



Appeal Decision

Site visit made on 23 January 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2024

Appeal Ref: APP/W4325/W/23/3326909

Area of Footpath, Arrow Park Road Street Works, Arrow Park Road, Wirral CH49 0UB

- 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 CK Hutchison Networks (UK) Ltd against the decision of Wirral Metropolitan Borough Council.
 - The application Ref ANTXX/23/00211, dated 10 February 2023, was refused by notice dated 20 April 2023.
 - The development proposed is Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets. at Area of Footpath, Arrow Park Road, CH49 0UB in accordance with the terms of the application, Ref ANTXX/23/00211, dated 10 February 2023, and the plans submitted with it including drawing numbers:
 - WIR23134_WIR162_TBC_CH0573_GA_REV_B (Site Location Plan)
 - WIR23134_WIR162_TBC_CH0573_GA_REV_B (Proposed Site Plan)
 - WIR23134_WIR162_TBC_CH0573_GA_REV_B (Proposed Site Elevation)

Main Issue

2. It is sought to erect a H3G 15m street pole and additional equipment cabinets (the mast). The principle of development is established by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4), the GPDO requires the Local Planning Authority to assess the proposal solely on the basis of its siting and appearance, taking into account representations received. It does not require regard to be had to the development plan.
3. As such, I have considered Policy TE1 of the Wirral Unitary Development Plan 2000 (DP) and the National Planning Policy Framework (the Framework) only insofar as they are material considerations relevant to matters of siting and appearance. I am also aware of the emerging Wirral Local Plan 2021 – 2037 which has been referred to in the Officer Report. This plan has been submitted for examination. These policies were not included as evidence or commented

on by either party. I do not find that this would prejudice the case of either party.

4. The main issue is the effect of the siting and appearance of the mast on the character and appearance of the street scene with particular regard to the non-designated heritage asset of 21 Rake Close and 21a Rake Lane.

Reasons

5. The mast would be sited on a footpath parallel to Arrowe Park Road and forward of a small car park between Arrowe Park Road and Rake Lane. Immediately adjacent to this site is a single storey commercial property, which rises to two storey commercial premises which continue up Arrowe Park Road in a continuous row. The mast would be situated at the foot of this road which changes in its topography as it rises to the north. To the south of the mast would be a collection of trees in varying heights and an existing small utility building of brick construction. Streetlights are situated in close proximity to the appeal site and vary in height due to the change in topography of Arrowe Park Road. The mast would be taller than these existing trees and the streetlighting columns.
6. 21 Rake Close and 21a Rake Lane are situated 20m away from the appeal site. These are non-designated heritage assets which are a cottage and former coach house, estimated to have been constructed in the 1800s. These buildings gain their significance from their likely historical shared curtilage and relationship with the highway. The significance of this non-designated heritage asset has been eroded overtime from the construction of high-density dwellings in close proximity to its setting. Paragraph 209 of the Framework requires a balanced judgment which must be undertaken to the scale of any harm and the significance of the heritage asset.
7. Sited in this location, when viewed in isolation, the mast would be taller than the immediate single storey commercial premises, streetlighting columns and trees. Furthermore, these trees would offer little concealment of the mast in winter months. However, given the rise in the land along Arrowe Park Road, its parallel location to the highway and low height as the commercial properties rise up Arrowe Park Road, I am not of the view that the proposed mast would appear alien or unexpected in this context. These elements would contribute to reducing the height as the mast would blend in with these commercial units from wider vantage points. Situated here, the mast would retain adequate space for pedestrians to continue to utilise the footpath and would be situated outside of the perimeter of the small car park and would therefore not impede it.
8. When viewed from Arrowe Park Road, the proposal would be situated with the backdrop of 21 Rake Close and 21a Rake Lane behind it. However, due to their separation distance, location of the mast adjacent to modern commercial properties and the location of the mast along other modern infrastructure such as streetlighting columns and a brick-built utilities building, the mast would not be read immediately with these non-designated heritage assets. Having had regard to my duty set out in Paragraph 209 of the Framework in undertaking a balanced judgement, I find that the proposal would not have an unacceptable effect on the significance of the non-designated heritage asset or its setting.

9. In conclusion, the proposal would not appear overly prominent, alien, or visually intrusive. It would not cause harm to the character and appearance of the area. The proposal would therefore comply with Policy TE1 of the DP, as well as the Framework's requirements for supporting high quality communications, whilst achieving well-designed places. Consequently, I consider that the siting and appearance of the proposal would be acceptable.

Other Matters

10. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties and places of education. 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.
11. There has been a great amount of local member and public interest in this proposal and I note that a petition has been created with a large number of signatures to prevent the granting of prior approval of this proposed development. Several concerns have been raised. These include the effect of the mast on the environment, residential amenity, the ability for the community group to carry out the ambitions of the community group and that the mast could be located in other locations.
12. I note that the Council have not found harm with regard to the amenities of the occupants of nearby dwellings. The Council state that the mast is sited 20m to the nearest dwelling and no properties would have any direct openings onto the mast. I find no reason to disagree. Additionally, there is no evidence before me to conclude that the mast would have any harmful effects on the environment. I have not been provided any evidence as to the details of the improvements or how this proposal would prejudice the improvements planned by the community group. The proposed mast and associated cabinets would therefore not limit the ambitions of the planned improvements by the community group to other areas in the immediate street scene.
13. Interested parties have also suggested that other sites have not been considered to their full potential and should be further explored. I have not found an unacceptable harm to the siting and appearance to the proposal in this location. Therefore, there is no requirement to consider these sites further.

Conditions

14. Any planning permission granted for the H3G 15m street pole and additional equipment cabinets 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 no 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

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

J Smith

INSPECTOR