



Appeal Decision

Site visit made on 28 June 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/R3705/W/22/3290953

Watling Street, Dordon CP, Warwickshire B78 1TE

- 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 North Warwickshire Borough Council.
 - The application Ref PAP/2021/0628, dated 5 November 2021, was refused by notice dated 5 January 2022.
 - The development proposed is a 16.0m 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 provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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.
3. 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 a whole. I have 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.
4. The appellant considers that the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site without prior approval. However, it is reasonable to assume that these would only be constructed as part of the proposed works as they are intrinsically connected to the functioning of the proposed mast. They would not be built if the mast were not built, and equally the mast would not be built without the ground level works. I have therefore considered the cumulative effects of the proposed mast and ground level works.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, the effect on highway and pedestrian

safety, and, if any harm is identified, whether it would be outweighed by the need for the installation and the lack of less harmful alternative sites.

Reasons

Character and Appearance

6. The appeal site is part of the grass verge adjacent to the footpath on the northern side of the A5 Watling Street, a busy section of dual carriageway that forms part of the Strategic Road Network. The highway verge is not particularly wide and encompasses a footpath, grass verges, streetlighting and trees. Despite its location next to a major highway the site is located within a predominately residential area, with a mixture of detached and semi-detached dwellings located on both the northern and southern side of Watling Street.
7. Whilst there are vertical features including telegraph poles and streetlights in the vicinity of the appeal site, these are slimline in design and stand at around 10 metres in height. The proposed monopole would be significantly taller, bulkier and more prominent than these existing features. When combined with the associated equipment cabinets, the proposed development would therefore appear visually intrusive and at odds with the prevailing size and scale of existing street furniture and would detract from the street scene.
8. The appeal site is located against a backdrop of existing trees which runs along the boundary line to the north of the site. However, whilst this would provide an element of screening, their effect would be limited due to the overall height of the proposed monopole which would project above the top of trees. Furthermore, the trees would provide no meaningful screening of the proposal in views from the south or when approaching along Watling Street from the east. As a result, the proposed monopole and associated cabinets would be unduly visible and prominent and appear incongruous and obtrusive features within the street scene.
9. The proposed colour of the mast would be grey which would broadly align with the colour of the nearby street furniture. The appellant has indicated a willingness to alter the colour of the equipment to help the development integrate into the area if deemed necessary. However, its colour would not alter the fundamental issue of its scale, height and siting.
10. Accordingly, having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area. In so far as they are a material consideration, the proposal would be contrary to Policy LP30 of the North Warwickshire Local Plan 2021 (NWLP). This policy, amongst other matters, seeks to ensure that developments respect and reflect the character and appearance of the area and harmonise with both the immediate setting and wider surroundings.

Highway and Pedestrian Safety

11. The Council's reasons for refusal also referred to the potential impact of the proposed mast on highway safety, and in particular the consultation response from National Highways concerning the site's location within the Strategic Road Network (SRN) boundary and topple zone of the A5 carriageway. The site's location within the SRN and topple zone means that, in addition to obtaining planning approval, the appellant is also required to obtain approval from National Highways through the Telecoms Mast Registration Procedure.

12. Whilst the evidence available to me suggests that such approval has not yet been obtained, National Highways did not recommend that the application was refused. They instead requested that the application was not determined for a period of two months to give the appellant sufficient time to obtain the necessary approval. This indicates that National Highways were not materially concerned about the likelihood of the appellant obtaining the necessary approval in due course, nor that the proposal itself would result in any specific highway safety concerns. Accordingly, I see no reason why the approval from National Highways could not be achieved prior to the commencement of works on site.
13. As detailed above the highway verge in this location is not particularly wide, with the footpath being particularly narrow. The proposed monopole and cabinets however would be situated on a grass verge to the rear and would not impede on the footpath or the grassed area between the footpath and the dual carriageway. Therefore, on a day-to-day basis the proposal would not have an adverse impact on the free flow of highway or pedestrian users. I also note that the Local Highway Authority raised no objection to the proposal.
14. The proposed monopole and cabinets would of course first have to be erected, with the appellant advising that subsequently around two maintenance visits per year would be necessary. These activities would result in various vehicles and personnel requiring access to the site which is located adjacent to a very busy stretch of dual carriageway. I acknowledge that it may be possible for these vehicles to park safely a short distance away and therefore not block the highway itself, however given the narrowness of the highway verge it is highly probable that whilst work was taking place the footpath would be inaccessible for pedestrians or cyclists.
15. It is possible therefore that for a very limited number of days per year the footpath running immediately past the appeal site might be obstructed. I note however that there is also the provision of a footpath on the opposite side of the A5 Watling Street which could be used in such circumstances. This footpath can be safely reached via a footbridge a short distance to the east of the appeal site, or via a pedestrian crossing with traffic lights to the west of the appeal site adjacent to the industrial estate. Therefore, whilst the closing of the footpath may result in some inconvenience for pedestrians and other users, there would be suitable alternative options available during these periods.
16. Accordingly, the siting and appearance of the proposal would not have an unacceptable effect on highway and pedestrian safety. In so far as it is a material consideration, the proposal would accord with Policy LP29 of the NWLP which, amongst other matters, seeks to ensure that developments provide safe and secure access for all users.

Alternative sites

17. For a new mast or base station paragraph 117 c) of the National Planning Policy Framework (the Framework) requires the developer to submit evidence that they have explored the possibility of erecting antennas on an existing building, mast or other structure. According to the appellant the cell search area covers a densely packed residential area, with no scope to put the mast outside of the extremely constrained cell radius, and that the proposed location is the only viable option. The appellant has considered and discounted fourteen other sites, which are listed and described.

18. I recognise that the 5G cell search area is constrained, however all the discounted options appear to be located at street level. There is limited evidence before me that indicates that existing buildings within the locality have been investigated and the reasons for this. Although I acknowledge that the immediately surrounding buildings are residential, an industrial site containing a number of tall buildings is located within the cell search area, as shown at Figure 5 Area Coverage Map of the Appellant's Statement of Case, a short distance to the south-west of the appeal site.
19. Furthermore, the level of detail for the discounted options is somewhat limited and there is a lack of a detailed justification for each discounted site. A number of these sites have been discounted due to them 'overlooking residential properties'. However, as detailed above the appeal site itself is close to residential properties but the appellant does not advise why the alternative sites would be more harmful than the appeal site in this regard.
20. I am therefore not satisfied that a thorough review of possible site options within the cell search area has been conducted, and that the level of detail for those sites which were explored and discounted is somewhat vague and without robust justification.
21. As a result, the harm I have identified to the character and appearance of the area is not outweighed by the needs for the installation to be sited in the proposed location.

Other Matters

22. The appellant refers to pre-application consultation with the Council and Ward Councillors, which resulted in the Council responding with a query concerning the sequential approach. The appellant duly responded to this query however the application was still refused. Whilst I can sympathise with the appellant's position it does not alter my findings with regard to the siting and appearance and the resultant harm to the character and appearance of the area.
23. In order to meet health safeguards, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Planning Balance and Conclusion

24. Paragraph 114 of the Framework supports the expansion of electronic communications networks, including next generation mobile technology. There would be social and economic benefits from the proposal in these regards, which would facilitate the provision of 5G communications, which would help the delivery of economic growth, as well as enhancing local facilities and services via better connectivity and communication. I attribute moderate positive weight to these benefits.
25. Although I have found that the proposal would be acceptable in terms of highway and pedestrian safety, it would have a harmful effect upon the character and appearance of the area, to which I attribute significant weight.

The harm I have identified is not outweighed by the benefits of the scheme or the need for the installation to be sited as proposed.

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

David Jones

INSPECTOR