



Appeal Decision

Site visit made on 26 April 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/X3025/W/21/3285888

New England Way, Pleasley Hill, Mansfield NG19 7RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Hutchison Networks (UK) Ltd against the decision of Mansfield District Council.
 - The application Ref 2021/0561/PNSCM, dated 11 July 2021, was refused by notice dated 27 September 2021.
 - The development proposed is a 20.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require an assessment of the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
3. While quoted by the appellant in their appeal statement and the Council in the reasons for refusal, the relevant provisions of the GPDO do not require regard to be had to the development plan. I have had regard to these policies only in so far as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.
4. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, the principle of the development proposed is acceptable.
5. The appellant's statement of case makes several references to a mast height of 15m. However, the description of development in both the planning application form and decision notice details the mast to be of a total height of 20m. This

aligns with the submitted drawings which also show the mast at a height of 20m. I have proceeded on this basis.

Main Issues

6. The main issues are the effects of the siting and appearance of the mast on the character and appearance of the area and on the living conditions of occupiers of nearby dwellings.

Reasons

Character and Appearance

7. The appeal site is a section of a grass verge located behind a footpath which lines New England Way. A residential care home, Magnolia House, is located behind the verge. The immediate area is predominantly residential in use.
8. The submitted drawings show the height of the mast would be considerably taller than nearby dwellings and street furniture such as streetlights. While I appreciate that the proposed mast must be taller than other objects and obstructions in the vicinity in order to operate efficiently, the large size and utilitarian appearance of the proposed equipment would appear out of scale and overly prominent within its immediate residential setting, despite not being located on Article 2(3) land.
9. I therefore conclude that the siting and appearance of the development would have a harmful visual effect on the character and appearance of the local area. Insofar as they are relevant to matters of character and appearance, I have also had regard to Policies P2 and IN11 of the Mansfield District Local Plan (LP) (adopted September 2020). The proposal would conflict with the requirements of these policies which state that, among other things, telecommunications development proposals will be permitted where there is no significant impact on the character or appearance of the space in which the equipment is located, including not contributing to street clutter.

Living Conditions

10. The mast would be sited close to a number of residential properties on New England Way and immediately outside Magnolia House. Although there is tree coverage between the mast location and the care home, from my observations on the site visit the mast would be clearly visible from several windows of the property. As such, the height and scale of the mast would be a stark and imposing structure in views from these windows. This would significantly reduce outlook and harm the living conditions of the affected residents.
11. For the above reasons, I find the scale and siting of the mast would cause a significant adverse impact on the living conditions of the occupiers of Magnolia House through poor outlook. Insofar as it is relevant, I have had regard to Policy P7 of the LP, which seeks to ensure proposals for development will be designed and constructed to avoid and minimise impacts on the amenity of both existing and future users, alone and in combination, within the development and close to it.

Other Matters

12. There is clear need for, and importance of, the rollout of the 5G network. The Framework is clear in paragraph 114 that the provision of high-quality communications infrastructure is essential for economic growth and social well-being. 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 and businesses in the area. Cumulatively, these factors and public benefits weigh in the scheme's favour.
13. I have also taken into account that the scale of the mast. The proposed monopole is said by the appellant to be the minimum size possible to accommodate multiple-generation technologies, which cannot be placed on existing masts due to transmission issues. I acknowledge that telecommunications equipment is now a common feature of the built environment and that the appellant is agreeable to a condition to control the colour of the equipment. However, I have found that the proposal would harm the character and appearance of the local area and the living conditions of occupiers of nearby dwellings by reducing their outlook. These factors carry substantial weight against the scheme.
14. Moreover, the information that I have with regards to alternative sites is of a limited nature, especially as to whether alternative locations would be as prominent, harmful to the visual amenity of the area or whether it would have similar impacts on the living conditions of nearby residents. Nevertheless, the Framework states in paragraph 117 that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. Such evidence is lacking as it pertains to alternative sites, contrary to the Framework.
15. Although it is asserted the cabinets do not require planning permission for their installation, I have assessed the proposal as it is presented to me and to my knowledge a Certificate of Lawfulness has not been applied for. Moreover, it would appear unlikely cabinets would be installed without a mast. As such I attribute this fallback position limited weight.
16. I have had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, which was not forthcoming. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits. Accordingly, neither that, nor any other matter is sufficient to outweigh the harm that would result.

Conclusion

17. For the foregoing reasons, and having taken account of all relevant material considerations, I conclude that the appeal should be dismissed

C McDonagh

INSPECTOR