



Appeal Decision

Site visit made on 8 November 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/P4225/W/22/3300800

Land off Windermere Road, Opposite Bonscale Crescent, Middleton

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 21/01523/TELE, dated 15 October 2021, was refused by notice dated 14 December 2021.
 - The development proposed is installation of a 20m Orion streetpole in location as shown supporting 6no antennas and remote radio units underneath the antennas and 1no. 300mm dishes, the installation of a 1no. York and 1no. Shire cabinet with 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 account of any representations received. My determination of the appeal has been made on the same basis.
3. The principle of development is established by the GPDO (2015) 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 nevertheless had regard to the policies of the Rochdale Adopted Core Strategy 2016 (Core Strategy), and the National Planning Policy Framework (the Framework), only in so far as they are a material consideration relevant to matters of siting and appearance.
4. I have used the address as shown on the Council's decision notice as it more clearly identifies the appeal site, than that shown on the application form.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether that harm would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

6. The appeal site located on the highway verge, has an open character given its location next to a grassed area of undeveloped land. The surrounding area is predominantly residential in character with dwellings 2-storey in height. A 3-storey parade of shops and take-aways with flats above lies to the south-east.
7. During my visit I saw that there are regularly spaced lighting columns on the opposite side of the road near the appeal site. Telegraph poles are also present on the same side of the road. However, they are not regularly spaced and no such structures would be close to the position of the proposed mast. Both types of columns are comparable in height to the roof ridges of nearby dwellings. Railings, bollards and litter bins are also found nearby adjacent to the parade of shops, but they are of a very limited scale.
8. The appellant contends that they have sought to minimise the mass and scale of the installation as much as possible, while still delivering the service and operational needs. Whether or not such structures are common in urban environments, the proposed 20m mast would tower above the existing vertical structures already present, be greater in thickness and a noticeably different shape. It would therefore be out of context with the surrounding low-scale forms of development as described above, highly prominent and visually incongruous. The harm exerted on the character and appearance of the area arising from the proposal would therefore be significant.
9. The appeal site is located at a high point such that drivers travelling in both directions along Windermere Road would approach around a curve and uphill, emphasising the height and dominance of the mast. The set-back position of the 3-storey building to the south-east would not provide a backdrop for the proposed mast. Likewise, the limited height and set back position of trees to the rear of the undeveloped land would do little to reduce the impact of the proposal.
10. The proposed mast would also be visible from some of the dwellings on the opposite side of the road, particularly those dwellings on each side of the junction of Bonscale Crescent and Windermere Road. Whilst the view from a property is not a material consideration, the impact on outlook is. The proposed mast due to its height and form would be visually intrusive, looming above the existing low-scale development so as to harm the outlook of these neighbouring dwellings.
11. The proposed equipment cabinets would be positioned alongside the mast and coloured green. Appearing as small-scale pieces of street furniture they would not have a detrimental effect on the character and appearance of the area.
12. The proposed mast would provide improved 2G, 3G and 4G service whilst introducing 5G coverage for local residents and businesses as shown on the proposed coverage plot map. The Framework recognises that advanced, high quality and reliable communications infrastructure such as 5G, is essential for economic growth and social well-being. I have had regard to the range of reports supplied by the appellant which include but are not limited to, 'Online Nation; Council's and Connectivity;' 'How Local Government Can Help To Build Mobile Britain; Collaborating for Digital Connectivity' and, 'Connected Growth.' I recognise that there is a need to support the expansion of electronic communications networks, including next generation mobile technology that is

likely to have positive economic benefits including facilitating growth. I attach considerable weight to these benefits accordingly.

13. I have had regard to the search conducted by the appellant identifying 10 other potential locations for the proposal. I also acknowledge the appellant's advice that providers cannot attach to some existing structures due to the nature of 5G technology, and that larger masts may be required to facilitate sharing by multiple operators.
14. The appellant suggests that the existing mast at the rear of 157-171 Windermere Road cannot be upgraded due to a lack of physical space to accommodate the required equipment, yet parts of the car park appeared to be unkempt and not in active use. On the very limited evidence before me therefore, I cannot discount that there is an opportunity for the redevelopment of the existing mast to the rear of No 157-171. It has not been robustly demonstrated that the proposed level of coverage could not be achieved in another location which is less harmful.
15. Overall, I conclude that the proposed mast would represent an incongruous and intrusive addition to the street scene, resulting in significant harm to the character and appearance of the area, that is not outweighed by the social and economic benefits of 5G coverage. In so far as they are material considerations, the proposal would be contrary to Policies P1, P3 and DM1 of the Core Strategy which seek to ensure that new development is of a high quality that is compatible with its surroundings. It would also conflict with paragraph 115 of the Framework which seeks to facilitate the growth of new and existing telecommunications systems, whilst keeping environmental impact to a minimum.

Other Matters

16. Notwithstanding that the GPDO enables the provision of new masts up to 20m on highway land, these permitted development rights are subject to a prior approval process. As such, they do not crystallise until that procedure has been completed and granted. Whether or not 20m masts can be replaced without permission, this proposal is for a wholly new mast. This does not therefore provide a fallback position that has a realistic prospect of being implemented.
17. Reference is made to 6 appeal decisions that have granted approval for the erection of masts ranging between 10m and 20m in height¹. In these cases the proposed masts were deemed to exert either no or some limited harm to the character and appearance of the area, and the need for the new telecommunications infrastructure was considered to outweigh the level of harm caused. Reference is also made to linked appeal decisions APP/A1910/C/20/3256772 and 3256773. These cases related to the retention of a temporary mast subject to an enforcement notice, whilst a permanent replacement that had been granted permission was implemented. All of the decisions I am referred to involve different site circumstances to those before me in this appeal, where the benefits would not outweigh the harm that would be caused to the character and appearance of the area.
18. The appellant suggests that Policy CF/6 of the Rochdale Borough Unitary Development Plan (2006) is applicable to the appeal. The Council has

¹ APP/E5330/W/16/3159250, APP/J4423/W/17/3188962, APP/M4320/W/17/3176041, APP/P4605/W/19/3242513 and APP/G4240/W/21/3268575 and APP/P460/W/19/3241791.

confirmed that this policy has been deleted and it no longer forms part of the development plan. The Council has further referenced the provisions of the Guidelines & Standards for Residential Development SPD 2016. However, the proposal is not for residential development. I have not therefore, referred to Policy CF/6 or the SPD in my decision.

19. The appellant advises a pre-application enquiry was submitted to the Council but that no response was received. The Council contends that no formal enquiries were made in relation to this proposal. Whether or not advice was sought, the Planning Practice Guidance is clear that pre-application advice cannot pre-empt the democratic decision making process. In any event, I have dealt with the appeal on its planning merits and found harm for the reasons already set out.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR