



Appeal Decision

Site visit made on 7 March 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Appeal Ref: APP/V4630/W/22/3306208

WLL19551 – Lucknow Road Streetworks, Lucknow Road, Ashmore Lake, Walsall WV12 4QB

- 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 Walsall Metropolitan Borough Council.
 - The application Ref 22/0739, dated 31 May 2022, was refused by notice dated 14 July 2022.
 - The development proposed is the installation of a 15-metre monopole supporting 6no. antennas, 4no. equipment cabinets and development works ancillary thereto.
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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 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.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposal on (i) the character and appearance of the area; (ii) the living conditions of occupiers of nearby residential properties with particular regard to outlook; 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

5. The appeal site forms part of the footpath on the western side of Lucknow Road in close proximity to the junction with Pool Hayes Lane. The site is located immediately in front of a single storey commercial building, with other commercial premises found adjacent to an area of open space to the south. The surrounding area is otherwise residential in nature and is characterised by predominately two-storey semi-detached properties.
6. Whilst there are vertical features nearby, including streetlights, telegraph poles, and road signs, these are slimline in design and of modest height. The proposed monopole would therefore be significantly taller, bulkier, and more prominent than these existing features. Particularly when combined with the associated equipment cabinets, the proposed development would appear a visually dominant structure at odds with the prevailing size and scale of the existing street furniture.
7. The visual prominence of the proposal would be further exacerbated by the location of the appeal site. The proposed monopole and associated equipment cabinets would occupy an open and exposed corner position near to the highway, with no meaningful screening available to reduce its visual impact in views from Pool Hayes Lane, Cornwall Gate, or along Lucknow Road in either direction. Furthermore, the proposal would also be significantly taller than the residential dwellings and other buildings within the immediate locality. As a result, the proposal would appear as an unduly prominent and intrusive feature that would fail to integrate well with its surroundings.
8. It is acknowledged that the proposed monopole and cabinets have been designed to be installed alongside to public roads and are often found in such urban locations, and that the proposed slimline design and external colour of the monopole and associated cabinets have been chosen to assist with their assimilation into the street scene. It is also recognised that the proposed height of the monopole is the lowest possible to achieve the improved service in the locality. Notwithstanding these mitigating factors, the pole would still be a prominent and incongruous feature, and its siting and appearance would be harmful to the character and appearance of the streetscene and surrounding area.
9. Accordingly, having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area. In so far as they are a material consideration, the proposal would be contrary to Policy ENV3 of the Black Country Core Strategy (adopted February 2011), and saved Policies ENV32, GP2, and ENV38 of the Walsall Unitary Development Plan (adopted March 2005). These policies, amongst other matters, seek to ensure that developments properly take account of their surroundings, responding to the identity of each place with high quality design, and have no adverse effect on the visual amenity of the area.

Living Conditions

10. The Council objects to the impact of the proposed monopole and associated equipment cabinets on the amenity of the residential properties at 21-25 and 46-52 Lucknow Road and 1 Cornwall Gate. Although the proposal would be visible from these residential properties, such views would be at oblique angles

or over such a distance, that there would not be unreasonable harm to the outlook from these properties.

11. I therefore consider that the siting and appearance of the proposed monopole would not cause harm to the living conditions of occupiers of nearby residential properties 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.

Alternative Sites

12. 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. The appellant has considered and discounted a number of other sites, which are listed and described.
13. These sites have all been discounted by the appellant. For example, one of the sites has been discounted because it is located directly adjacent and opposite houses. However, the appeal site itself is close to residential properties and 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.
14. I acknowledge that the 5G cell search area is very constrained and is predominately a residential area. However, the evidence provided for dismissing the discounted sites is vague, lacks justification and is not readily interrogatable. Given the prominent location of the proposed site, it has not been sufficiently demonstrated that the discounted sites would be more harmful.
15. I am therefore not convinced that the search and assessment of alternative sites was sufficiently thorough and robust in order to demonstrate that there are no realistic alternatives or sites which are less harmful than the appeal site. As a result, the harm I have identified to the character and appearance of the area would not be outweighed by the argument for installing the development on the appeal site.

Other Matters

16. I note the Government's support for expansion of electronic communications networks. However, such equipment should also be sympathetically designed. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.
17. 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

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

David Jones

INSPECTOR