



Appeal Decision

Site visit made on 18 July 2023

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2023

Appeal Ref: APP/X3025/W/23/3316564 Footway of Bath Lane, Mansfield NG18 2BZ

- 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 2022 (as amended).
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Mansfield District Council.
 - The application Ref 2022/0433/PNSCM, dated 24 June 2022, was refused by notice dated 17 August 2022.
 - The development proposed is Telecommunications equipment (18m slim-line monopole - steel- dark green; Equipment cabinets - steel - dark green)
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Order 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 Order, and the provisions therein do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues in this appeal are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on Flood Risk.

Reasons

5. The appeal proposal is located close to the footway on Bath Lane, with a number of trees in the locality with open space close by. There are residential dwellings in the area.

6. Paragraph 114 of the Framework states that such telecommunications development is essential, and the expansion of electronic networks should be supported, including the next generation of mobile phone technology. Based on the guidance in the Framework, there would be public benefits from the proposal.
7. In this case, the appellant's evidence demonstrates that there is a need for a new mast in the area, in order to cater for the forecast rapid increase in demand for mobile services in the future. In accordance with the advice at paragraph 118 of the Framework, the Council does not question the need for improved coverage.
8. The appellants state that the proposed mast would facilitate Fifth Generation (5G) connectivity. The proposal would be easily visible and tower above the existing surroundings when seen in its context. Although it could be argued that the mast is a slim, unfussy design, it would be considerably taller than any of the nearby street furniture and trees, whilst the utilitarian appearance would not fit well into this pleasant environment despite the proposed colouring.
9. The scale of the mast is strident, industrial in nature and has the external appearance of a structure more often seen in industrial areas and would be harmful to the local context of residential development and public open space. The mast would appear dominant in the locality and be harmful to the character and appearance of the area, magnified by its proximity to the public footpath.
10. From closer viewpoints, the entire structure would be visible. It would be an unattractive and dominating feature. The scale and design of the installation would be incongruous in this setting. Consequently, regardless of the colour finish that could be used on the equipment, I conclude that the siting and appearance of the proposal would significantly harm the street scene and the character and appearance of the area.
11. The Framework recognises that planning decisions should support the expansion of electronic communications networks and the appellant has provided evidence to justify the proposed development. However, I have found the siting and appearance of the development would result in harm to the character and appearance of the area, which is not outweighed by these other considerations. I find the proposal to be in conflict with the design and setting aspirations set out in paragraph 130 of the Framework.
12. Whilst not determinative, there is conflict with policies IN11 and P2 of the Mansfield District Local Plan which amongst other matters, expect development to have no significant impact on the space in which the equipment is located, and are appropriately designed to minimise size or scale and camouflaged where possible. I also find conflict with the telecommunications aims of the National Planning Policy Framework.

Flood Risk

13. Since the determination of the application, a Flood Risk Assessment has been completed, demonstrating compliance with Flood Risk. I am satisfied that this addresses the concerns of the Local Planning Authority in respect of this issue, and were I to be allowing the appeal, Conditions could be added to the decision in order to make the development acceptable.

14. As such, I find no conflict with Policy CC2 of the Mansfield District Local Plan or the National Planning Policy Framework. However this does not overcome the harm to character and appearance that I have identified elsewhere.

Other Matters

15. I have noted the previous appeal decisions supplied by the appellant in support of their proposal. I am satisfied that the location and context of these appeals are different from the current proposal and have little bearing on my ultimate decision.

Conclusion

16. I have taken into account the economic and social benefits of the proposal, and the supporting documentation provided that demonstrate the merits of an effective communications network. Nonetheless, I do not find these benefits outweigh the harm that would be generated by the siting of the mast and associated works in such a location.
17. For the reasons set out, I conclude the appeal should be dismissed.

Paul Cooper

INSPECTOR