



Appeal Decision

Site visit made on 16 January 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/W1850/W/23/3319587

Ledbury Road Street Works, Ledbury Road, Tupsley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cooke (CK Hutchison Networks (UK) Limited) against the decision of Herefordshire Council.
 - The application Ref 230033, dated 07 February 2023, was refused by notice dated 13 March 2023.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published a revised National Planning Policy Framework on 19 December 2023, replacing the previous version dating from 5 September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework.
3. The Framework supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), and subject to any relevant exception, limitation or condition specified therein, development by, or on behalf of, an electronic communications code operator for the purpose of the operator's electronic communications network, is permitted development. Therefore, matters such as the need for, or benefits of, the development, are not at issue in this appeal.
4. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) and (7) 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.
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 regard to be had to the development plan. Therefore, I have had regard to the policies of the

development plan, and the Framework only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area, including the setting of the Hafod Road Conservation Area and the Bodenham Road Conservation Area, and, 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

7. The appeal site is located on Ledbury Road which is predominantly residential in nature and is characterised by 2 storey properties which are set back from the highway. Both sides of the road are lined by grass verges and street trees. Overall, this creates a spacious and verdant character.
8. The appeal site is located close to the boundaries of the Bodenham Road Conservation Area (BRCA) and the Hafod Road Conservation Area (HRCA). The BRCA covers Bodenham Road and its immediately adjoining streets and the HRCA covers Hafod Road. Both conservation areas comprise predominantly large 2-storey Victorian dwellings which are set back from the road in substantial plots behind landscaped front gardens. In both conservation areas mature planting within the street scene and in private gardens contributes to a spacious green and verdant character, which, along with the form and appearance of the dwellings, appears to be part of their significance.
9. Views of the appeal site from the nearby conservation areas are confined to the northern-most part of the HRCA at the junction with Ledbury Road and from the southern-most part of the BRCA at the junction with Ledbury Road. There are clear views of the conservation areas from the appeal site. The open nature of the site allows views of these conservation areas from Ledbury Road which enables aspects of their significance to be appreciated.
10. The proposal relates to an area of footpath on the south side of the road adjacent to a car park associated with a public house. The footpath contains items of street furniture including road signage and lamp posts. The proposed telecommunications installation would be 15 metres tall and would be sited on the pavement. The proposed cabinets are not unusual features or excessive in scale and the mast would appear to be the minimum height and width for operational reasons.
11. However, the mast would be significantly taller than existing street furniture and would be taller than the nearby buildings. Although there are trees nearby, by virtue of their siting and height, they would fail to provide any effective screening in views from Ledbury Road. Thus, the proposed mast would be dominant in views from the surrounding area and would appear as an incongruous feature in the street scene.
12. Additionally, the proposed mast would be highly visible in views of the conservation areas from Ledbury Road. By virtue of its height and siting, the mast would be a dominant feature in views which enable aspects of the

significance of these conservation areas to be appreciated and consequently would result in harm to the significance of these conservation areas.

13. Therefore, whilst the proposed colour would not be overly obtrusive, and despite being of a standard design for telecommunications equipment, by virtue of its size, the appearance of the proposed mast would fail to visually integrate with its surroundings and would unduly harm the character and appearance of the area and the setting and significance of the Bodenham Road Conservation Area and Hafod Road Conservation Area.
14. Insofar as they are a material consideration, the proposal would conflict with Policies LD1 and LD4 of the Herefordshire Local Plan– Core Strategy 2011-2031 (2015). Together, and amongst other things, these policies seek to ensure that development proposals demonstrate that the character of the townscape has positively influenced design and scale, and that proposals should protect, conserve and where possible enhance heritage assets.
15. For similar reasons, insofar as it is a material consideration, the proposal would be contrary to Chapter 12 of the Framework which seeks to secure high quality design.

Need and Alternatives

16. I have found that the proposed siting and appearance of the mast would result in harm to the character and appearance of the area. It is therefore necessary to consider whether other options for siting the equipment may be available which might have a lesser visual impact.
17. The Framework requires that information is provided to justify the proposed development. In relation to a new mast, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. When noting the visual sensitivities that would apply to a mast within a residential area, it is reasonable to require clear and comprehensive supporting evidence.
18. The supporting information submitted with the application indicates that none of the 'sequentially preferable' options set out in the Framework are available within the search area for a new mast. The appellant provided details of 6 alternative sites which were considered and discounted. There is little information to explain if and why only these 6 options have been considered.
19. Unsuitable pavements and visibility splay issues are cited as reasons for discounting these options along with the discounted reason 'not viable to build the proposed equipment'. I concur with the appellant's assessment that the identified site at D5 may be unsuitable due to visibility issues given the site's location at a busy junction. Additionally, whilst there is limited information regarding the precise siting of D6, based on the information before me this would appear to be in the BRCA, where the siting of the mast may be similarly unsuitable due to the effect on the character and appearance of the area.
20. However, the appellants justifications for discounting the remaining sites are brief and there is no information before me which sets out why the pavements are unsuitable for discounted options D3 and D4 or why it is not viable to build the proposed equipment at discounted sites D1 and D2. I am therefore not convinced that the search area has been properly explored. Thus, the evidence before me is not compelling and I cannot be sure that the appeal scheme is the

most suitable in terms of its siting and appearance. Therefore, insofar as it is relevant, I also find conflict with the Framework as set out above.

Other Matters

21. The appellant comments that the proposal followed pre-application consultation with the Council and notification of ward members. However, this does not otherwise persuade me from my findings in relation to the main issues.
22. I note that a certificate confirming that the proposed equipment complies with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) has been submitted with the application. This represents a lack of harm, which is a neutral matter.

Planning balance and conclusion

23. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance. In this instance, on the evidence before me, the harm to the character and appearance of the area is determinative.
24. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

N Robinson

INSPECTOR