



Appeal Decision

Site visit made on 7 March 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/M4320/W/22/3311048

Shaws Road, Birkdale, Southport PR8 4PB

- 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 Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/01704, dated 21 August 2022, was refused by notice dated 19 October 2022.
 - The development proposed is described as 'Proposed telecommunications installation: Proposed 18.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.'
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Decision

The appeal is dismissed.

Preliminary Matters

1. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
2. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of 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 do not require consideration of the development plan. Therefore, 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 factors relevant to matters of siting and appearance. In that regard, Policies EQ2 and HC3 of the Local Plan for Sefton (LP) are material considerations as they require development to respond positively to the character, local distinctiveness and form of its surroundings and avoid harm to the character of residential areas. LP Policy EQ3 is also a material consideration as it seeks to ensure that the safety of pedestrians, cyclists and all road users is not adversely affected.

4. I note that the Council has also referred to LP Policy IN2 in the reasons for refusal. However, that policy addresses transport infrastructure and is therefore not relevant to the appeal proposal.

Main Issues

5. The main issues are:

- effect of the siting and appearance of the proposal on the character and appearance of the area;
- effect of the siting and appearance of the proposal on highway safety;
- 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

6. The appeal site is part of a wide footpath on Shaws Road close to its junction with Shaftesbury Road and close to the busy Liverpool Road. It is in a prominent position that is highly visible in all directions, within a built-up urban location comprising commercial and residential buildings that are two-storey in height.
7. The nearby area incorporates small-scale street furniture including a planter and waste bin. There are also streetlights, approximately 8m in height, regularly spaced along the highway creating a rhythm within the street scene.
8. The proposed monopole, due to its 18m height, column width and more bulky and distinct headframe design, would not visually integrate with the nearby streetlights, interfering with the established pattern. Due to the limited size of street furniture in the locality the monopole would be an incongruous structure within its immediate surroundings.
9. The monopole would extend well above the nearby buildings and street furniture. I accept that the buildings and streetlights would form a backdrop to the lower section of the monopole in some views. However, the upper section of the monopole and its bulky headframe would be clearly visible above the nearby streetlights and surrounding buildings and seen against the skyline.
10. I acknowledge that the site is not within an area with a statutory designation such as a conservation area and is not directly adjacent to sensitive receptors. Nevertheless, the monopole would appear as an alien, and discordant, feature which would be unexpected within its context.
11. The proposed number of cabinets would be extensive resulting in a row of them along the footpath's edge but, as set out above, there is other street furniture near to the site and they are typical of the form of structures seen on roadsides. As such they would not appear as incongruous features on the pavement and would not lead to undue visual clutter.
12. The appellant advises that the equipment could be of a colour that is deemed appropriate for the location. However, I do not consider that the visual impact

arising from the design, height and siting of the structure could be mitigated by the use of a particular colour.

13. For the above reasons, the siting and appearance of the proposal would harm the character and appearance of the area.

Highway Safety

14. The proposed monopole and associated cabinets would be within the pavement close to the junction of Shaws Road with Shaftesbury Road and at a point close to the junction of Shaftesbury Road with Liverpool Road. Liverpool Road is a category 'A' road which, as a major route through the area, is heavily trafficked.
15. Although the appellant highlights that the associated ancillary equipment cabinets are within the size limits to be classified as permitted development without prior approval, the proposal before me relates to the whole installation. I acknowledge that the scheme would not obstruct the free flow of pedestrians and that a slimline street pole design has been specified due to the target coverage area. Nonetheless, because of the siting and appearance of the scheme, it would introduce a line of cabinets, with only short gaps between, within the junction visibility splay.
16. The angle of the junction is such that vehicles exiting Liverpool Road onto Shaftesbury Road do not have to materially slow down to safely negotiate the turn. Given the short distance to the Shaws Road junction there is limited time to stop. Therefore, the installation as proposed would impede visibility splays and sight lines of road users at a point where any obstruction to visibility for vehicles exiting Shaws Road would materially increase the likelihood of vehicle collision. Furthermore, no robust, convincing evidence has been provided by the appellant to justify a reduced visibility splay. Accordingly, the appellant has failed to demonstrate that the installation would not have an unacceptable impact upon highway safety.
17. For the reasons given above, the siting and appearance of the proposal would have an unacceptable impact on highway safety.

Alternative sites

18. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G.
19. Paragraph 117 of the Framework also advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.
20. The appellant states that the cell search area is very constrained geographically, and because of technological constraints, the only viable option has been put forward which would provide adequate coverage. The submission sets out no alternative sites that have been considered and discounted other than one that has previously been the subject of an application, reference DC/2021/01379, that was refused. It is, however, unclear why consideration

has not been given to a site within the wide footpath on Liverpool Road to the north of the appeal site, between Shaftesbury Road and Clifford Road, which is outside of the junction visibility splay but appears to be within the search area.

21. Accordingly, I am not satisfied that the appellant has conducted a thorough review of possible options within the search area or adequately explored whether there may be less harmful alternative sites. As such, the harm I have identified above is not outweighed by the need for the installation to be sited as proposed.

Other Matters

22. Concern has been expressed about the potential effects of the proposed installation on health. The appellant, however, 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, and having regard to all other matters raised, the appeal should be dismissed.

Elaine Moulton

INSPECTOR