



Appeal Decision

Site visit made on 24 January 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/W3710/W/22/3306872

Vernons Lane street works, Vernons Lane, Nuneaton CV10 8BS

- 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 Nuneaton and Bedworth Borough Council.
 - The application Ref 038979, dated 16 June 2022, was refused by notice dated 11 August 2022.
 - The development proposed is described as "proposed 5G telecoms installation: H3G street pole and additional equipment cabinets."
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Decision

1. The appeal is dismissed.

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 BE3 and HS3 of the Nuneaton & Bedworth Borough Council Borough Plan 2011-2031 (June 2019) (Borough Plan) are material considerations as they relate to issues of siting and appearance. In particular, they seek to ensure respect for local character and distinctiveness of the surrounding area, and 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; 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 Vernons Lane. It is positioned between Vernons Lane and Haunchwood Road and has a pedestrian footway running through it. The grass verge contains a small cluster of deciduous trees, but its appearance is largely open.
6. A row of two-storey dwellings face towards the appeal site, with the closest dwellings being Nos 4, 6, and 8 Vernons Lane. The surrounding area comprises mainly two-storey residential properties.
7. The proposal would appear significantly taller than the two-storey residential dwellings in the surrounding vicinity of the appeal site. Therefore, it would appear unduly visually prominent.
8. Although the proposed mast would be positioned near to a cluster of trees, it would not visually integrate with the existing trees, due to its notably greater height. It would appear higher than the trees, appearing as a stark, incongruous structure within the street-scene. Furthermore, the adjacent trees would afford only partial screening when in leaf, and only from certain approaches. Such effects would be exacerbated if, for whatever reason, tree screening reduces in time.
9. There are a number of vertical features near to the appeal site, including streetlights, telegraph poles, highway signs, and a telephone box. These existing features are all of modest height. In contrast, the proposed mast with antenna headframe would give the proposal a considerably bulkier appearance and would be noticeably taller than the existing street furniture.
10. In addition, the proposed installation would be sited close to a pedestrian footway in an open and prominent setting and would therefore be widely visible from a range of approaches by pedestrians, and to vehicular users travelling along the nearby roads.
11. Although the equipment could be finished in a colour 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.
12. I acknowledge that the height of the mast, at 15 metres, is the lowest possible height that would enable 5G coverage to be delivered to the area. Whilst this may be the case, it does not outweigh the harm I have found to the character and appearance of the area.
13. For the reasons given, the proposal would cause unacceptable harm to the character and appearance of the area and would fail to accord with the design objectives of the Framework. In addition, the proposal would conflict with Policies BE3 and HS3 of the Borough Plan, which amongst other things, seek to minimise impact on the character or appearance of the surrounding area.

Living Conditions

14. The appeal site is located near to residential dwellings, notably 4, 6, and 8 Vernons Lane. These properties currently benefit from good levels of outlook with views that are generally unimpeded.
15. The proposed installation would be sited in close proximity to these residential properties and would appear straight in front of them. The proposal would therefore dominate the views from the front windows of these properties. Consequently, the occupants of these dwellings would have direct views of the proposed installation, which would appear highly visible.
16. Although there is a mature tree positioned near to the front garden boundary of Nos 4 and 6, the tree would provide only partial screening when viewed from these properties. This is because the proposed mast would rise considerably above the height of the tree, appearing unduly intrusive. Furthermore, the tree would not provide sufficient screening during the winter months when not in leaf. Such effects would be exacerbated if, for whatever reason, the tree were to be removed or die off.
17. For the reasons given, the siting and appearance of the proposal would unacceptably harm the living conditions of occupiers of these neighbouring dwellings with regard to outlook. As such, the proposal would fail to accord with paragraph 130 of the Framework, which seeks a high standard of amenity for existing and future users. In addition, the proposal would conflict with Policies BE3 and HS3 of the Borough Plan, which amongst other things, seeks to minimise impact of the visual and residential amenity of the surrounding area.

Suitable Alternatives

18. 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.
19. The appellant considered several sites prior to the appeal site being selected. These sites were discounted by the appellant for reasons which included close proximity to residential housing, possible visibility issues from nearby junction, narrow pavement, and overhead BT lines.
20. I acknowledge that the 5G cell search area is very constrained. However, the evidence provided for dismissing the discounted sites is brief and not readily interrogatable. Similar issues as formed the basis for discounting other sites appear to be present with the appeal site. Furthermore, there is no clear quantification in the evidence before me as to the specific benefits of the appeal scheme in terms of improving cell coverage. Given the prominent location of the proposed site, it has not been sufficiently demonstrated that the discounted sites would be more harmful.
21. Consequently, from the evidence submitted, I am not satisfied that a robust review of alternative site options within the cell search area has been undertaken to demonstrate that the appeal site represents the only viable option.

22. The proposal would be contrary to the aims of the Framework, set out above, which requires evidence to demonstrate that alternative sites have been explored.

Other Matters

23. The proposal would improve telecommunications services in line with the Government's aspirations to provide 5G coverage and would support the development and roll-out of 5G across the area. However, it has not been robustly demonstrated that similar benefits could not be achieved via an alternative location that would cause less harm to character and appearance and the living conditions of neighbouring occupiers.
24. I have had regard to other benefits of the proposal as advanced by the appellant, including how the proposal would contribute to educational benefits, providing access to vital services, improving communications with local businesses, enabling e-commerce and working from home as well as providing access to social, media and gaming for leisure time activities. It would aid in facilitating increased robust, reliable, and efficient digital communications for the area that would benefit the needs of businesses and communities.
25. I also acknowledge that the appellant undertook pre-commencement consultation with the local planning authority, and the relevant Ward Members were notified in respect of the proposal.
26. Nevertheless, this does not alter my findings with regard to the siting and appearance and the resultant impact on the character and appearance of the area and the living conditions of neighbouring occupiers.
27. The proposal would not be located within a conservation area or within an environmental designation. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
28. Consequently, no other matters alter the forgoing reasoning that the siting and appearance of the proposal would be unacceptable.

Conclusion

29. For the reasons given above, I conclude that the appeal is dismissed.

Helen Smith

INSPECTOR