



Appeal Decision

Site visit made on 12 December 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

Appeal Ref: APP/Z4310/W/23/3323306

Lexham Road street works, Lexham Road, Liverpool L14 1PT

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Gallivan of CK Hutchison Networks (UK) Ltd against the decision of Liverpool City Council.
 - The application Ref 22PT/3071, dated 10 November 2022, was refused by notice dated 8 February 2023.
 - The development proposed is described as proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GDPO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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.
3. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policy UD1 of the Local Plan¹ is a material consideration as it relates to issues of siting and appearance. Policy STP4 relates to infrastructure provision where they are required to help deliver national priorities amongst other things.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration to this appeal, including its section on supporting high quality communications. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal, it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. Therefore, I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

¹ Liverpool City Council – Liverpool Local Plan 2013 – 2033, Adopted January 2022.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, the living conditions of the occupiers of the nearby residential properties due to outlook 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

6. The proposal would be installed on a wide section of pavement on Queens Drive (A5058) close to its junction with East Prescott Road (A57). Lexham Road is a side road off Queens Drive, it is a residential street and there are a pair of semi-detached houses on the corner with Queens Drive, one is 2 Lexham Road whilst the other is 633 Queens Drive. The junction of Queens Drive with East Prescott Road is a busy traffic controlled one with a Public House and commercial properties on the western side of Queens Drive close to the junction. The land adjacent to the appeal site on the eastern side of Queens Drive is cleared and fenced land and comprises a future development site. I shall return to this later.
7. Despite the character of the area being that of a busy road junction with high traffic volumes with existing lampposts, traffic signals and street furniture generally, the junction is wide and open with surrounding buildings being no more than two stories in height. The telecom pole would be highly visible and much taller than any other structure in the immediate area and due to its height and width, it would stand out as a visually prominent and intrusive feature that would dominate views to and around the junction. As such, a pole of this height would appear alien in the street scene and at odds with the open character of the junction and therefore harmful to the character and appearance of the area.
8. The outlook from the pair of semi-detached houses on the corner of Lexham Road would be directly towards the proposed installation. Although occupiers of these houses would look towards the busy road junction, the proposed installation would be closer. Whilst the scale of the equipment cabins would not appear unduly intrusive, the telecom pole at 20 metres high would be significantly taller and wider than the lampposts and traffic signs in the area. As such it would be visually intrusive and harmful to the living conditions of the occupiers of the nearby houses, 2 Lexham Road and 633 Queens Drive due to a visually intrusive and poor outlook.
9. As referred to above, the appeal site is immediately adjacent to a vacant site identified on the submitted plans as a development site awaiting works to commence. The site is fenced and portacabins are on site. I am informed that the site has planning permission for a four storey apartment building consisting of 24 residential units². No plans have been submitted so I am unable to determine how any of the residential units in that development would relate to the proposed installation. Likewise, I am unable to assess the implications of a four storey building on this site. I am therefore unable to come to an informed conclusion regarding this matter but as I have found harm in relation to siting and appearance with regard to my main issues, there is no need for me to explore this matter further.

² Planning Application Ref: 19F/2400 – approved 3 April 2021.

10. The proposal is required to extend the 5G mast infrastructure and the appellant explains that due to the higher frequencies utilised, the cell areas for 5G services are smaller than that required for earlier generations of telecommunication (3G and 4G). The intended target/search area has a radius of approximately 100 metres, centred over the Lexham Road area of Liverpool. A list of alternative sites are included in the submission together with a plan identifying their location.
11. Four alternative sites have been discounted two of which are to the south of the appeal site on Queens Drive, one of which is described as being directly opposite a residential property and the other in a residential area with an unsuitable grass verge. The other two sites are also discounted due to their proximity to residential properties or being in a residential area as well as having visibility splay issues or unsuitable pavements. The explanations for the discounted sites are brief and these alternative sites are all discounted for technical reasons relating to the practicalities of their installation or due to their proximity to residential properties. However, the proposed site is also in a residential area and as discussed above would directly impinge on the outlook from the front windows of two residential properties.
12. Furthermore, a reason for refusal indicates that the appellant has failed to submit a cell coverage plan that would indicate whether there are any rooftop installations that could accommodate a new telecom installation. However, the appeal includes details of the required area to be covered and the search area within a 100 metre radius. I also note that the appellant has stated that it has considered a sequential approach to site selection which involved a desktop study and a physical search of the intended target/search area. The Council has not indicated any particular potential rooftop installations or opportunities for the proposed installation and none have been suggested that may or may not be suitable. Nevertheless, from the information submitted, I am not convinced that a less visually intrusive location, especially in terms of the outlook from residential properties, could not be found within the wider urban area that would meet the appellant's requirements.
13. Notwithstanding that the appeal site does not lie within any environmental or heritage designations, the 20 metre high pole would be especially intrusive in this setting and cause harm as I have stated.

Other Matters

14. 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 decision makers 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.
15. I appreciate the appellant's objectives to follow Government commitment to improving high speed 5G mobile connectivity and the benefits this has to the local community. I also note the increased demand that has arisen from more home working following the Covid pandemic and the requirement for improved telecommunications in residential areas and the social and economic benefits of

an improved telecommunications network. However, there is no need for me to take these matters into account in considering the matters of siting and appearance.

Conclusion

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

J D Clark

INSPECTOR