



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/23/3322829

Lisburn Lane Street Works, Lisburn Lane, Liverpool L13 9AQ

- 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/2832, dated 19 October 2022, was refused by notice dated 9 December 2022.
 - 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. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.
3. 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.
4. 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 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 and appearance of the proposed installation on (i) the character and appearance of the area; (ii) the long-term health of trees; and (iii) 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

6. The appeal site is located on Lisburn Lane, close to the junction of Adshead Road and Maiden Lane. The appeal site forms part of a grass verge between

the footway and the vehicular carriageway. The width of the highway, the setback of properties behind garden and parking areas, as well as the presence of an open space area next to the appeal site, behind the footpath, contribute to a spacious, suburban character.

7. The proposed mast would be close to existing streetlights, but at a height of 15m, it would be three times the height of the nearby lampposts. There are trees a short distance from the appeal site, but they would provide limited screening of the proposed mast in views along Lisburn Lane given they are positioned to the rear within the area of open space. Rather, the proposed siting on a wide grass verge area with other open areas around it would result in it being unduly exposed and appear conspicuously tall and higher than any nearby built features.
8. I appreciate the efforts that have been made to minimise visual intrusion, including the slim line pole design and the intended grey colour. However, in this particular instance, the height of the mast and its intended positioning, would result in it appearing as an incongruous feature that would be harmful to the character of the area.
9. A number of cabinets are also proposed, but these would be low level structures that would be seen against similar height metal railings a short distance to the rear at the edge of the footpath. As such, I do not consider the siting and appearance of these elements of the proposal would have a harmful visual effect.
10. To conclude on this issue, 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 119 of the Framework and Policies UD1 and STP4 of the Local Plan, which require consideration of, amongst other matters, the form and scale of a development proposal.

Long-term Health of Trees

11. The area of adjacent open space has a number of trees in close proximity to the appeal site. Although the Council has raised concerns that the future growth of one of these trees could affect the operation of the mast and lead to pressure for the tree to be pruned, the appellant has submitted an assessment¹ that demonstrates that the nearest trees are located beyond the canopy spread of the mast and cabinets. Their mature stage of life is also likely to mean limited further growth. As such, I do not consider that there would be any long-term conflict with the nearby trees.
12. I conclude therefore that the siting of the proposed installation would not have an unacceptable adverse effect on the long-term 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, 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-

¹ Arboricultural Report (Sylvanarb December 2022)

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 requires base stations to be in close proximity to the area they serve, in this instance, to the surrounding area around the appeal site. A number of benefits have been set out by the appellant including meeting the needs of businesses and communities, through for example, supporting home working and using phones and wireless technology on the move. Reference has also been made to a Government letter that sets 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. Reference has also been made to the constrained cell search area owing to a 5G cell having a small radius area. Within the search area, a number of sites were considered and discounted, including site D5 (Monash Road), which was discounted for the reasons of unsuitable pavements or grass verges and the location in front of residential housing. There are a number of other locations, near site D5, along Queens Drive, a dual carriageway with wide grass verges including locations fronted by commercial properties that were not considered by the appellant. These locations could potentially accommodate the proposal and I find the analysis of discounted options by the appellant is too generalised to eliminate other options.
15. I appreciate the need for this installation is to provide new 5G mobile coverage to the residential area around the site and that a mast at 15m high is the minimum required to deliver the benefits of 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. 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, nor is it subject to environmental designations. The proposal would not result in an impact on pedestrians using the pavement nor on residential amenity. There would also be no harmful impact on the long-term health of trees. A lack of harm in these areas are neutral matters and do not 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