



Appeal Decision

Site visit made on 3 January 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/Z4310/W/23/3323236

Croxteth Hall Lane Street Works, Croxteth Hall Lane, Liverpool L12 4YL

- 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 Gallivan (CK Hutchison Networks (UK) Ltd) against the decision of Liverpool City Council.
 - The application Ref 22PT/3118, dated 15 November 2022, was refused by notice dated 30 January 2023.
 - 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 allowed and prior approval is granted for the 5G telecoms installation: H3G 18m street pole and additional equipment cabinets at Croxteth Hall Lane Street Works, Croxteth Hall Lane, Liverpool L12 4YL in accordance with the terms of the application, Ref 22PT/3118, dated 15 November 2022 and the plans submitted with it including 002 Site Location Plan, 215 Proposed Site Plan and 265 Proposed Site Elevation.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.
3. The appeal site is situated in the Green Belt. The principle of development is however established by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) which requires the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on this basis.
4. The provisions 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 Framework insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are the effect of the siting of the proposed installation on (i) the health of nearby trees; and (ii) 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

6. The appeal site forms part of the footway, adjacent to Croxteth Hall Park. The boundary to the park is formed of a low stone wall with railings, behind which is a dense hedge. A line of trees is also situated within the Park, close to the boundary with Croxteth Hall Lane and consists of a combination of mature and younger trees.
7. A number of trees within the Park are located close to the proposal, but they are separated from it by a boundary wall, with associated footings. There was no evidence of tree roots from the Park protruding towards the footway, and as such, I do not consider that the proposal would have a direct impact on the roots.
8. The assessment¹ submitted by the appellant demonstrates that the nearby trees are all located beyond the canopy spread of the proposed mast. The tallest of the nearby trees is around 17m in height and has reached its full height potential. A number of further trees in close proximity to the appeal proposal are also at a mature stage of life which is likely to mean limited further growth. As a result, given the extent of the canopy spread and the mature age of these trees, I do not consider it likely that there would be pressure to undertake significant pruning to tree branches as a result of windy weather conditions or because they would interfere with the operation of the proposal. The other remaining nearby trees that were assessed by the appellant are of a low value, have a poor form or are in poor condition. I have no reason to disagree with this assessment.
9. In conclusion, the siting of the proposal would not have an unacceptable adverse effect on the health of nearby trees. As such, it would not be contrary to, insofar as it is a material consideration, Policy GI 9 of the Local Plan, which seeks, amongst other matters, to protect existing trees. A number of other policies are referenced within the decision notice, but I do not consider them to be directly relevant to this main issue relating to the effect on the health of trees.

Other Matters

10. Concerns have been raised in relation to the potential effects of the proposal on human health. 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 that differ from the International Commission guidelines for public exposure should not be set. Although it has been stated that the proposal is not necessary as there is sufficient equipment in the area, the Framework advises that the need for electronic communication system should not be questioned.
11. The proposal is said to be visually obtrusive and harmful to the appearance of the area. However, the proposal would be seen amongst other vertical features such as lamp posts and given its, for the most part, slim line form, I do not consider its siting and appearance would have a detrimental impact on the character and appearance of the area. The proposal would be situated within the Grade II listed Croxteth Hall Park with a number of other listed buildings

¹ Arboricultural Report (Sylvanarb January 2023)

nearby. The effect on the listed park does not form part of the Council's reason for refusal and given the separation of the proposal from other listed buildings within the park by a belt of trees, I do not consider that there would be any harm to the setting of these heritage assets.

12. I have taken account of the other matters raised relating to energy usage, the mining of rare earth minerals, air pollution and the effects on wildlife and the environment, but they do not alter my conclusion in relation to the main issue in this case.

Conditions

13. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that development must 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.
14. As the proposal is located on the footway, and beyond the Root Protection Areas of the nearby trees, I do not consider that any conditions relating to tree protection measures are necessary.

Conclusion

15. For the above reasons, I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR