



Appeal Decision

Site visit made on 25 July 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Appeal Ref: APP/Z4310/W/22/3304145

Walton Hall Avenue, Walton, Liverpool L4 9UF

- 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 appeal is made by Cornerstone Telecommunications Infrastructure Limited against the decision of Liverpool City Council.
- The application Ref 21PT/3525, dated 1 December 2021, was refused by notice dated 4 February 2022.
- The development proposed is installation of a 20m high streetworks column supporting 6no. antennas, 2no. 0.3m dishes and ancillary equipment, and the installation of 2no. equipment cabinets and development ancillary thereto.

Decision

1. The appeal is allowed and approval is granted under the provisions of 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) for the siting and appearance of a 20m high streetworks column supporting 6no. antennas, 2no. 0.3m dishes, and ancillary equipment, and the installation of 2no. equipment cabinets and development ancillary thereto, at Walton Hall Avenue, Walton, Liverpool, L4 9UF in accordance with the terms of the application, Ref 21PT/3525, dated 1 December 2021, and the plans submitted with it, including drawing numbers 100 A (site location); 200 A (Existing site plan), 201 A (proposed site plan); 300 A (existing site elevation) and 301 A (proposed site elevation).

Preliminary Matters

2. Because this is an application for prior approval, the provisions of the GPDO 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. I have determined the appeal on this basis.
3. There is also no requirement to have regard to the development plan in this prior approval case, as there would be in an application for planning permission. Nevertheless, Policy UD1 of the Liverpool Local Plan 2022 (Local Plan) is a material consideration as it relates to issues of siting and appearance. Local Plan Policy GI9 is relevant as it relates to siting in relation to existing vegetation, including trees.
4. The National Planning Policy Framework (the Framework) is also a material consideration, and includes a section on supporting high quality communications.

Main Issues

5. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area,
- the effect of the proposed siting on the health of nearby trees 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 located on Walton Hall Avenue (A580), this section of which is a six-lane dual carriageway. The road is lined with houses on its southern side, whilst the north side runs along the edge of Walton Hall Park. It has the character of a wide boulevard, with lines of mature and semi-mature trees planted along either side, as well as within the grassed central strip which separates the carriageways. The numerous trees and the green backdrop provided by the adjacent park give a verdant and attractive character to the area.
7. The proposed telecommunications equipment would be sited between existing trees on the edge of a wide strip of grass, adjacent to the footway and the park boundary. The 20m mast would be taller and wider than the nearby streetlights, and the top of the structure would be visible above the surrounding trees. However, the trees would provide a significant amount of screening, particularly when in leaf.
8. This screening would be reduced during the winter months, but the installation would be seen in the context of the many bare tree trunks and other tall structures nearby, including streetlights and floodlights. Even without leaves on the trees, the mast would be unobtrusive from many vantage points, particularly in longer distance views.
9. It would be a reasonable distance from the closest houses, on the opposite side of Walton Hall Avenue. The outlook from these residences would not be significantly affected, as views of the equipment would be filtered by the intervening trees along the roadside and within the wide, central verge.
10. Given the surrounding context, the equipment would not be a prominent or isolated feature in the streetscene. That said, it would be clearly visible from the adjacent footway, and from the tarmacked path which runs through the edge of the park, parallel to Walton Hall Avenue.
11. When viewed from close by, the tall mast and associated equipment would detract from, rather than enhance, this green, tree lined corridor on the edge of the park, which is well used by local people. The result would be to cause harm to the character of the area and people's appreciation of it. However, owing to the screening provided by the trees, the geographical extent of the harm would be limited.

12. The equipment would be located approximately 150m from an existing telecommunications mast on Walton Hall Avenue, and concerns have been expressed that a second mast would accentuate the presence of telecommunications equipment in the area, with resultant harm to visual amenity.
13. However, the two sites are on different sides of the road, and separated by the junction with Stanley Park Avenue and the sports centre. For people travelling through this well-treed area, the presence of two masts relatively close together may well go unnoticed. Local people would likely be aware them, but the distance between the two sites, and screening provided by the intervening trees and other road infrastructure, would significantly limit the extent to which the two masts would be seen together. Where joint views were possible, at least one of the masts would be well screened by road infrastructure and vegetation.
14. The proposed mast would not be an unexpected feature on this major road, and the headframe and wide column would be of a style which is increasingly common as the 5G network is being rolled out. Given the surrounding context, the proposal would not lead to unacceptable visual clutter, even in combination with the existing mast.
15. I conclude that, owing to its scale and form, the proposed siting and appearance of the installation would cause harm to the character and appearance of the area. That said, the equipment would be unobtrusive except in very close views, despite its scale. The harm would be modest in extent, and limited to the immediate vicinity.

Trees

16. In order to protect existing trees which may be present on a site, Local Plan Policy GI9 requires the preparation and submission of a tree survey, Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS) alongside a planning application. In this case, the proposal is not a planning application, and this information was not originally provided. However, in response to the Council's concerns, an AIA and AMS have been provided as part of the appeal submissions.
17. The appellant's AIA confirms that installation of the equipment would not require any trees to be removed or pruned. To protect the trees and their roots from damage during installation, the submitted report recommends that the closest trees be protected by a temporary barrier. Further measures to protect tree roots from damage during construction work are suggested.
18. I am satisfied that, with the proposed measures, the health of the trees would be safeguarded. The relevant part of the GPDO does not provide for additional conditions to be imposed on any grant of prior approval, but the appeal site is located on publicly owned land, and the trees are managed by the Council. As such, it would be within the Council's power to ensure that appropriate tree protection measures were implemented whilst the equipment was being installed.
19. The tree survey identifies that the trees have previously been pruned, indicating that pruning forms part of their ongoing management. There is no suggestion that future pruning would be required to enable the proposed

telecommunications equipment to operate properly, but if it was, then such work would need to be done through the Council.

20. In light of the above, I am satisfied that the siting of the proposed installation would not undermine the health of nearby trees.

Alternative sites

21. The need for the installation has been accepted by virtue of the legislation and is not at issue. However, I have found that the proposed siting and appearance would result in a modest amount of harm to the character and appearance of the area. It is therefore necessary to consider whether other options for siting the equipment may be available, which might have a lesser visual impact.
22. Paragraph 117 of the Framework requires that information is provided to justify the proposed development. In relation to a new mast, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
23. In this case, the proposed telecommunications installation would partly replace mobile services provided by the existing shared mast at Cherry Lane nearby, which provides 2G, 3G and 4G mobile coverage for the O2 and Vodafone networks. The operators are rolling out new 5G technology across their networks, but this requires larger and heavier equipment. The existing Cherry Lane mast is not capable of accommodating the additional apparatus for both operators, and upgrading the equipment to provide the necessary coverage would require a much larger and more prominent structure. The mast now proposed would provide 2G, 3G, 4G and 5G services for the O2 network, whilst the Cherry Lane site would provide services for Vodafone.
24. To maintain the efficient operation of the network, the new site needs to be as close as possible to the existing site at Cherry Lane, whilst ensuring sufficient separation to avoid interference.
25. The appellant has explained that there are no suitable buildings in the area to site the equipment, and have given clear reasons for discounting several rooftop options. Given the predominately residential character of the surrounding area, I have no cause to come to a different view on this. Similarly, I do not doubt the appellant's assertion that, due to the specific requirements of 5G equipment, any mast sharing option would result in the need for much larger and more visually prominent structures, which are unlikely to be acceptable. Clear reasons for proposing a new ground-based site have therefore been provided.
26. The appellant has previously proposed two alternative sites, closer to the existing Cherry Lane mast, but both have been refused prior approval by the Council (application refs 20PT/1338 and 21PT/0224). Two further options for new ground-based equipment are proposed as part of the appellant's supporting information.
27. One of the options was discounted as it would have an adverse impact on the character and appearance of the Grade II* listed Anfield Cemetery, and I agree that such a siting would be unacceptable on heritage grounds. The other option, south-west of the railway bridge on Walton Lane, was discounted due to its proximity to the railway line and nearby houses. The Council has queried

the discounting of this site, but even if the siting was acceptable to Network Rail, it would be no less prominent in the streetscene than the proposed site.

28. The appellant has explained why various possible alternatives would be unsuitable, and I agree that the proposed siting would be preferable to those which have been discounted. The Framework does not require the appellant to consider every possible site, and the Council has not provided any suggestions as to alternative sites which might be preferable.
29. The equipment needs to be located somewhere, and such a tall installation would inevitably have some visual impact, wherever it was sited. Options for alternative sitings are limited by technological constraints, and other factors such as pavement width and surrounding land uses. The proposed location along a main road and adjacent to a park would avoid siting the equipment too close to houses, and the large number of trees along Walton Hall Avenue would provide effective screening. It may not be the only possible option, but no other sitings have been suggested that might be less harmful, and I did not identify any obvious alternatives when visiting the area.
30. Taking into account the character of the appeal site and the wider area, and the lack of any clear alternatives which would be preferable, I am satisfied that the need for the facility to be located here outweighs the modest harm to the character and appearance of the area.

Other Matters

31. The petition which was submitted to the Council raises concerns about the safety of the proposed mast. However, as part of the application the appellant has provided a certificate to confirm that the equipment would not exceed the guidelines for public exposure to set by the International Commission on Non-Ionizing Radiation Protection. The proposal meets the requirements of Framework paragraph 117 in relation to safeguarding public health, and there is no scope for me to consider this matter any further.
32. I note comments that there is already adequate mobile signal in the area, but the appellant has indicated that the equipment is required in order to build capacity by providing new 5G coverage for a specific network. The expansion of 5G is supported by paragraph 114 of the Framework, which highlights the importance of advanced, high quality and reliable communications infrastructure, including next generation mobile technology.

Conditions

33. The Council has suggested several conditions that it considers should be imposed if the appeal were to be allowed, but the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it.
34. For the avoidance of doubt, the deemed conditions specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval, and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

35. I have found that the need for proposed installation to be located as proposed would outweigh the modest amount of harm to the character and appearance of the area. The submitted AIA shows that the equipment could be installed without causing damage to the nearby trees.
36. For the reasons set out, I conclude that the appeal should be allowed and prior approval should be granted.

R Morgan

INSPECTOR