



Appeal Decision

Site visit made on 1 April 2022

Decision by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/N4025/W/21/3285272

Church Street, Horwich, Bolton BL6 6AB

- 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 GPDO).
 - The appeal is made by MBNL against the decision of Bolton Metropolitan Borough Council.
 - The application Ref PC/11948/21, dated 28 July 2021, was refused by notice dated 4 October 2021.
 - The development proposed is 20.0m High EE/H3G Phase 7 Streetworks Pole on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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.

Planning Policy

3. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are: the effect of the siting and appearance of the proposed installation on: the character and appearance of the surrounding area, with particular regard to whether it would preserve or enhance the setting of the Wallsuches Conservation Area and Horwich Town Centre Conservation Area; and the living conditions of occupiers of surrounding properties with regards to outlook.

Reasons

Character and appearance

5. The site comprises a section of footpath on the southern side of Church Street, in an area defined by a range of uses. A leisure centre and car sales are present nearby, with the adjacent footpath housing streetlights, road signs and a bus stop, which provide an immediate urban character. However, the site is also adjacent to two Conservation Areas (CA), being the Wallsuches CA and the Horwich Town Centre CA. Due to the predominant use of traditional materials and limited height of buildings these CAs appear to feature structures of a less modern appearance and construction which, in the vicinity of the appeal site, serve to dilute the surrounding urban feel.
6. The proposal would be sited alongside other street furniture, including vertical items such as streetlights. However, it would be of a considerably greater height than the surrounding development. While this height is necessary because of operational and technical requirements, the proposal would nonetheless tower above the nearby buildings, planting, signage and streetlights. As such, it would be a noticeably prominent addition that would both dominate the streetscene and contribute to a sense of clutter alongside other structures present. In this sense, it would appear unduly imposing, seeming out of place despite the surrounding urban character, and causing visual harm to the area.
7. In addition, while the proposal would be sited against a backdrop of commercial uses and alongside a busy highway it would also be adjacent to the CAs. Due to its scale and location, it would be particularly visible on the approach to, and in views from, the CAs. Here its form, and particularly its height, would be an incongruous feature in comparison to the more traditional style of development prevalent in these areas.
8. For these reasons, the proposal would be an intrusive feature. It would cause visual harm to the site itself and the contribution it makes to the surrounding character and appearance. As such, it would neither preserve or enhance the character or appearance of the adjacent CAs. However, its effect would be somewhat localised and the proposal would be situated outside of the CA boundaries, in an area of mixed uses. It would therefore cause 'less than substantial' harm. Nonetheless the Framework makes it clear that great weight should be given to the conservation of heritage assets.
9. Paragraph 202 of the Framework specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.
10. Paragraph 114 of the Framework makes it clear that planning decisions should support the expansion of electronic communications networks, including 5G. In this respect the appellant has demonstrated that the proposal would facilitate such expansion, addressing current insufficient capacity as well as generating other potential socio-economic benefits. The appellant has further demonstrated that the sequential approach for site selection has been followed in choosing the appeal site as the location for the proposal, which has been designed to be shared by multiple providers. These represent public benefits of the proposal.
11. However, although the Framework aims to facilitate the growth of new telecommunication systems, it also places great emphasis on protecting areas of identified special architectural or historic interest, such as the CAs. As such, while

acknowledging the above public benefits of the proposal, I consider that they would not be sufficient to outweigh the harm that the monopole would cause to the historic environment.

12. For the above reasons, I conclude the siting and appearance of the proposal would cause harm to the character and appearance of the surrounding area, and would fail to preserve or enhance the character or appearance of the Wallsuches CA and Horwich Town Centre CA. In so far as they are material considerations, the proposal would fail to comply with Policies CG3 and OA1 of Bolton's Core Strategy Development Plan Document adopted 2 March 2011, which seek to ensure good design and to preserve heritage assets.

Living Conditions

13. The Council has raised further concerns that, due to the distance from the appeal site to the nearest residential dwellings, the proposal would appear overbearing to nearby residents. No reference has been made to a specific property or group of dwellings in this regard.
14. I acknowledge that the proposal would represent a sizeable and prominent addition to the streetscene and that, due to the mixed use of the area, residential dwellings are situated within the vicinity. However, there would be no residential property immediately opposite, behind or beside the appeal site or with windows that would directly face the proposal. Rather, surrounding dwellings remain at a distance from the site.
15. Although some residents may experience a change in outlook when looking towards the appeal site, this would be at an angle and some distance from the proposal. Accordingly, the main outlook from these windows would remain largely unchanged such that the proposal would not appear overbearing so as to significantly reduce residents' enjoyment of the associated rooms.
16. For the above reasons, I conclude the siting and appearance of the proposal would not cause harm to the living conditions of residents of surrounding properties with regards to outlook. In so far as it is a material consideration, the proposal would comply with Policy CG4 of Bolton's Core Strategy Development Plan Document adopted 2 March 2011, which seeks to ensure adequate living conditions.

Other matters

17. The appellant has referred to a comparable form of development that has been approved by the Council in close proximity to the appeal site. However, limited evidence has been provided in this regard. Nonetheless, from the limited information provided the proposal is in a more cluttered part of the footpath, much closer to the Horwich Town Centre CA, and immediately adjacent to entrance points to both CAs. In any event, each appeal must be determined on its own merit and reference to development nearby, or indeed a general reference to development across the country, carries little weight.
18. In relation to potential effects on health, 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.

19. It is noted that the appellant is willing to condition the colour scheme of the proposal. However, The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it.

Conclusion

20. While I have concluded that the proposal would not cause harm to the living conditions of surrounding occupiers with regards to outlook, it would cause harm to the character and appearance of the surrounding area, and would fail to preserve or enhance the character or appearance of the Wallsuches CA and Horwich Town Centre CA. For the reasons given above the appeal should be dismissed.

C Rafferty

INSPECTOR