



Appeal Decision

Site visit made on 11 October 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/D4635/W/22/3298727

WVM20142 – New Street Streetworks, Junction of Vaughan Road and New Street, Willenhall WV13 3TB

- 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 Hutchison Networks (UK) Ltd against the decision of City of Wolverhampton Council.
 - The application Ref 21/01582/TEL, dated 12 November 2021, was refused by notice dated 23 December 2021.
 - The development proposed is the installation of an 18 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of an 18 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto at land at WVM20142 – New Street Streetworks, Junction of Vaughan Road and New Street, Willenhall WV13 3TB in accordance with the terms of the application Ref 21/01582/TEL, dated 12 November 2021, and the plans submitted with it including plan nos:
WVM20142_TBC_TBC_TBC_GA_REV_A (002 Site Location Plan),
WVM20142_TBC_TBC_TBC_GA_REV_A (100 Existing Site Plan),
WVM20142_TBC_TBC_TBC_GA_REV_A (150 Existing Site Elevation),
WVM20142_TBC_TBC_TBC_GA_REV_A (215 Proposed Site Plan),
WVM20142_TBC_TBC_TBC_GA_REV_A (265 Proposed Site Elevation)

Preliminary 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. 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.

4. The appellant has referred to paragraphs in the 2019 version of the Framework in their statement of case. The application for prior approval was made after the publication of the latest version of the Framework in July 2021 and I have determined the appeal on that basis.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the effect on the Royal Oak public house as a non-designated heritage asset, and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and Appearance

6. The appeal site is located adjacent to the Royal Oak public house. The site is an area of footpath located close to the junction of Vaughan Road and New Street. The surrounding area is predominantly residential consisting mainly of two-storey and single-storey dwellings.
7. The Royal Oak public house is locally listed as a non-designated heritage asset. Its significance relates, in part, to its architectural detail and tall brick chimney features, which make a positive contribution to the character and appearance of the surrounding area. The building occupies an open corner position which gives it a prominent and imposing character and appearance as an important local facility.
8. The proposed monopole mast would be sited to the rear of the footpath near to the boundary of the Royal Oak. Whilst the Royal Oak building and its tall chimney features would act as a backdrop, the proposal would be significantly taller than the building, extending higher than the chimney features.
9. The proposal would also be significantly taller than the residential dwellings within the immediate locality, thus appearing unduly visually prominent.
10. The surrounding area does have existing vertical features, such as the pub sign, street lighting, telegraph pole, and highway signs. However, these existing features are all of modest height. In contrast, the proposed mast with antenna headframe would give the proposal a considerably bulkier appearance and it would be noticeably taller than the existing street furniture.
11. The proposal would be less prominent from longer distance views due to the surrounding built form which would provide a degree of screening to the proposed cabinets and the lower sections of the monopole mast. Nevertheless, it would introduce a stark and incongruous feature within the street scene directly in front of the Royal Oak, which would harm its character and setting, particularly in views towards the Royal Oak.
12. The position of the proposed monopole and cabinets in close proximity to the highway on a prominent corner position would further contribute to the visual clutter and dominance of the proposal as perceived by residents, passing drivers and pedestrians.

13. Whilst the equipment could be finished in a colour appropriate to the location to soften its visual appearance, this would not mitigate the visual impact arising from the design, height and siting of the structure.
14. I acknowledge that the height of the column, at 18 metres, is the lowest possible height that would be required for the improved 5G service need identified in the area. Whilst this may be the case, it does not outweigh the harm I have found to the non-designated heritage asset and the character and appearance of the area.
15. For the above reasons, due to their siting and appearance the proposed mast and cabinets would be moderately harmful to the character and appearance of the area and to the character and setting of the Royal Oak public house as a non-designated heritage asset.
16. As such, the proposal would fail to accord with the design objectives of the Framework. In addition, the proposal would be contrary to Policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy (2011), and saved policies D4, D6, D7, D9, HE1, HE19 and EP20 of the Wolverhampton Unitary Development Plan 2001-2011 (2006) (UDP). Collectively, these policies amongst other things, seek to ensure development respects the site's context, local character and distinctiveness of the surrounding area, and does not have an adverse effect on heritage assets.

Need

17. The proposal would improve telecommunication services in line with the Government's aspiration to provide 5G coverage and would support the development and roll-out of 5G across the area. It would help to facilitate increased and robust, reliable, and efficient digital communications for the area that would benefit the needs of businesses and communities.
18. Paragraph 117 of the Framework explains that applications for telecommunications development, including prior approval, should be supported with the necessary evidence to justify the proposed development. This should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
19. I have had regard to the Site Specific Supplementary Information which details the reasons for discounting sites including that they would be too far from the target area, technical suitability, and the adverse effects on residential amenity. I also acknowledge the constrained cell area. Whilst a location within the Aldi supermarket car park was considered, this was ruled out due to it being located directly opposite single-storey residential dwellings. The findings are not disputed by the Council, and they have not suggested alternative locations. I also note that there have been no objections to the proposal from local residents. Consequently, there is no information before me to indicate that there are suitable alternative sites to provide the required coverage.
20. As such, the proposal would accord with the aims of the Framework, as set out above, which requires evidence to demonstrate that alternative sites have been explored.

Other Matters

21. 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). According to the Framework, it is not necessary to determine health safeguards where the proposal meets these guidelines.

Planning Balance

22. The Framework states that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and that new development should make a positive contribution to local character and distinctiveness. In terms of non-designated heritage assets, the Framework at paragraph 203 requires that a balanced judgement is made when assessing the application, having regard to the scale of any harm or loss and the significance of the heritage asset.
23. Although the proposal would cause harm to the non-designated heritage asset, in my view the level of harm would be less than substantial given the scale of the development. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, planning decisions should support the expansion of electronic communications networks.
24. Given the need for the installation, which weighs in favour of the proposal, a balance needs to be carried out against any harm identified. The proposal would provide economic and social well-being benefits as indicated by the appellant. Furthermore, the need for the installation to be sited as proposed and the absence of an alternative suitable site weigh in favour of the proposal.
25. On balance, I conclude that the public benefits provided by the improved network coverage and capacity for the local community and businesses would significantly outweigh the moderate harm caused by the siting and appearance of the proposed mast to the character and appearance of the area and the less than substantial harm to the significance of the non-designated heritage asset.

Conditions

26. Any planning permission granted for development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application. It must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
27. I have listed the submitted plans in my decision and Paragraphs A.3 of Schedule 2, Part 3 of the GPDO requires development to be carried out in accordance with the details submitted. This, therefore, meets the Council's requirement for a plans condition.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Helen Smith

INSPECTOR