



Appeal Decision

Site visit made on 20 December 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/V4630/W/22/3299938

BHM20355 - Queslett Road Streetworks, Queslett Road East, Pheasley, Walsall B43 7DU

- 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 required).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Walsall Council.
 - The application Ref 22/0030, dated 14 January 2022, was refused by notice dated 8 March 2022.
 - The development proposed is the installation of a 17 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 a 17 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto at land at BHM20355 – Queslett Road, Streetworks, Queslett Road East, Pheasley, Walsall B42 7DU in accordance with the terms of the application Ref 22/0030, dated 14 January 2022, and the plans submitted with it.

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. Nevertheless, Policies ENV2 and ENV3 of the Black Country Core Strategy (2011), and saved policies GP2, ENV32 and ENV38 of the Walsall Unitary Development Plan (2005) (UDP) are material considerations as they relate to issues of siting and appearance. In particular, they seek to ensure respect for site context, local character and distinctiveness of the surrounding area, no adverse effect on the visual amenity of the area. Similarly, the National Planning Policy Framework (Framework) is also a

material consideration and this includes a section on supporting high quality communications.

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 area;
 - the living conditions of nearby residential occupiers, with regards to outlook;
 - pedestrian and highway safety; 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

5. The appeal site is a grassed verge adjacent to Queslett Road and close to a traffic roundabout. It is positioned between the main carriageway and a service road and is near to a pedestrian footway. The appearance of the grass verge is open.
6. The appeal site is opposite a small row of commercial units on Queslett Road, with the surrounding area being made up of predominantly two storey residential properties. This section of Queslett Road is characterised by having wide grass verges on each side of the road that separates the service roads from the main highway. This gives the area a relatively open aspect.
7. The proposed monopole mast and associated equipment would be sited on the appeal site grass verge. Whilst there are a number of vertical features in the immediate vicinity of the appeal site, the proposed monopole mast would be considerably higher than the existing street furniture in this section of Queslett Road. It would be evidently thicker than the existing signage poles and nearby streetlighting, and the antenna apertures at the top of the mast would add to the bulk of the structure at its highest point. The substantial height of the pole would be further pronounced by its prominent position on the grass verge, which would be forward of the service road. The siting and appearance of the proposal would therefore appear at odds with the open character of the grass verge and would be visually imposing, particularly for passers-by using the footway and Queslett Road.
8. In addition, the proposed monopole mast, associated cabinet equipment and safety barriers would result in an increase in ground coverage compared to the existing situation. This would further contribute to the visual clutter and dominance of the proposal as perceived by passing drivers and pedestrians.
9. However, due to the rising land levels along Queslett Road, views of the proposal would be localised. It would be seen within the context of a background of commercial buildings and the vertical emphasis of the nearby street lighting and highway trees when approaching along the carriageway and footways.

10. In reaching the above findings, I have taken account of paragraph 115 of the Framework which states that where new sites are required (such as for new 5G networks), equipment should be sympathetically designed and camouflaged where appropriate. In that regard, the design of the proposal reflects its intended function and there is no evidence before me that it has not been designed as sympathetically as possible in this location. However, such material considerations of themselves do not prevent the harm I have identified.
11. For the reasons given, the proposal would cause harm to the character and appearance of the area. As such, the proposal would fail to accord with the design objectives of the Framework. In addition, the proposal would be contrary to Policies ENV2 and ENV3 of the Core Strategy, and saved policies GP2, ENV32 and ENV38 of the UDP.

Living Conditions

12. Although the proposal would be visible from some residential properties, notably those in Queslett Road, such views would be at oblique angles or over such a distance, due to the spaciousness of this location, that there would not be unreasonable harm to the outlook from these properties.
13. I therefore consider that the siting and appearance of the proposed monopole would not cause harm to the living conditions of surrounding residents in relation to outlook. In this regard, it would accord with paragraph 130 of the Framework, which seeks a high standard of amenity for existing and future users.

Pedestrian and highway safety

14. The proposal, including the associated cabinets and safety barrier, would be located on a grassed verge beyond the public footpath on Queslett Road between the main carriageway and service road. As it would be set back from the carriageway, there would be no impact on vehicular visibility in this location. The equipment would also not obstruct pedestrian movement within the area, as it would be positioned away from the pedestrian footway and public footpath.
15. The safety barrier would ensure highway safety by preventing vehicles leaving the road and impacting the installation. In terms of servicing and maintenance, the safety barrier could be appropriately accessed from the service road that fronts the commercial premises and the associated parking areas. The details provided as part of the prior approval are sufficient to reach such a conclusion.
16. Furthermore, I am satisfied that the construction of the proposal could be undertaken without causing harm to highway safety through appropriate arrangements, such as lane closures on the A4041 as necessary.
17. No substantive evidence has been submitted by the Council to demonstrate that the proposal would otherwise interfere with pedestrian and highway safety. Indeed, I note that the highways authority has not objected to the proposal.
18. Consequently, based on the evidence before me, the siting and appearance of the proposed development would not cause unacceptable harm to pedestrian and highway safety. Therefore, the proposal would comply with paragraph 111 of the Framework, which states that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety.

19. The decision notice refers to saved policies T7 and T13 of the UDP. However, these policies relate to car parking and are therefore not relevant to this main issue.

Need

20. 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.
21. 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.
22. 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 and the operational need for the installation. The evidence indicates that the appeal site is the least harmful location within the cell area of the siting options explored by the appellant. The findings are not disputed by the Council, and they have not suggested alternative locations that would otherwise be suitable to provide the required network coverage without causing the harm I have identified. 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 that could otherwise avoid the harm I have identified with respect to the character and appearance of the area.
23. 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

24. 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

25. The proposal would be acceptable in terms of pedestrian and highway safety and would have no harmful effect on the living conditions of occupiers of nearby properties with regards to outlook. Also, it would cause no harm to features of nature conservation or historic interest. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
26. Although the proposal would cause harm to the character and appearance of the area, in my view the level of harm would be moderate given the compact scale of the development and its prominence in only localised views due to land level changes and the presence of intervening screening features in more

distant views. 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.

27. 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, and I am satisfied that the appellant has demonstrated that the appeal site is the least harmful location available through which these benefits could be facilitated. In that context, the need for the installation to be sited in the location as proposed to provide improved network coverage and capacity to meet the needs of the local community and businesses and the absence of any more suitable alternatives, weigh considerably in favour of the proposal.
28. On balance, I conclude that the 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.

Conditions

29. 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.
30. The Council has suggested that additional conditions be imposed should approval be granted. These relate to accordance with the approved plans, requesting further details of the vehicle restraint barriers and seeking to impose controls on the maintenance of the servicing areas. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. Consequently, I have not imposed the Council's suggested conditions. The absence of control on such matters through the prior approval does not alter my conclusion as the GPDO requires accordance with the details submitted. I have already found that the details on the plans submitted are sufficient to ensure no harm to highway or pedestrian safety.

Conclusion

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

Helen Smith

INSPECTOR