



Appeal Decision

Site visit made on 4 January 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/D4635/W/22/3302362

New Hampton Road W, Claregate, Tettenhall, Wolverhampton WV6 0JB

- 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 22/00369/TEL, dated 29 March 2022, was refused by notice dated 24 May 2022.
 - The development proposed is a 15.0m Phase 9 super slimline monopole and associated ancillary works.
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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 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 (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.
4. 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

5. The main issue is the effect of the siting and appearance of the proposed installation on:
 - the character and appearance of the area, having particular regard to whether it would preserve or enhance the character or appearance of the Tettenhall Road Conservation Area; and
 - if any harm is identified, 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 forms part of a grass verge located close to the junction of New Hampton Road West and Tettenhall Road, a heavily trafficked main arterial road into Wolverhampton. The surrounding area comprises a mixture of residential, commercial, and retail premises. An area of open space is situated adjacent to the site which includes several mature trees. Mature trees are also sited to the front of several properties along Tettenhall Road which contribute to the softening of the built environment and give the area a verdant character.
7. The appeal site is located within the Tettenhall Road Conservation Area (CA) which is focused around both sides of Tettenhall Road, an ancient route into Wolverhampton. The CA is characterised by numerous architecturally impressive buildings, including several listed buildings, which have a close relationship with the historic road layout. The significance of the CA therefore stems from the historic road layout, street pattern, and buildings which have largely remained intact, contributing to the areas special architectural and historic character and appearance.
8. The part of the CA in which the site is located is identified in the Tettenhall Road Conservation Area Appraisal as being within 'Character Area 5: Tettenhall Road (north side): St Jude's Road to Newhampton Road'. The appraisal goes on to describe the principal features of this area which includes the 'open space beside Newhampton Road West junction'. This area of public open space and its extensive tree cover creates an impressive entrance to this stretch of Tettenhall Road and makes a positive contribution to the character and appearance of the CA and the street scene.
9. Whilst there are a number of vertical features nearby, including streetlights, road signs and telegraph poles, these are typically slimline in design and of modest height. However, despite its design 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 as visually intrusive features that would be at odds with the prevailing size and scale of existing street furniture.
10. The position of the proposed monopole and cabinets in close proximity to the highway on a prominent corner position would further exacerbate the visual clutter and dominance of the proposal. Particularly when approaching from the south along Tettenhall Road, the proposed monopole and associated cabinets would be unduly visible and appear as incongruous features within the street scene.

11. Although the proposal would be less prominent in longer distance views due to the surrounding built form and mature trees which would provide a degree of screening, it would nevertheless introduce a visually obtrusive and utilitarian feature directly in front of the adjacent area of open space. As a result, the proposed development would visually jar with the verdant character of the immediately surrounding area and detract from the character and appearance of the CA.
12. It is clear from both the submitted plans and my site visit that the proposed monopole and associated cabinets would be situated close to several mature trees and their canopies. In particular, the Council raise concerns regarding the proposal's location within the root protection area of an adjacent beech tree. The appellant however has not submitted an Arboricultural Impact Assessment (AIA) or other details 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.
13. I note that the appellant considers that the proposal would be situated outside of the canopy of the mature trees and therefore there is no foreseeable harm to the health of the trees. Nevertheless, given the close proximity of trees to the appeal site, and in the absence of an AIA or similar, I cannot be certain that the equipment could be installed without impacting upon the root protection area of nearby trees or harming their long-term health. 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.
14. I acknowledge that the height of the monopole, at 15 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 would be caused to the character and appearance of the area and CA. Similarly, whilst the equipment could be finished in a colour more 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.
15. Consequently, the proposed development would fail to preserve or enhance the character or appearance of the CA. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of development on a designated heritage asset, great weight should be given to the asset's conservation. Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight. Paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
16. The social and economic benefits of mobile telecommunications coverage are implicitly recognised by the grant of permission under Article 3(1) of the GPDO, and further acknowledged by the Framework. The proposal would help facilitate the provision of 5G communication in the area, which would help the delivery of economic growth, as well as enhancing local facilities and services via better connectivity and communication. These would be public benefits to which I attach moderate weight. However, in view of my findings above, such weight is insufficient to outweigh the harm that would be caused to the significance of the CA.

17. Having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA, causing harm to its significance. In so far as they are a material consideration, the proposal would be contrary to Policies CSP4, ENV2 and ENV3 of the Black Country Core Strategy (adopted February 2011) and saved Policies D4, D6, D7, D9, D12, HE1, HE3, HE4, HE5, N7 and EP20 of the Wolverhampton Unitary Development Plan 2001-2011 (adopted June 2006). Collectively these policies, amongst other matters, seek to ensure that developments are of a high quality, minimise visual impact, protect the historic environment and relate positively to the surrounding environment.

Alternative Sites

18. 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 several other sites, which all appear to be at ground level.
19. The appellant states that opportunities for site sharing have been investigated and exhausted, with there being no suitable structures or properties in the designated search area that could facilitate a rooftop or site share installation. However, I have not been provided with any details of the extent of buildings or other structures that could support the proposal. Whilst there may be none available in the search area or that those options are unviable, there is little information before me on those alternative sites.
20. Furthermore, whilst I recognise that the 5G cell search area is constrained, the level of detail for the discounted options is extremely limited and without a full or detailed justification for each site. For example, some of the sites have been discounted due to 'proximity to residential properties', however no information has been provided to specifically detail their proximity to residential properties and why that would result in equivalent or greater harm than developing the appeal site.
21. I am therefore not satisfied that a thorough review of possible site options within the cell search area has been conducted. Moreover, the level of detail for those sites which were explored and discounted is somewhat vague and without clear and convincing justification. As a result, the harm I have identified that would be caused to the significance of the CA is not outweighed by the needs for the installation to be sited in the proposed location.

Other Matters

22. 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.

Conclusion

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

David Jones

INSPECTOR