



Appeal Decision

Site visit made on 9 January 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/W2845/W/23/3322846

Charnwood Avenue Street Works, Charnwood Avenue, Northampton NN3 3DY

- 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) Ltd against the decision of West Northamptonshire Council.
 - The application Ref WNN/2022/1342, dated 10 December 2022, was refused by notice dated 23 January 2023.
 - The development proposed is a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. 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. My determination of this appeal has been made on the same basis.
4. The Northampton Local Plan Part 2 2011-2029 (March 2023) (NLP) was adopted by West Northamptonshire Council on 23 March 2023 and replaces the previous Northampton Local Plan 1993-2006 (June 1997). Both parties have had the opportunity to comment on the implications of this for the appeal and I have taken the NLP into account, to the extent discussed below.
5. 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 consideration of the development plan. As such, 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 factors relevant to matters of siting and appearance.

Main Issues

6. The main issues are:

- the effect of the siting and appearance of the proposed installation on the living conditions of the occupiers of No 72 Booth Lane South, with particular regard to outlook; and
- whether any harm caused is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Living Conditions

7. The appeal site comprises a grass verge on the corner of Charnwood Avenue and Booth Lane South. The area is predominantly residential, with the closest properties single storey in height. There are several items of street furniture in the vicinity, including telegraph poles, streetlamps and electrical cabinets. The front elevation and garden of No 72 Booth Lane South directly addresses the grass verge and is separated by a low brick boundary wall and a grouping of trees and hedges of similar height to the dwelling.
8. The proposed mast would not be positioned directly in front of No 72's front windows. However, at 15m tall it would be significantly taller than any of the surrounding street furniture and would form a highly conspicuous feature. Whilst the intervening planting would screen the mast at low level, when viewed from the front windows and particularly from within the front garden, the mast would be imposing and would result in an overbearing and intrusive feature. It would unacceptably affect the outlook of the occupiers of No 72, to the detriment of their living conditions.
9. Therefore, the proposal, through its siting and appearance, would harm the living conditions of the occupiers of No 72 Booth Lane South, with particular regard to outlook. Insofar as they are a material consideration, the proposal would be contrary to Policies SD1, Q1 and Q2 of the NLP which, together, seek to ensure that development is of high-quality design that is not overbearing upon existing buildings while ensuring private gardens meet the reasonable needs of users and that outlook is satisfactory.

Alternative Sites

10. The proposed equipment would provide 5G coverage. The supporting Cell Search Area Map shows that the appeal site lies within an area of coverage deficiency which the proposal seeks to infill. Paragraph 122 of the Framework makes clear that the need for an electronic communications system should not be questioned.
11. However, I have found that the proposed development, through its siting and appearance, would cause harm to the living conditions of the occupiers of No 72 Booth Lane South. Therefore, the potential availability of suitable alternative sites is an important consideration. In addition, paragraph 121 of the Framework identifies that, for a new mast, evidence should be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.

12. The supporting information indicates six discounted alternative options for the proposed development, numbered D1-D6. The sites have been discounted for reasons including impacts on residential dwellings, insufficient/unsuitable pavements/verges and visibility splay issues. However, the reasons provided are brief and unsupported by any further evidence to suggest why they would be more harmful than the appeal scheme or are not viable.
13. Further, it has not been demonstrated whether the options explored included the use of existing buildings, masts or structures, as required by the Framework. The appellant states that opportunities for sharing facilities have been investigated, and that mast sharing would entail a more bulky structure and multiple levels of headframes. However, I have no evidence of these investigations before me.
14. The appellant states that the cell search area is extremely constrained and that the only viable option has been put forward. However, the map shows that the search area encompasses a variety of spaces. There are two existing masts to the north on Booth Lane South, positioned on wide verges between the highway and the adjacent school playing fields. Whilst I note that these masts are beyond the search area, there are additional sites with similar characteristics within the search area that are further away from residential properties than the appeal site or those already discounted.
15. In the absence of clear and persuasive evidence as to why alternative sites have been discounted or not considered at all, I am unable to establish that the appeal scheme is the most suitable in its siting and appearance.
16. Consequently, on the information before me, having regard to the development plan and the Framework, the evidence does not convincingly demonstrate that a thorough review of possible suitable alternative options within the cell search area has been carried out or that the appellant has adequately explored whether there may be less harmful alternative sites. As such, the harm set out above is not outweighed by the need for the installation to be located within the vicinity of the area identified.

Other Matters

17. While I recognise that there are wider social and economic benefits that would arise from the proposal, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. Therefore, these considerations neither weigh in favour of or against the proposed installation.
18. The appellant 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. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine and there is no reason to depart from national policy in this respect.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

K Allen

INSPECTOR