



Appeal Decision

Site visit made on 8 March 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2022

Appeal Ref: APP/R1038/W/21/3285893

Market Street, Holmgate, Clay Cross, Clay Cross S45 9NB

- 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 C K Hutchinson Networks (UK) Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 21/00935/TCN56, dated 18 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is a 15.0m Phase 8 Monopole, cabinet and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The principle of development is established by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of the GPDO require the local planning authority to assess the proposed development solely based on its siting and appearance, taking account of any representations received. I have determined the appeal on the same basis. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have nevertheless had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.
3. The description of the development proposed in the banner heading is taken from the Council's decision notice and the appeal form. The revised description was agreed by the main parties on the basis of amended plans submitted prior to the determination of the application. I have also based my decision on these amended plans.
4. The Council's decision refers to the North East Derbyshire Local Plan 2005 and the North East Derbyshire Local Plan 2014 – 2034 Publication Draft. These have been superseded by the adopted version of the North East Derbyshire Local Plan 2014 – 2034 (the Local Plan). The Council's officer report referred to the Local Plan as emerging at the time. The Council referred solely to the Local Plan in its statement, which the appellant has seen. I have referred to the Local Plan in my findings.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, including the Clay Cross Conservation Area, and whether any harm caused is outweighed by the need to site the proposal in this location.

Reasons

Effect on character and appearance and the Clay Cross Conservation Area

6. The appeal site is the rear part of the pavement on the west side of Market Street, situated between residential properties. To the immediate rear of the site is an open area of vacant land with a number of trees on its western boundary. A footpath runs along the northern boundary of the vacant land. The trees to the rear of the vacant land and along Market Street provide a verdant backcloth to views along the street near to the site.
7. Although there are dwellings, the Sharley Park Leisure Centre and the Clay Cross Hospital in the vicinity, these are of a relatively low height and are set back from the road to give an unassertive character. There are few vertical structures of any great height close to the site and those that are present are mainly slimmer, less bulky street lighting columns. The height and width of the mast has been reduced to the minimum necessary for its purpose. However, the mast would appear higher and wider than other street furniture and the trees present in close range along this stretch of Market Street.
8. With little in the way of other tall street furniture to soften the impact, the mast would be easily distinguishable from the surrounding street lighting columns. Even when the trees in the vicinity are in full leaf, the mast would still appear conspicuously tall. During the winter months, when the tree canopies would be reduced, the mast would stand out further. The approach to the site, in particular from the east, has a relatively pleasant open character and appearance, which would have the consequential effect of emphasising the proposed development.
9. The appellant states that the associated ancillary equipment cabinets are within the size limits to be classified as permitted development without prior approval. However, they are shown on the plans and within the specification and would not be required if it were not for the proposed mast. The cabinets and mast would create a degree of clutter that would contrast with the well-spaced street furniture visible in the context of the street corridor and the relatively open character of the immediate area.
10. Overall, although the appellant has sought to minimise the visual impact of the proposed development, it would nevertheless be an obtrusive feature in the street scene. There would therefore be harm to the character and appearance of the area.
11. The site is located close to, although outside of, the Clay Cross Conservation Area (the Conservation Area) which is a short distance away to the east and south. The Council's draft Character Statement¹ provides an analysis of the history and characteristics of the Conservation Area and a justification for its boundary. The Council has highlighted Area 3 which is the eastern part of the

¹ Clay Cross Character Statement Consultation Draft February 2010

Conservation Area and nearest to the site, and Area 4 which is its south eastern part, as defined in the draft Character Statement.

12. From the information submitted and from my own observations, the significance of the Conservation Area is derived in part from its history as a nineteenth century industrial town that developed rapidly following the discovery of good seams of coal and ironstone, the strong influence that George Stephenson had on its development and the range of architectural styles over that time frame. There is also value derived from the variation in architectural styles and the inter-relationship of the buildings with each other and the streets and spaces that they occupy.
13. Based on the submitted information and from what I observed, the contribution that the site makes to the understanding or appreciation of the significance of the Conservation Area is minimal, although the proposed development would be visible from some locations within the Conservation Area and in views into it, mainly from the east.
14. As a tall structure of functional and modern appearance, it would be at odds with the historic and traditional generally low-rise character and appearance of the Conservation Area. However, the built form of the Conservation Area as well as other buildings located just outside of the boundary, notably those associated with the leisure centre and hospital, are such that views of the mast from within the Conservation Area would be mainly limited to its top section and this would generally be against the sky, which would reduce its prominence.
15. This would also be the case in views with the Free Methodist Church which the draft Character Statement identifies as a landmark building on Market Street, the continuous eaves line of the terraced properties along the curved southern frontage of Market Street and from within the more open area to the south east associated with Clay Cross Hall and its grounds. Furthermore, the proposed development would not intrude into the principal or glimpsed views identified in the draft Character Statement.
16. The mast would be more prominent in views approaching the Conservation Area from the east in particular, where the full height of the mast and supporting infrastructure would be visible. The mast would project above the backdrop of the buildings within the Conservation Area, which are mainly the nearby detached houses and terraces which are noted in the description of the Conservation Area boundary in the draft Character Statement. Its height and the antennas at its topmost section would appear jarring in the context of the historic and domestic scale of these buildings.
17. Overall, the effect of the proposed development on the significance of the Conservation Area would be less than substantial. Nevertheless, less than substantial harm does not equate to a less than substantial planning consideration. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Balance and Conclusion

18. The National Planning Policy Framework (the Framework) states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The need for the new site is to improve digital wireless, mobile coverage within the area, with new equipment to facilitate 5G coverage. The proposed development would contribute towards the Framework's objective of supporting high quality communications infrastructure such as 5G, and this carries significant weight in its favour.
19. Framework paragraph 115 states that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. Framework paragraph 117 states that, for a new mast, evidence should be provided to demonstrate that the possibility of erecting antennas on an existing building, mast or other structure has been explored.
20. I appreciate that the appellant's cell search area is constrained. I also note that the site is not within a statutory designation and the appellant has sought to locate the proposed development as far away from residential properties, businesses and sensitive constrained areas as possible. However, whilst the appellant has considered a number of alternative options, this is not suitably robust, particularly with regards to the consideration of harm arising from the appeal scheme and therefore the assessment of the relative sensitivity of other sites.
21. The proposed development would cause harm to the character and appearance of the area and the Conservation Area. The colour of the mast and associated equipment would not provide adequate mitigation for this harm. Mindful of my concerns in respect of the assessment of the effects of the proposal and alternative sites, it has not been demonstrated that the public benefits of the proposal in this location are sufficient to outweigh that harm.
22. Accordingly, the proposed development would be contrary to Policies SS1, SS7 and SDC5 of the Local Plan, which require developments to protect and enhance the character, quality and setting of towns and villages and heritage assets; be appropriate in scale, design and location to the character and function of the settlement; and preserve or enhance the character or appearance of conservation areas and their setting, amongst other matters.
23. The proposed development would also conflict with the Framework with regards to its aims for conserving and enhancing the historic environment as well as achieving well-designed places. There would also be some conflict with the Framework objectives for high quality communications, as summarised above.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR