



Appeal Decision

Site visit made on 13 December 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/M4320/W/23/3320488

Site in front of Marine Football Club, College Road, Crosby L23 3AS

- 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 Telecommunications against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/01727, dated 30 August 2022, was refused by notice dated 20 October 2022.
 - The development proposed is the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto.
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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 street works column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto at Site in front of Marine Football Club, College Road, Crosby L23 3AS, in accordance with the terms of the application, ref DC/2022/01727, dated 30 August 2022, and the plans submitted with it, including: Drawing No. 100 Rev D (site location maps), Drawing No. 201 Rev D (proposed site plan), and Drawing No. 301 Rev D (proposed site elevation).

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. In accordance with Part 16 of the GPDO, I have assessed the proposal solely on the basis of its siting and appearance.
3. I have taken the address of the appeal site from the appeal form and the statements of both main parties as it is a more accurate description of the location. I am satisfied no party would be prejudiced by my so doing.
4. The appellant has provided additional information at the appeal stage which identifies and discounts alternative sites that have been considered for the proposed development. The Council and interested parties have had the opportunity to comment on this information as part of the appeal process. The

information does not alter the form or location of the proposed telecommunications installation. I am satisfied that no prejudice would occur to any party as a result of my consideration of the information and have determined the appeal on that basis.

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.
6. The Council has referred to development plan policies in its decision notice. However, the principle of the development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A contain no requirement to have regard to the development plan, but policies may be material considerations where relevant to matters of siting and appearance. Policies EQ2 and HC3 of the Local Plan for Sefton, 2017 (LP) are material considerations as these policies are concerned with, amongst other things, general design criteria for new development and the character of residential areas.
7. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. The Framework includes sections on supporting high quality communications and achieving well designed places. Therefore, it is also a material consideration. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

8. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

9. The appeal site is an area of pavement fronting Marine Football Club on College Road. The proposed 17.5m column would be located at the back edge of the pavement, adjacent to a tall close boarded timber fence which displays the name of the football ground and up-coming fixtures. The proposed cabinets would be located adjacent to the column at the back edge of the pavement in front of a lower, short section of timber fence. Behind the fence is '1894 bar and bistro' which includes an outdoor seating area and a pay and display car park with the football stand and other associated buildings beyond.
10. In the immediate vicinity of the appeal site, College Road is fronted on each side by retail and other commercial properties. There are residential properties behind and above some of the commercial properties fronting College Road and the area to the south of the appeal site and on three sides of the football ground is predominantly residential. The area is therefore of mixed urban character and appearance.

11. The proposed development would occupy a prominent location on the pavement, particularly having regard to the outdoor seating area, planted boxes and car park, which provide a visual break in the built-up area. Although the appellant's photomontages demonstrate that the functional appearance of the proposed column would be seen within a similar setting as the four floodlights which surround the football ground, and would not be significantly taller, the floodlights are set back behind the car park and do not have the same intimate relationship with College Road where the presence of the proposal would be noticeably amplified.
12. Notwithstanding the proximity to the spectator stand and floodlights, due to its height and bulky headframe design, the installation would be a prominent structure when viewed from the outdoor seating area and the entrance to the football ground. It would also be clearly visible in views along College Road and Warwick Avenue in the skyline, above the backdrop of the spectator stand, boundary fence and the surrounding one and two storey buildings. Properties bordering the football ground would also have views of the upper part of the proposed column and headframe.
13. The height of the proposed installation would be significantly taller than the surrounding roadside street furniture and the column width would be bulky in comparison. Street trees along College Road would provide some screening to the proposal in longer views along the road. Nevertheless, there are no trees in the immediate vicinity of the appeal site and any screening afforded by trees would be reduced during the winter months when the trees would not be in full leaf. In any event, from observations at my site visit, the column would be significantly taller than these trees. In this context, whilst the height and bulk of the column and headframe would be less conspicuous in long range views, it would be a discordant and conspicuous feature along this part of College Road.
14. The Council raises no concerns with the equipment cabinets and other proposed ancillary works. These would be low key and in keeping with the urban roadside location where such features are common. The site is not located within an area subject to any heritage designation.
15. For the reasons set out, I conclude that the siting and appearance of the proposed installation would result in moderate harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 135 of the Framework and Policies EQ2 and HC3 of the LP which all seek, amongst other things, that development responds positively to the character, local distinctiveness and form of its surroundings and does not harm the character or appearance of the area.

Alternative sites

16. 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 proposal would provide 5G coverage and a number of potential benefits have been set out by the appellant relating to improved connectivity, such as supporting the economy and digital inclusion.
17. However, as I have found that the proposed siting would cause harm to the character and appearance of the area, it is necessary to consider whether

other, less harmful options may be available. Indeed, Paragraph 121 of the revised Framework advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.

18. On the evidence before me, the appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. The appellant identified that their existing mobile telecommunications site at the corner of College Road and Brooke Road East is shared with Vodafone. The appellant asserts that it would not be possible to provide an upgraded installation at this site which would satisfy both operators requirements to provide a 5G service. As such, the existing street work monopole would be retained by Vodafone and the appellant's equipment must be located somewhere within the search area to provide consistency in coverage. 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.
19. It is noted that, as with all 5G cells, the relevant search area is very constrained and that in this case, the designated search area covers what is largely a densely populated residential area. There are further limitations in siting new infrastructure too close to the existing installation on Brooke Road East due to interference.
20. I also recognise that the dense urban nature of the area provides limited alternative options and rooftop installations may not be possible due to the traditional design and height of buildings in the area. This has consequentially led to several discounted options. While the Council initially questioned the lack of evidence provided in the application regarding alternative sites, the Council now confirm in their statement that the information provided by the appellant in their appeal submission may help to overcome their concerns relating to the robustness of the search for alternative sites. 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 appeal.
21. Of the 15 alternative sites put forward in the appellant's site selection process, 4 would be marginally outside the search area. Two mast sharing options would result in a taller and bulkier installation close to residential properties. Rooftop installations would be prominent or unsuitable due to the relatively low height or pitched designs of buildings in the area. Many ground based options would be close to residential properties or on narrow pavements. A potential option within the forecourt of the Esso garage on College Road would restrict vehicle movement at the site.
22. My attention has been drawn by an interested party to potential alternative sites close to Alexandra Park. Surrounding roads are located outside the search area. I saw at my site visit that the pavements on each side of Carnegie Avenue are narrow and the canopy of the Crosby Park, Nissan business overhangs part of the pavement. Furthermore, the dense canopy of trees on the periphery of the park may restrict an installation on the adjoining pavements. In any event, this location would be equally harmful to the character and appearance of the surrounding area.

23. Although the reasons for discounting alternative sites are expressed in broad terms, having reviewed the submitted evidence and seen the alternative locations, I am satisfied that there are no suitable alternative sites to provide the additional network coverage and capacity requirements in this area. I also note the appellant has reduced the height of the proposed column from a previous proposal in the same location.¹
24. Accordingly, based on the available evidence, I consider that the appellant's findings that there would be no other feasible, available, and more suitable location for the development to be both reasonable and justified.

Balance and conclusion

25. The government is committed to supporting the deployment of next-generation mobile infrastructure. In this regard, whilst I recognise the general social and economic benefits, those benefits, as well as alleged adverse climate change and other environmental impacts, have effectively been recognised by the grant of permitted development rights in the GPDO. Hence, they do not carry weight when considering matters of siting and appearance as part of the prior approval process.
26. I do, however, recognise that there is an identified and undisputed need for improved mobile telecommunications provisions meaning that the installation has to be sited somewhere in the target area.
27. I have found that moderate harm would arise to the character and appearance of the area from the siting of the proposed development and there would be conflict with the LP in this regard. Nevertheless, it has been satisfactorily demonstrated that there are no suitable alternative sites. Therefore, unless the proposed site comes forward, the need for a telecommunications installation to provide new 5G coverage and capacity, and replacement 2G, 3G and 4G services to this area of Crosby would remain unmet.
28. Overall, I consider that the absence of a suitable alternative site means that the need for the installation to be sited as proposed taking into account any suitable alternative outweighs the moderate harm that would occur to the character and appearance of the area due to the siting and appearance of the proposal.

Other Matters

29. I have carefully considered all other matters raised by interested people, including in regard to narrow pavements, the effect on local businesses and Marine Football Club and health.
30. The proposal would not significantly impede the flow of pedestrians or compromise safety along College Road and there have not been any objections from statutory consultees.
31. I have had regard to the location of the proposal close to Marine Football Club. However, no robust evidence has been provided to substantiate the claim that the proposed column would significantly harm the visitor experience to the football ground or would affect local businesses. Also, it would be far enough away to avoid an impact on any schools or nurseries. It is also a well-founded

¹ LPA Ref: DC/2021/00538

principle that the planning system does not exist to protect private interests such as value of land or property².

32. Concerns have been raised about potential effects on health. However, 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 (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.
33. It is suggested that there would be no need for the proposed equipment. However, at paragraph 122 the Framework states that the need for electronic equipment should not be questioned.
34. My attention has been drawn by the Council to an appeal that was dismissed even though there was a lack of alternative sites³. However, I have not been provided with a copy of the decision or the specific circumstances of this appeal. As such, I have insufficient information to make a robust comparison. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
35. I note that several comments relate to a different proposal at Victoria Park, Park View, Waterloo⁴. The Council confirm this is due to there being a similar proposal under consideration at Victoria Park at the same time as this appeal.

Conditions

36. Any 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

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

A Veevers

INSPECTOR

² Planning Practice Guidance - Paragraph: 008 Reference ID: 21b-008-20140306

³ Appeal Ref: APP/Q4625/W/22/3294942

⁴ LPA Ref: DC/2023/01871