



Appeal Decision

Site visit made on 30 August 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2023

Appeal Ref: APP/V4630/W/23/3315486

Ross Road, Walsall WS3 1RG

- 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 CK Hutchison Networks (UK) Limited against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 22/1256, dated 9 September 2022, was refused by notice dated 20 October 2022.
 - The development proposed is a 15.0m Phase 9 slimline Monopole and associated ancillary works.
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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) (the GPDO) for a 15.0m Phase 9 slimline Monopole and associated ancillary works at Ross Road, Walsall WS3 1RG, dated 9 September 2022, and the plans submitted with it including drawings numbers: 002 Site Location Plan, 210 Proposed Site Plan, 260 Proposed Elevation.

Preliminary Matters

2. The provisions of the 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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore, it is accepted in principle by virtue of the legislation and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies GP2, ENV32 and ENV38 of the Walsall Unitary Development Plan (the UDP) and Policies ENV2 and ENV3 of the Black Country Core Strategy (the BCCS) are material considerations as they relate to issues of siting and appearance, including regarding telecommunications equipment. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and includes a section on supporting high quality communications.

5. The proposal includes the provision of a mast along with a number of associated cabinets. It has been suggested that these cabinets do not require planning permission or prior approval to be granted and are instead covered by permitted development rights. However, the cabinets have been submitted as part of a prior-approval application and it has not been suitably demonstrated that the cabinets would fall under permitted development that does not require prior approval. Therefore, I have considered the cabinets as part of the appeal proposal before me.

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 surrounding area; and,
 - The living conditions of neighbouring occupiers.

Reasons

Character and Appearance

7. The appeal site is located on a grass verge between the pavement and carriageway serving Ross Road. It is to the rear of a number of properties and close to a lighted pedestrian crossing. The area is broadly residential although this section of Ross Road does not directly serve any dwellings. Ross Road itself is largely characterised by its presence behind development and the prominence of boundary treatments.
8. During my observations on site, I noted mature trees and streetlights which provide a sense of verticality along this part of Ross Road. Whilst I recognise that they are shorter than the proposed mast, the compact appearance of the antenna and the overall narrowness of the mast means that it would not be an unacceptably intrusive feature above the trees and streetlights. Although the mast would be visible for some distance in either direction along Ross Road, I do not find this to be unacceptable in itself given the character of the road already. Moreover, the nearby trees would soften the appearance of the mast from the nearby residential streets. Within its context, the simple and utilitarian design of the mast would not be out of keeping with the character of Ross Road and the vertical nature of the existing street furniture.
9. I do not find that the cabinets would be so large as to unacceptably affect the street scene and they would be screened by nearby boundary treatments in views from residential properties. Moreover, given the limited level of street furniture in this area, the proposal as a whole would not result in a clutter to the detriment of the street scene.
10. I therefore find the siting and appearance of the proposal would not harm the character and appearance of its surroundings. In reaching this conclusion I have taken into account, and find the proposal would comply with, UDP Policies GP2, ENV32 and ENV38 and BCCS Policies ENV2 and ENV3 which require that, amongst other matters, developments are of a high-quality design that protects the area's local distinctiveness. It would also comply with the character and appearance aims of the Framework, including Paragraph 130 which requires that development maintains a strong sense of place.

Living Conditions

11. As noted above, the surrounding area is primarily residential, and the appeal site would be close to the back dwellings served by neighbouring roads, including Warner Road. The proposed mast would be visible in the outlook from a number of these properties.
12. However, the proposal would not be so large, in massing or height, or so close to any of these properties, including those on Warner Road, as to result in an unacceptable impact on their outlook. All of the neighbouring properties would have views around and beyond the mast that would retain the quality of the outlook and their living conditions. The nearby boundary treatments and mature vegetation would screen the cabinets and, given their height, it is unlikely they would be visible from neighbouring properties.
13. I therefore find that the siting and appearance of the mast and its associated works would not adversely affect the living conditions of neighbouring occupiers. I have been mindful of, and the proposal would comply with, the Framework, including Paragraph 130(f) which seeks for developments to create places that do not undermine the quality of life and promote high standards of amenity.

Conditions

14. Any planning permission granted for the erection of telecommunications equipment, including a mast and cabinets 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). These 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 no 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.
15. The GPDO does not provide any specific authority for imposing additional conditions beyond those deemed conditions raised above. As such, while the Council have suggested that a condition be imposed requiring the painting of the proposal in a specific colour, it is not within my powers to impose this condition. Notwithstanding this, I find such a condition would be unnecessary for the purposes of protecting character and appearance.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Samuel Watson

INSPECTOR