



Appeal Decision

Site visit made on 1 November 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/Z4310/W/22/3299398

Land adjacent to Alder Road, Alder Road, Old Swan, Liverpool L12 2AY

- 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 Hutchison 3G UK Limited against the decision of Liverpool City Council.
 - The application Ref 21PT/3558, dated 2 December 2021, was refused by notice dated 25 January 2022.
 - The development proposed is the installation of a 15 metre high, monopole tower, associated radio-equipment cabinets and ancillary development.
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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 Council has referred in its decision notice and officer's report to Policies HD18, HD22 and HD27 of the Liverpool Unitary Development Plan (UDP) and Policies UD1, UD2, STP4, STP5 and GI9 of the emerging Liverpool Local Plan 2013-2033 (LLP). It also referred to the National Planning Policy Framework (the Framework). I am aware however that since the determination of the application, the LLP has been formally adopted on 26 January 2022, with its policies replacing those of the UDP.
4. However, 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. Nevertheless, I have had regard to the above-mentioned policies of the development plan in so far as they are relevant to matters of siting and appearance. The Framework is also a material consideration and includes a section on supporting high quality communications.

Main Issues

5. The main issues are:

- the effect of the siting and appearance of the proposal on (i) the character and appearance of the area, including nearby trees; (ii) the living conditions of nearby residential properties with particular regard to outlook; and
- if any harm is identified, whether it would be 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 forms part of the footpath on the northern side of Alder Road. Immediately to the north of the site is Alder Sports and Social Club bowling green, with the club house beyond. The surrounding area is otherwise predominantly residential in nature, including a row of large semi-detached dwellings opposite the appeal site on the southern side of Alder Road. Several mature trees are sited along the road which contribute to the softening of the surrounding built environment and give the area a verdant character.
7. Whilst there are vertical features nearby, including streetlights and telegraph poles 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. Particularly when combined with the associated equipment cabinets, the proposed development would appear an incongruous and dominant feature that would be at odds with the prevailing size and scale of existing street furniture.
8. Although there are several mature trees along the northern boundary of the footpath along Alder Road, the appeal site is located adjacent to a gap in the row of these larger mature trees resulting in there being very little screening of the proposed development in views from the north or south. Whilst the nearby trees would provide an element of screening of the proposal when travelling along Alder Road from the east and west, their effect would be limited due to the overall height of the proposed monopole which would project above the top of the trees. As a result, the proposed development would appear unduly visible and prominent within the street scene.
9. It is clear from both the submitted plans and my site visit that the proposed monopole and associated cabinets would be situated close to trees and their canopies. Though the monopole itself would be located further away from the more mature trees, the various associated cabinets would be located closer to the crown spread of more mature and significant trees. The appellant however has not submitted an Arboricultural Impact Assessment (AIA) or Arboricultural Method Statement (AMS) which would provide details as to whether the proposed installation would or would not be likely to have a detrimental impact on the long-term health of these trees.
10. It is unclear what, if any, arboricultural advice the Council obtained in determining the application and I note that the appellant has substantial experience of installing telecoms apparatus in close proximity to trees. Nevertheless, given the close proximity of trees to the appeal site, and in the

absence of an AIA, AMS or similar, I cannot be certain that the equipment could be installed without harming the long-term health of nearby trees. Harmful damage, disturbance or ensuing loss of these trees would erode the aesthetically pleasing influence they have on the street scene and the verdant character of the area. In turn, this would also be likely to create more open views of the proposed development and accentuate its prominence in the street scene.

11. Having regard to its siting and appearance, the proposed development would harm the character and appearance of the area. This would give rise to conflict with Policies STP4, UD1, UD2 and GI9 of the Liverpool Local Plan 2013-2033 (adopted January 2022) (LLP). These policies, among other matters, seek to ensure that developments make a positive contribution to the character and distinctiveness of its location. They also require that where developments are sited within 3m of the outer extent of the canopy spread of any tree, a tree survey, AIA and AMS must be submitted.
12. The Council also referred to Policy STP5 in its decision notice. This relates to securing developer contributions towards new infrastructure requirements or improvements to existing facilities. I consider that this policy is not determinative to the outcome of this appeal.

Living Conditions

13. The Council's submission refers to the proposed development being located very close to and visible from residential properties, and that it would appear as an oppressive and overbearing structure to the detriment of visual and residential amenity. The appellant affirms that the proposed monopole and associated cabinets have been located as far away from residential properties as is possible in an urban area.
14. During my site visit I noted that dwellings were located a short distance away on the southern side of Alder Road and had windows directly facing the proposal. Given the long straight nature of Alder Road and the lack of screening available when viewed from the south, the proposal would be visible from several dwellings along Alder Road. Despite being separated by highway, I consider that the proposed development would appear unacceptably imposing from nearby residential properties and cause harm to their outlook.
15. The proposed development would harm the living conditions of occupiers of nearby residential properties with regards to outlook and conflict with Policies STP4, UD1 and UD2 of the LLP. Amongst other things, these policies seek to ensure that new development affords good outlook for the occupiers of existing development.

Alternative Sites

16. For a new mast or base station paragraph 117 c) of 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. I note the appellant's argument that the cell search area is very constrained with options limited, and that the proposed location is the most viable option.
17. On behalf of the appellant, it has also been argued that there are no opportunities for mast or site sharing, and no suitable structures or buildings within the designated search area that could facilitate a rooftop or site share

installation. Very little information however has been provided detailing which existing structures or buildings were looked at, with most of the discounted sites appearing to be at ground level.

18. The level of detail for the discounted options is somewhat limited and there is a lack of justification for each discounted site. Some sites have been discounted due to 'potential visibility splay issues' and therefore highway safety 'may be compromised'. The use of the words 'potential' and 'may' would indicate that these sites have not been fully assessed and investigated, and therefore may not in fact be inappropriate. Another site has also been discounted due to its proximity to sensitive receptors including a hospital and housing development. As detailed above, the appeal site is also located near to several residential properties and would result in an unacceptable visual impact. There is no cogent evidence to demonstrate that the visual impact of siting the proposal on the discounted sites would result in equivalent or greater visual harm than developing the appeal site.
19. There are doubts in my mind concerning the appellant's review of possible site options within the cell search area. Moreover, the level of detail for those sites which the appellant explored and discounted is somewhat vague and without robust justification. As a result, the harm I have identified to the character and appearance of the area and to the living conditions (outlook) of some neighbouring residents would not be outweighed by the argument for installing the development on the appeal site.

Other Matters

20. 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.
21. A neighbour consultation response was received in support of the proposal, which included reference to how the proposed monopole would improve the existing service and signals within the locality. Whilst I acknowledge the benefits that improved coverage would bring to service users in the local area, these modest benefits would not outweigh the harm identified.

Planning Balance and Overall Conclusion

22. 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 weight to these benefits.
23. However, these benefits are outweighed by the harm I have identified above to the character and appearance of the area and the living conditions of occupiers of nearby residential properties, to which I attribute considerable weight. In

addition, the lack of a robust alternative site search has failed to demonstrate the need for the installation to be sited as proposed and that the benefits could not be achieved in a less harmful location.

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

David Jones

INSPECTOR