The Planning Inspectorate

Appeal Decision

Site visit made on 16 November 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/A0665/W/22/3301995
Stanney Lane, Whitby, Ellesmere Port CH65 9AE

- 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 MBNL against the decision of Cheshire West and Chester Council.
- The application Ref 22/00985/TEL, dated 15 March 2022, was refused by notice dated 17 June 2022.
- The development proposed is an 18.0m High EE/H3G Phase 7 streetworks pole on root foundation and associated ancillary works.

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. 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. With the agreement of both parties, the height of the proposed monopole was lowered from 20 metres to 18 metres with amended plans being submitted during the application process. It is apparent from the delegated report that the Council subsequently determined the application on this basis. Accordingly, I have determined the appeal based on the plans which were considered by the Council at the time of its determination of the application. I have therefore amended the description of development in the banner header above so that it relates to the height of the proposal as determined and not as originally provided on the application form.

5. 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

6. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area 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

7. The appeal site forms part of the footpath on the northern side of Stanney Lane, a busy road into Ellesmere Port town centre. The site is located near to the junction with McGarva Way and adjacent to a Hydrogen Experience Centre, which is located within an otherwise open parcel of land immediately to the north-east of the site. The surrounding area comprises a mixture of industrial premises residential properties, with Whitby Park located on the opposite side of Stanney Road.

8. Whilst there are a number of vertical features nearby, including streetlights, traffic lights, and telegraph poles, these are slimline in design and no greater than approximately 10 metres in height. The proposed monopole would therefore be significantly taller, bulkier, and more prominent than these existing features. Particularly when combined with the associated equipment cabinets, the proposed development would appear a visually dominant structure at odds with the prevailing size and scale of the existing street furniture.

9. The visual prominence of the proposal would be further exacerbated by the location of the appeal site. The built form immediately around the appeal site is relatively sparse with the majority of existing buildings being of modest height, including the adjacent single storey Hydrogen Experience Centre. By virtue of this lack of built form, Whitby Park to the south, and its location near to the junction of Stanney Lane and McGarva Way, the appeal site occupies an open and prominent position.

10. The site is located adjacent to a small group of mature trees which occupy a small piece of land to the north. Whilst these trees would provide an element of screening of the proposed development in views when travelling along Stanney Lane from the north-west, their effect would be limited by the overall height of the monopole which would project above the top of the trees. Furthermore, the trees would provide no meaningful screening of the proposal in views from the south or when approaching along McGarva Way or Stanney Lane from the south-east. As a result, the proposal would appear as an isolated and visually dominant structure within the street scene.

11. I observed during my site visit that an existing mast is located a short distance to the east on McGarva Way. Whilst I acknowledge that the requirement for the proposed development stems from a need to replace an existing installation on the nearby Council Offices, the proximity of the proposed development to the existing mast on McGarva Way and the resulting cumulative impact of the two

masts would further aggravate the harm caused to the character and appearance of the area.

12. 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 DM18 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (adopted July 2019). This policy, amongst other matters, seeks to ensure that telecommunication installations and equipment do not have an unacceptable adverse impact on the character and appearance of the area.

Alternative Sites

13. Paragraph 117 of the National Planning Policy Framework (the Framework) states, amongst other things, that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by necessary evidence to justify the proposal. Where this in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure. The appellant has considered and discounted six other sites, which are listed and described.

14. The appellant states that no opportunities for mast or site sharing exist, including the existing mast on McGarva Way which would need to be replaced with a larger green field lattice mast in order to incorporate a site share. The Council therefore accept that the sharing of this mast is unlikely to be feasible, and I find no reason to disagree with this view.

15. The six sites which were considered and discounted were all roof-top installations on existing buildings, primarily located some distance away to the north of the appeal site. Most of these sites were discounted due to the host building not being tall enough to provide the required coverage, with the appellant subsequently being unable to identify any existing buildings or structures capable of housing the installation within the target area. Given the lack of tall buildings near the appeal site, I find no compelling reason to disagree with this conclusion.

16. However, given the locations of the six discounted sites and their distances from the appeal site, it is apparent that the proposed development could be sited within a wide area which encompasses a range of different buildings and uses including retail, commercial, and industrial premises. Whilst the appellant has explored the possibility of erecting antennas on existing masts or buildings, it does not appear that any other sites for a ground-based installation have been considered. Despite the industrial and commercial nature of much of the surrounding area, no information has been provided to demonstrate that other alternative ground-based sites were looked at and considered.

17. I am therefore not convinced that the search and assessment of alternative sites was sufficiently thorough and robust in order to demonstrate that there are no realistic alternatives or sites which are less harmful than the appeal site. As a result, the harm I have identified to the character and appearance of the area would not be outweighed by the argument for installing the development on the appeal site.

Planning Balance and Conclusion

18. 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, 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.

19. However, these benefits are outweighed by the harm I have identified above to the character and appearance of the area, 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.

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

David Jones

INSPECTOR