



Appeal Decision

Site visit made on 7 November 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: APP/Z4310/W/23/3315434

Darley Drive Street Works, Darley Drive, Liverpool L12 8QP

- 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 CK Hutchison Networks (UK) Ltd against the decision of Liverpool City Council.
 - The application Ref 22PT/3139, dated 18 November 2022, was refused by notice dated 30 December 2022.
 - The development proposed is a 5G telecoms installation: H3G 18m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination has been made on this basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies of the Liverpool Local Plan 2013-2033 (Local Plan) and the National Planning Policy Framework (Framework) insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on (i) the character and appearance of the area; (ii) the living conditions of nearby residential occupiers, with regards to outlook; (iii) the long-term health of trees; and (iv) 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

5. The appeal site comprises of part of a wide grass verge area close to the junction of Darley Drive and Town Row. The area contains a mix of residential and commercial uses, with both single and two storey buildings in the vicinity of the appeal site. The setback of these buildings, as well as the wide footway and grass verge areas, gives the area a spacious character.
6. The proposed mast, at 18m tall would be over three times the height of the nearest commercial building. It would also be noticeably taller than the nearby residential properties on the opposite side of Darley Drive. Although the appellant does not consider the proposed mast would be out of scale with the presence of tall street furniture, the tallest of these are the lampposts which only extend to around 8m in height. There are taller trees nearby, but these are on the opposite side of the road and provide limited screening of the proposal from public vantage points. As such, and despite the slim-line, simplistic design, and the opportunity to select a finished colour, the proposed mast would be an incongruous, dominant addition to the streetscene.
7. The proposal also includes for a number of cabinets but as these would be low level structures, which would be seen amongst a variety of other low level street furniture items, including various signage, bins and cycle parking stands, I do not consider the siting and appearance of these elements of the proposal would have a harmful visual effect.
8. Nevertheless, on this issue, for the reasons set out, I conclude that the siting and appearance of the proposed installation would result in significant harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 115 of the Framework and Policies UD1 and UD2 of the Local Plan, which require consideration of, amongst other matters, the scale and mass of a development proposal.

Living Conditions

9. The appellant has set out that the appeal site is within an area of public realm and not located in close proximity to any residential dwellings. However, there are a number of properties on Darley Drive that would have direct views of the proposal. Given that these would be a short distance away, with views from front habitable room windows across the highway with little screening towards the proposal, I consider that this siting and the overall height and bulk of the mast would cause significant harm to the outlook of the neighbouring residential occupiers.
10. I therefore conclude, on this issue, that the siting and appearance of the proposed installation would result in unacceptable harm to the living conditions of nearby residential occupiers, with regard to outlook. As such, the proposal would be contrary to, insofar as they are material considerations, paragraph 130 of the Framework and Policy UD2 of the Local Plan, which seek, amongst other matters, a high standard of amenity for existing and future users.

Long-term Health of Trees

11. The appeal site is situated opposite a row of mature trees that are across Town Row. These extend to around 15m height currently, with the Council stating

that they can grow to over 20m which would exceed the height of the proposed mast. In the absence of any evidence that the growth of the trees would not cause interference with the operation of the proposed telecommunications infrastructure, there could be future pressure to reduce the canopy of these trees.

12. Given the above, I conclude that the siting of the proposed installation would potentially have an unacceptable adverse effect on the long-term health of nearby trees. It would therefore be contrary to, insofar as they are material considerations, Policy GI 9 of the Local Plan, which seeks, amongst other matters, for there to be adequate spacing between the development and the existing retained trees, taking into account the current and future spatial requirements of the trees.

Need

13. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage, which require base stations to be in close proximity to the area they serve, in this instance, around the Darley Drive area. A number of benefits have been set out by the appellant including meeting the needs of businesses, home working and for socialising. Reference has also been made to documents that set out the importance of high speed digital communications infrastructure.
14. The appellant has set out that the sequential approach was followed in considering mast / site sharing, existing buildings or structures but no such opportunities were found. Although reference has been made to a desktop survey and a physical inspection having been undertaken, I have not been provided with details of which existing buildings or structures were considered. The appellant's alternative site assessment relates to a new ground-based installation and notwithstanding its conclusion on the various sites considered, given that there may be other sites that could accommodate the proposal, I find that the appeal development has failed to demonstrate adherence to the sequential approach.
15. I appreciate the need for this installation is to provide new 5G mobile coverage to the local residential area and that a mast at 18m high is the lowest required to provide improved 5G service. It would bring a modern, high-speed communications service and this weighs in favour of the appeal. The proposal would, however, for the reasons set out above, be harmful to the character and appearance of the area, to the living conditions of nearby residential occupiers and in relation to the long-term health of nearby trees. On the evidence before me, I am not convinced that less harmful alternatives have been properly explored and it is my overall view that the need for the proposal does not in this case, outweigh the harm.

Other Matters

16. The site is not in a Conservation Area, subject to environmental designations and nor is it covered by a Tree Protection Order; these are however neutral matters and not ones which weigh in favour of the proposal.

17. I note the appellant sought pre-application discussions with the Council. This appeal follows the Council's formal decision, and I can confirm that I have assessed the development accordingly, on both its merits and impacts.

Conclusion

18. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR