



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: 02 February 2023

Appeal Ref: APP/D4635/W/22/3302722

Griffiths Drive, Ashmore Park, Wednesfield, Wolverhampton WV11 2JW

- 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 21/01637/TEL, dated 26 November 2021, was refused by notice dated 17 January 2022.
 - The development proposed is the "installation of a 15-metre-high monopole, 4 no. equipment cabinets and development work 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 15-metre-high monopole, 4 no. equipment cabinets and development works ancillary thereto at Griffiths Drive, Ashmore Park, Wednesfield, Wolverhampton WV11 2JW, in accordance with the terms of the application, Ref 21/01637/TEL, dated 26 November 2021, and the plans submitted with it including:

002 Site Location Plan – WVM19547_PLANNING_REV_B, 215 Proposed Site Plan - WVM19547_PLANNING_REV_B, 265 Proposed Site Elevation - WVM19547_PLANNING_REV_B.

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 however had regard to the policies of the development plan 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. 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 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

6. The appeal site forms part of the footpath on the eastern side of Griffiths Drive, in close proximity to a mini-roundabout where the road splits. Immediately to the east of the site is an area of open green space, which includes a small number of trees. This area of open space is surrounded on two sides by highway, and the other two sides by three storey buildings which incorporate a range of commercial and retail premises at ground floor level. The surrounding area is otherwise generally residential in nature and is characterised principally by two storey detached and semi-detached dwellings.
7. Whilst there are a number of vertical features nearby, including streetlights telegraph poles and road signs, these are slimline in design and generally modest in height. The proposed 15-metre-high street pole would be significantly taller, bulkier, and more prominent than these existing features. When combined with the associated equipment cabinets, the proposed development would appear at odds with the prevailing size and scale of existing street furniture.
8. The proposal would also be significantly taller than the residential dwellings and other buildings within the immediate locality, thus appearing unduly visually prominent. Whilst the equipment would be finished in a green colour to soften its visual appearance and to assist in assimilating the development into its surroundings, this would not sufficiently mitigate the visual impact arising from the design, height, and siting of the structure.
9. The visual dominance of the proposal would be further exacerbated by the location of the appeal site. By virtue of the adjacent area of open space and surrounding highway, the site occupies an open and prominent position. The site is located against a backdrop of existing trees which run along the edge of the open space to the rear of the appeal site. However, whilst these would provide an element of screening, particularly when they are in leaf, their effect would be limited due to the overall height of the proposed monopole which would project above the top of the trees. Furthermore, the trees would provide no meaningful screening of the proposal when approaching along Griffiths Drive from the south or north.
10. I therefore conclude that the siting and appearance of the proposed development would be harmful to the character and appearance of the area,

albeit I find the degree of harm to be moderate. In so far as it is a material consideration, the proposal would be contrary to Policies ENV3 and CSP4 of the Black Country Core Strategy (adopted February 2011) and saved Policies D6, D7, D9 and EP20 of the Wolverhampton Unitary Development Plan 2001-2011 (adopted June 2006). These policies, among other matters, seek to ensure that developments make a positive contribution to the locality, are designed and sited to minimise its visual impact, and be of a height that relates positively to its surroundings.

Alternative Sites

11. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. Applications for telecommunications development should be supported with the necessary evidence to justify the proposal in accordance with paragraph 117 of the Framework. It is evident from the maps provided by the appellant that there is a need for improved network coverage in the area. The proposal would provide signal to this area of Wolverhampton where currently coverage is limited and improve capacity where existing pathways are overloaded.
12. The appellant has appropriately followed the sequential approach, advocated by both the Framework and the Code of Practice for Wireless Network Development in England, in identifying site options. It is noted that the relevant search area is very constrained and that in this case, the designated search area covers what is largely a densely populated residential area.
13. The sequential approach undertaken by the appellant identified that there were no existing mast or site sharing opportunities within or close to the search area. Similarly, given the sites location within a predominately residential area consisting of largely one and two storey properties, no suitable buildings or structures were identified within the search area. Other non-residential buildings were considered but were discounted for a variety of reasons including their low height and pitched roofs. From both the information before me and from my own observations during my site visit, I find no compelling reason to disagree with this conclusion.
14. Accordingly, a new ground-based installation was sought with the appellant considering and discounting other potential sites. These alternative sites were discounted for several reasons including their proximity to residential properties, proximity to educational institutions, distance from the cell nominal, and that it would result in greater harm to visual and residential amenity being caused than the appeal site.
15. There is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered and I have no robust evidence before me to suggest that there would be other more suitable sites. The lack of realistic alternative sites to deliver the improved coverage and capacity is a consideration which weighs strongly in favour of the development. In this case, the moderate harm resulting from the siting and appearance of the proposal would be outweighed by the social and economic benefits.

Other Matters

16. 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.

Conditions

17. Any planning permission granted for the 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, 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.

Conclusion

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

David Jones

INSPECTOR