



Appeal Decision

Site visit made on 12 December 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/Z4310/W/23/3317770

Naylors Road street works, Naylors Road, Liverpool L27 1XJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Gallivan of CK Hutchison Networks (UK) Ltd against the decision of Liverpool City Council.
 - The application Ref 22PT/3452, dated 21 December 2022, was refused by notice dated 13 February 2023.
 - The development proposed is described as proposed 5G telecoms installation: H3G 16m 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 (GDPO 2015), 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies UD1 and UD2 of the Local Plan¹ are material considerations as they relate to issues of siting and appearance. Policy STP4 relates to infrastructure provision where it is required to help deliver national priorities amongst other things.
4. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and updated on 20 December 2023. However, there are no material changes in the revision or the updates relevant to the substance of this appeal. The Framework is a material consideration including its 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 visual amenity of the occupiers of the nearby residential properties due to outlook, the effect on trees and, if any harm would occur,

¹ Liverpool City Council – Liverpool Local Plan 2013 – 2033, Adopted January 2022.

whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. Naylor Road is a long road running through a residential area. The area comprises mostly of two-storey houses and there are substantial boundary walls, lampposts, a bus stop/shelter together with areas of open space and trees. The proposed installation would be located within a wide section of pavement adjacent to the boundary wall of a residential property, 38 Fulshaw Close. To the south is a raised area of land which comprises a number of trees. Also to the south is the junction of Naylor's Road with Naylor'sfield Drive and Paveley Bank.
7. The equipment cabinets would be set against the residential wall which, at almost 2 metres high, would ensure that the cabinets had minimal impact on the street scene or the neighbour's outlook. The telecommunications pole, however, would be 16 metres high and also immediately adjacent to the wall. Given that this is a boundary wall to a residential property, the pole would appear very prominent from the domestic garden. The garden is triangular in shape and the windows to the house would not directly face the pole. However, when the occupiers are in their garden the pole would appear very intrusive and overbearing. The occupiers of other residential properties in the area would also have views of the pole but they would be either further away or have their views partly obscured by trees.
8. Whilst at 16 metres high the pole is the lowest that the appellant considers would be sufficient to meet its requirements, this would still be a tall structure adjacent to the garden wall of a residential property. Consequently, I conclude that the proposed pole would have a harmful effect on the visual amenity of the occupiers of the nearby residential property, 38 Fulshaw Close, due to poor outlook.
9. It is evident on site that the tree canopy would be extremely close to the proposed pole with two trees being very close to the location of the installation. The Council's Tree Officer states that as the pole and cabinets would be located on the pathway, there are no issues regarding the Root Protection Areas. However, concern is expressed about the potential for the trees to interfere with the signal in the future and therefore place pressure to reduce the canopy of the trees. The Council's evidence states that the trees could reach a height of 20 metres.
10. However, the appellant states that the signal strength can be amended which presumably means that pressure to prune or remove trees in the future could be avoided. In any case, it seems to me that given the height of the pole and the time it could potentially take for the trees to reach a height where interference were a problem, it would be some years before pressure to prune the trees would be likely to arise. I do not therefore consider that the proposal would have a harmful effect on trees.
11. The proposal is required to extend the 5G mast infrastructure and the appellant explains that due to the higher frequencies utilised, the cell areas for 5G services are smaller than that required for earlier generations of telecommunication (3G and 4G). The intended target/search area has a radius of approximately 100 metres, centred over the Naylor's Road area. A list of

alternative sites are included in the submission together with a plan identifying their location. These have been discounted for reasons relating to concerns about visibility splays and the effect on motor users, unsuitable pavements or grass verges and the residential nature of the area.

12. The explanations for the discounted sites are brief and these alternative sites are all discounted for technical reasons relating to the practicalities of their installation or due to their proximity to residential properties. However, the proposed site is also in a residential area and as discussed above immediately adjacent to a residential boundary wall.
13. Furthermore, I appreciate the appellant's objectives to follow Government commitment to improving high speed 5G mobile connectivity and the benefits this has to the local community. I also note the increased demand that has arisen from more home working following the Covid pandemic and the requirement for improved telecommunications in residential areas. Nevertheless, I am not convinced that a less visually intrusive location could not be found within the target area that would meet the appellant's requirements.

Conclusion

14. The effect of the proposed installation on the trees would not be harmful. However, it would have a harmful effect on the visual amenity of the occupiers of the nearby residential property, 38 Fulshaw Close due to poor outlook and I am not convinced that less harmful alternatives capable of fulfilling the appellant's requirements could not be found.
15. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR