



Appeal Decision

Site visit made on 14 February 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/W2465/W/22/3309609

**Western Side Of Milligan Road North Of Junction With Manners Road,
Aylestone, Leicester LE2 8ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Hutchison 3G UK Ltd against the decision of Leicester City Council.
 - The application Ref 20221246, dated 14 June 2022, was refused by notice dated 5 August 2022.
 - The development proposed is the installation of a 20 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's name in the header is taken from the application form. A slightly different name is provided on the appeal form although the appellant's address is the same on both forms. I am satisfied the applicant and the appellant are the same and that the appeal is made by an appropriate body.
3. At odds with the description of development and with the submitted plans, reference is made in the appellant's statement of case to the proposed monopole being 15m in height. For the avoidance of doubt, I confirm that my assessment is based on the details shown on the drawings with a monopole measuring 20m high.
4. In light of the provisions of Schedule 2, Part 16, Class A of the GPDO, I have assessed the proposed development solely on the basis of its siting and appearance. The provisions do not require consideration of the development plan. However, the policies of the Leicester City Core Strategy 2014 (the CS) and saved policies of the City of Leicester Local Plan 2006 (LP) are material considerations insofar as they relate to issues of siting and design. Also, I have had regard to the relevant parts of the National Planning Policy Framework (the Framework).

Main Issues

5. The main issues are the effect of the siting of the proposal (i) on trees and (ii) on pedestrian movement and safety, as well as (iii) the effect of the siting

and appearance of the development on the character and appearance of the area.

Reasons

Trees

6. The proposed development would be on a pavement just outside Leicestershire County Cricket Club. Milligan Road is straight and there are a row of trees parallel to the road just on the other side of railings that form the boundary to the cricket ground. The Council's tree advisor states that this line of trees is covered by a tree preservation order. The trees are clearly seen from a significant distance along Milligan Road and also form an attractive back drop to views from within the cricket ground. As such, they make a significant positive contribution to the visual qualities of the area.
7. The Council's tree advisor states the development would be in the root protection area of at least 2 of the protected trees. Concern is raised that the development would involve excavation works that may destroy part of the root system for both trees. It is claimed that such damage would cause a decline in their health and vigour.
8. The development would clearly be close to the line of trees despite being on the other side of the railings. Moreover, the appellant has not sought to dispute the Council's claims that excavation works associated with the development would affect the root systems. As such, I attach significant weight to the Council's contentions in this respect.
9. Furthermore, the appellant does not dispute that the nearest trees to the site of the development are young and that overtime their canopies would come into contact with the proposed monopole. Also, the trees will become taller and potentially overwhelm the pole. As such, the proposed development would lead to pressure for repeated works to the nearest trees. It is reasonable to expect such works would undermine their growth and well-being.
10. For these reasons, I conclude the siting of the proposed development would have a detrimental effect on trees that contribute positively to the qualities of the area. In these respects, it would conflict with LP policy UD06 and CS policy CS03, insofar as these are determinative on the issue. These policies resist development that impinges directly on trees that have an amenity value.

Pedestrian movement and safety

11. The proposed development would be located towards the railings and so it would be set away from the kerb line on Milligan Road. The pavement is fairly broad and wide enough to allow the easy passage of pedestrians and people in wheelchairs, even where lampposts narrow the useable footway. The monopole and cabinets would have the effect of narrowing the pavement but a reasonable gap would remain between the development and the kerb. Also, only a short length of footway would be affected.
12. Given its location close to the cricket ground, I would expect there are times when the Milligan Road pavement is busy with people. However, I am satisfied the development would maintain sufficient space on the footway. As such, it would not cause an unacceptable obstruction and it would not lead to

pedestrians, wheelchair users and those with pushchairs needing to move onto the carriageway.

13. Therefore, I conclude the siting of the development would avoid unacceptable effects on pedestrian movement and safety. In these respects, it would accord with LP policy AM01, insofar as it is relevant to the determination of the appeal. Acceptability in these regards is a neutral factor in my assessment.

Character and appearance

14. The site lies in an urban area with commercial and residential properties nearby as well as the cricket ground. By reason of its height, position on the pavement and the linear nature of the street, the proposed monopole would be seen for a significant distance in both directions along Milligan Road. Also, it would be seen from Manners Road and from nearby properties, including the cricket ground. The line of trees would provide a degree of screening and in some views it would provide a backdrop to the lower part of the monopole. Even so, the development would have a noticeable effect on the street scene.
15. The monopole would have a functional appearance and it would be taller and bulkier than nearby lampposts. However, it would be similar to the street lights in that it would be a roadside vertical feature that would be seen against the sky. Moreover, the street scene is already dominated by the floodlights at the cricket ground which tower above the surrounding area. The monopole would be markedly lower and narrower than the floodlights and so it would not appear uncharacteristically dominant or particularly imposing.
16. The monopole would cause a minor visual interruption to the line of trees. However, it would not meaningfully detract from the rhythm and visual presence of the tree row. Also, the proposed cabinets would be low key and similar in appearance to other such features on nearby streets. Overall, the development would appear sympathetic to its context.
17. For these reasons, I conclude the siting and appearance of the development would not be harmful to the character and appearance of the area. In these regards, it would accord with CS policy CS03. Acceptability in these respects is a neutral factor in my assessment.

Other Matters

18. The Framework states that for a new mast, evidence should be provided that shows the possibility of erecting antennas on an existing building or structure has been explored. The proposal would provide improved signal coverage to serve the surrounding area and so the search zone for alternative sites is restricted. The appellant has provided evidence to show that 7 other sites have been considered and discounted, including on the cricket ground floodlights and on nearby buildings on Grace Road. The floodlights have been ruled out due to the inadequate strength of the structures to carry the load of the equipment. The Council does not dispute this reason for discounting the floodlights as a realistic option. Also, the Council does not contest the reasons for discounting the Grace Road buildings as potential sites. As such, the evidence indicates that a new mast is necessary to secure the intended improvements.
19. One of the options considered is the car park to the cricket ground off Grace Road. This is discounted as the appellant claims it is too far from the target area for coverage to be provided. However, the Council point out that the site

is close to the identified areas of signal deficiency and it is within the defined search zone.

20. Also, the Council's tree advisor identifies an area on the north east side of the cricket ground where there is room for the proposed development and where no trees would be affected. The appellant has not sought to rule out this suggestion for any reason. As such, I am unconvinced that the appeal site represents the only feasible location for the proposal. Accordingly, the appellant's contentions in these regards attract little weight in my assessment.
21. The enhanced signal coverage provided by the development would bring economic and social benefits to local residents and businesses. The Framework recognises the benefits of telecommunications development and indicates that planning decisions should support the expansion of networks. However, the relevant provisions of the GPDO indicate that only matters of siting and appearance should be considered. The benefits of the scheme are not factors to take into account as these are already recognised through permitted development rights. In any event, the advantages of the proposal and other arguments advanced in support of the scheme do not outweigh the harm I have identified in respect of trees.

Conclusion

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

Jonathan Edwards

INSPECTOR