been fully taken into consideration for the siting of the mast and equipment.
17. As a result, I find the proposals contrary to Policy GI9 of the LLP and Paragraph 117 of the Framework, which collectively expect development to address the impact on trees with an arboricultural impact assessment which deals with site layouts appropriately.

Planning Balance and Conclusion

18. I have found that the proposal would harm the character and appearance of the local area and would cause less than substantial harm to the significance of a designated heritage asset. Nevertheless, and alongside the stance of Paragraph 202, Paragraph 115 of the Framework recognises the need for telecommunications equipment to be sympathetically designed and camouflaged where appropriate.
19. The appellant has pointed to a lack of alternative available sites because of the area that the proposed mast would serve. The information that I have in this regard is of a limited nature, especially as to whether alternative locations would be as prominent or would have similar impacts on designated heritage assets. The Framework states that applications for electronic communications development should be supported by the necessary evidence to justify the

- proposed development. In this case, such evidence is lacking as regards alternative sites.
20. Even if I were to accept the appellant's claim that there are no other suitable sites in the area, I am not satisfied that appropriate consideration has been given to minimising the visual impact of the installation in relation to the local area, trees and the setting of a nearby Listed Building specifically. Heritage assets are an irreplaceable resource and as per the Framework great weight should be given to their conservation. Therefore, although the Government aims to facilitate the growth of new telecommunication systems, it also places great emphasis on protecting areas and buildings of architectural or historic importance.
21. There is a clear need for the rollout of the 5G network. Given the ongoing pandemic the need for suitable telecommunications infrastructure to accommodate home working has become very apparent in many people's lives and this carries positive weight in favour of the proposal.
22. The Framework is clear in paragraph 114 that the provision of high-quality communications infrastructure is essential for economic growth and social wellbeing. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported. The proposal would facilitate 5G coverage and I have had regard to the public benefits of this technology to local residents, visitors and businesses in the area. Cumulatively, these factors and public benefits weigh in the scheme's favour.
23. While I agree in general that consistency in decision making is important, it does not follow that this proposal should be approved on this basis. Accordingly, I have determined the appeal scheme on its own merits, having regard to its own individual context.
24. Having regard to all of the above, the weight that I attach to the public benefits and other factors in favour of the proposal would not be sufficient in this case to outweigh harm to the character and appearance of the area and the less than substantial harm that would be caused to the designated heritage asset as a result of the siting and appearance of the development. The appeal should therefore be dismissed.

Paul Cooper

INSPECTOR