



Appeal Decision

Site visit made on 19 September 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/Z4310/W/23/3319069

Central Reservation, Blackwood Avenue, Woolton, Liverpool L25 4RN

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone against the decision of Liverpool City Council.
 - The application Ref 22PT/2179, dated 12 August 2022, was refused by notice dated 28 September 2022.
 - The development proposed is the installation of a 17.5m streetworks monopole, supporting 6 no. antennas, 2no. 0.3m dishes, 2no. equipment cabinets and associated ancillary equipment.
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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) for the siting and appearance of a 17.5m high streetworks monopole, supporting 6 no. antennas, 2no. 0.3m dishes, 2no. equipment cabinets and associated ancillary equipment, at Central Reservation, Blackwood Avenue, Woolton, Liverpool L25 4RN in accordance with the terms of the application, Ref 22PT/2179, dated 12 August 2022, and the plans submitted with it, including drawing numbers 100 Rev A (site location); 200 Rev A (Existing site plan), 201 Rev B (proposed site plan); 300 Rev A (existing site elevation) and 301 C (proposed site elevation).

Procedural Matters

2. The address on the Council's decision notice more accurately reflects the location of the appeal site than that on the application form and the appellant has used it in their appeal form. I have therefore used it in the banner heading above.
3. 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. 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.
4. The Council has referred to development plan policies in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. Therefore, I have had regard to the policies of the

development plan, related guidance, and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.

5. It has been suggested that the proposed cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the character and appearance of the area;
 - the health of nearby trees; and,
 - whether any harm caused in these regards is outweighed by the need for the installation to be sited in the proposed location, having regard to the potential availability of alternative sites.

Reasons

Character and appearance

7. The appeal site is a vegetated central reservation at the southern end of Blackwood Avenue, close to the junction with Woolton Hill Road, Church Road and Beaconsfield Road at the rise of a hill. There are several mature trees within the central reservation and an existing monopole is located at its northern end. The appeal locality is residential in nature and characterised by relatively large two storey detached and semi-detached dwellings set behind low stone or brick walls. There are educational establishments nearby. The mature tree cover in the central reservation is a positive visual aspect of the character of the area.
8. The proposed telecommunications equipment would be sited on a grassed area between trees in the central reservation. Due to its location close to the junction with several residential roads, the appeal site commands a prominent position in the street scene, particularly when viewed from the south. Even though the proposed height of the mast has been reduced from the previous proposal¹, at 17.5m high, it would be visible above the immediately surrounding trees and would be substantially wider than the tall streetlights already located on the central reservation.
9. However, the dense tree cover in the central reservation would continue to provide visual relief to its built-up surroundings particularly when in leaf, notwithstanding the introduction of the proposed development, and would remain a largely open vegetated feature in the area.
10. Nevertheless, the proposed mast would be clearly apparent when viewed from directly facing dwellings, Nos. 1,2 and 3 Blackwood Avenue. Although the mast would be separated from these properties by front gardens a pavement and a road, as fewer trees are located at the southern end of the central reservation, views of the mast would not be significantly filtered. Similarly, in the context of

¹ LPA Ref: 22PT/0438

the domestic residential scale of surrounding properties, the prominent location, height and utilitarian appearance of the proposed mast would be a conspicuous feature when viewed from close quarters and from the numerous roads meeting at the mini-roundabout on Blackwood Avenue, particularly during winter months when there would be no leaves on the trees.

11. The proposed development would be located approximately 240m (appellant's measurements) from an existing telecommunications mast located at the northern end of the central reservation. I note that prior approval has been granted to replace this mast with a 20m high mast², albeit that this did not appear to have been implemented at the time of my site visit. Concerns have been expressed that a second mast would lead to an accumulation of telecommunications equipment in the area, with resultant harm to the character and appearance of the area.
12. Local people would be aware of two masts relatively close to each other when passing close by each one individually. However, the two masts would be separated by dense tree cover. Even during the winter months when trees would not be in full leaf, the incline in Blackwood Avenue and the width of the central reservation would mean that for people travelling in either direction, the two masts would not be viewed together. Given the topography of Blackwood Avenue and screening provided by trees, the proposal would not lead to unacceptable visual clutter, even in combination with the existing mast.
13. The proposed number of cabinets would result in a row of them in the centre of the central reservation. They would be coloured green and sited between trees. As such they would not appear as incongruous features on the grass verge and would not lead to undue visual clutter.
14. Nevertheless, due to the height and appearance of the mast, even if coloured green, it would have a moderately adverse visual effect upon the character and appearance of the area.

Trees

15. The appellant has provided an Arboricultural Impact Assessment with Arboricultural Method Statement, Godwins Tree Surveys Ref:AIA.13494.01, 11 July 2022 (AIA). The submitted plans show the proposed mast would be located close to the canopies and outer limbs of adjacent trees. The Council's Streetscene department and local residents have raised concerns that some of the adjacent trees are in a poor condition and any works required as a result of the construction of the mast or equipment may harm the trees or their roots and lead to collapse or removal. Although I have been provided with photographs of the base of several trees close to the appeal site, no robust evidence has been provided to me to substantiate these claims.
16. The AIA demonstrates that the proposal would not require any trees to be removed or pruned. While limited interference within the root protection areas of adjacent trees would occur, recommendations for tree protection and excavation during construction have been provided in the AIA which would ensure construction and operation of the proposed development would not cause damage to the health of the trees. Furthermore, I note the existing mast

² LPA Ref: 19F/2058

and associated equipment at the northern end of the central reservation and others in the local area that are also sited close to mature trees.

17. From the information presented, I am satisfied that the risk of the proposal damaging the adjacent trees has been adequately investigated and that the proposed mast and equipment could be installed without causing significant harm to the tree root systems of adjacent trees. 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.
18. Given the above, and the recommendations of the AIA, I consider the health of the trees would be safeguarded and the landscaped value of the central reservation would be retained. Therefore, the proposal would not harm the health of nearby trees.

Need and Alternatives

19. I have found that the proposed siting and appearance would result in a moderate amount of harm to the character and appearance of the area. Paragraph 117 of the Framework states, among other things, that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by necessary evidence to justify the proposal. Where this is in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
20. In effect, it is necessary to consider whether other options for siting the equipment may be available, which might have a lesser visual impact. When noting the visual sensitivities that would apply to a mast within a residential area, it is reasonable to require clear and comprehensive supporting evidence.
21. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. As with all 5G cells, the relevant search area is very constrained and, in this case, the designated search area covers what is largely a residential area. I note the proposal would provide the infrastructure to host the mobile phone operators and enhance their 2G, 3G and 4G services as well as by providing new 5G coverage. The appellant suggests that a new ground based telecommunications installation is required to replace the existing rooftop site on Gateacre Park Drive/Cuckoo Lane, which currently serves the area. I have no substantive reason to doubt the appellant's claim that this is not capable of providing 5G service for both existing operators currently using the building due to the amount and height of equipment that would be required.
22. Therefore, the proposed installation would need to operate within an existing network and provide continuation of coverage. I note the appellant's comment that by limiting the separation between the operational and proposed replacement site, this limits the degree to which the established network is affected, ensuring continuity of service, and preventing potential disruption. A clear gap in 5G coverage in the local area has been evidenced. Both these factors would limit the geographical area within which the equipment could be sited.

23. I recognise that it would not be possible to provide a shared site to enable 5G for three operators at the existing Blackwood Avenue site without upgrading the existing equipment, which would result in a taller and bulkier headframe structure than the proposal and would result in a greater level of visual harm. Even if mast sharing was an acceptable solution, there is no evidence to suggest that it would negate further telecommunications equipment from coming forward within the local area. I also note that there are few alternative rooftop sites in the area, most of which are educational establishments or Listed Buildings.
24. The residential nature of the area and narrow pavement width provides limited alternative options for ground-based equipment. This has consequentially led to several discounted options. The Council has not questioned the constrained size of the search area or the list of alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued. Having reviewed the submitted evidence and seen the alternative locations, I am satisfied that all effort has been reasonably made to investigate suitable alternative sites and I have no reason to disagree with the findings.
25. My attention has been drawn by an interested party to a potential site for mobile telecommunications infrastructure within the large open space at Childwall Woods and Fields. However, although a similar distance from the existing telecommunications site at Dunlin Court, it is significantly further north of the search area.
26. The need for the installation has been accepted by virtue of the legislation and the equipment needs to be located somewhere within the 5G cell search area. Such a tall installation would inevitably have some visual impact, wherever it was sited. The distance to residential properties from the central reservation and the height of existing trees on it would partially screen the proposed development. No other sites within the search area have been suggested that might be less harmful, and I did not identify any obvious alternatives when visiting the area.
27. Based on the evidence before me, I am satisfied that other alternative siting solutions have been adequately explored by the appellant and have been found to have been unsuitable for the proposal. Furthermore, there is no compelling case for other sites that have been put forward. Unless this site comes forward, the need for a new telecommunications installation to provide 5G coverage and capacity, and replacement 2G, 3G and 4G services to this area of Liverpool would remain unmet.

Other Matters

28. Woolton Village Conservation Area (CA) is located near to the appeal site. The significance of the CA is derived from Woolton Hall and its former grounds and the age and traditional vernacular buildings in the village centre of Woolton. The proposed development would be physically and visually separate from this designated asset and its setting due to intervening buildings and infrastructure. Accordingly, the proposal would have no effect on the setting of the CA and there would be no conflict with section 72(1) of the Act³. I am satisfied that the proposal complies with the heritage protection policies of the Framework.

³ Planning (Listed Buildings and Conservation Areas) Act 1990

29. My attention has been drawn to several appeal decisions for telecommunication equipment that have been allowed. All but two of the decisions relate to locations in the south of England. I have been provided with limited information about the recent examples referred to in Liverpool, although I note one proposal was for a replacement mast in a semi-rural location and the other was located in a commercial area. Therefore, the circumstances pertaining to these cases and their context would materially differentiate those appeals from the appeal proposal before me. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
30. I have had regard to the concerns of expressed by interested parties, some of which the Council have not raised any objections to. Slimline monopoles are a common feature in urban environments such as this, and it is unlikely that the proposal would create a significant unexpected distraction or obstruction to drivers or pedestrians using the nearby roads or mini-roundabout given the siting within the central reservation. I note there was no objection from the Council's Highway Department in this regard.
31. I have seen no substantive evidence that any significant disruption or pollution would arise during or after construction, or that adverse impacts on noise or local wildlife would arise. Nor is there any evidence that the proposed mast would be structurally unsound. Concerns have also been raised about setting a precedent for other similar proposals, or that the height of the mast could be increased in the future. However, any such proposals would need to be considered on their own merits, as I have done in this case.
32. There is no compelling evidence before me that the proposal would be likely to attract graffiti, vandalism or anti-social behaviour. In any event, my considerations are limited to the siting and appearance of the apparatus in accordance with the relevant legislation as set out in the procedural matters above.
33. 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.
34. Similarly, in terms of Article 130r, Title XVI of the Treaty on European Union, presented to Parliament March 1994, as I have found no significant harm to siting and appearance and an ICNIRP certificate has been provided, I have had regard to paragraph 118 of the Framework which states that applications for electronic communications development must be determined on planning grounds only and the need for an electronic communications system, or health safeguards different from the International Commission guidelines for public exposure should not be questioned.
35. Representations have also been made to the effect that the rights of neighbouring occupiers, under the Human Rights Act 1998, Articles 1 and 8, would be violated if the appeal were allowed. These ensure a right to the peaceful enjoyment of possessions and respect for people's private and family

life, their home and correspondence. I consider these arguments are not well-founded, because I have found that the proposed development would not cause unacceptable harm in terms of siting and appearance. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Articles 1 and 8 of the Human Rights Act 1998.

36. The protection of private interests, such as property values, is not a material consideration and therefore has no bearing on my consideration of the planning merits of the proposal. The evidence before me indicates that appropriate and proportionate publicity for the application and appeal has been carried out.

Planning Balance

37. The Framework supports the provision of high quality and reliable communications which it states are essential for economic growth and social well-being. Paragraph 114 states that planning policies and decisions should support the expansion of the electronic communications network, including next generation mobile technology such as 5G. There is an identified and undisputed need for improved mobile telecommunications provisions meaning that the proposed development has to be located somewhere within the search area.
38. It has been shown that there are no suitable alternative sites to that proposed. The submitted AIA shows that the equipment could be installed without causing damage to the nearby trees. Despite the moderate harm that would arise from the siting of the proposed development to the character and appearance of the area, and that the principle of the development has already been accepted by the grant of planning permission for such development by the GPDO, I find that the need for proposed installation to be located as proposed would outweigh this harm.
39. In reaching this conclusion, I have had regard to the Framework and Policies UD1, GI9 and SPT4 of the Liverpool Local Plan 2022 (LLP) as they relate to, amongst other things, the prior approval matters which seek high quality design that makes a positive contribution to the character and distinctiveness of its location, the retention and management of vegetation and trees and the provision of new infrastructure.

Conditions

40. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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

41. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be allowed, and prior approval should be granted.

A Veervers

INSPECTOR