



Appeal Decision

Site visit made on 24 January 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2024

Appeal Ref: APP/W4325/W/23/3327236

Area of Grass Verge, Old Chester Road Street Works, Old Chester Road, Bebington CH42 4NN

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Limited against the decision of Wirral Metropolitan Borough Council.
 - The application Ref ANTX/22/02164, dated 21 December 2022, was refused by notice dated 28 February 2023.
 - The development proposed is a 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 proposed development is the erection of a H3G 20m street pole (the mast) and additional equipment cabinets. 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 on 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.
4. I am aware of the emerging Wirral Local Plan 2021 – 2037 which has been submitted for examination. This has been discussed in the Officer Report. However, these policies have not been provided by the Council. Both parties have had opportunity to comment on this when providing their evidence. Furthermore, I have given these emerging policies limited weight as they are subject to further modification.

Main Issues

5. The main issues are:

- the effect of the siting and appearance of the proposal on the character and appearance of the area; and,
- the living conditions of the occupiers of neighbouring dwellings with particular regard to outlook.

6. If any harm would occur, further consideration is an assessment of whether this harm is outweighed by the need for the installation to be sited in this position by considering any suitable alternative.

Reasons

Character and Appearance

7. The mast and additional cabinets would be situated on a small grass verge at the head of Town Lane and in between the main carriageway on Old Chester Road and an access road for two storey residential properties (also named Old Chester Road) situated behind the proposal. A small number of low-level trees are located on this small grass verge, with larger trees situated on a grass verge in between the main carriageways of Old Chester Road. Three storey properties are located in the wider area. However, these are separated by a large distance which is made up of an area of generous open green space.
8. Sited in this location, the mast would be visually prominent at the head of Town Lane and when travelling along Old Chester Road due to its overall height, with little to disguise its prominence within the street scene. The structure would significantly stand above the two storey dwellings and street furniture in the immediate area, despite being designed to be as operationally low as possible. Existing foliage along Old Chester Road would contribute to screening the mast along the approach from the east. However, this would only be a short reduction in visibility and would not reduce the prominence of the mast from alternative approaches along Town Lane or Old Chester Road. Therefore, the mast would appear as a large, dominant and alien structure in its sited location and general appearance.
9. The additional equipment cabinets would be notably smaller when viewed in context with the mast. However, when viewed at a close distance by users of the footpath located on Old Chester Road, these cabinets would be of a substantial height. These would appear as incongruous features which would cause harm to the character and appearance of the street scene.
10. The effect of the siting and appearance of the proposed mast, with its associated equipment cabinets, would harm the character and appearance of the area. As such, insofar as they are a material consideration, the proposed development would conflict with the provisions of Policy TE1 of the DP. This policy seeks telecom developments to be adequately sited and relate well to their locality. The development would work against the provisions of paragraph 119 the Framework which states that equipment should be sympathetically designed to its surroundings.

Living Conditions

11. The residential access road to Old Chester Road is situated immediately behind the proposed mast. Small front gardens are situated in front of the residential properties in this location. This combination would create a short distance between these residential properties and the mast.
12. The siting of the mast in this location would introduce a tall feature near to the front windows which serve these residential properties. I recognise that the mast would be a slim structure. However, the mast would be visible in the full vertical height of these windows. Due to its height, proximity and appearance, the mast would create a jarring outlook for these properties.
13. The siting and appearance of the proposal would have a harmful effect on the living conditions of neighbouring properties. Accordingly, as they are a material consideration, the proposal would be contrary to the aims of Policy TE1 of the DP due to its effect on living conditions to the neighbouring residential properties. Amongst other things, this policy holds a presumption in favour of applications for telecom installations, subject to the siting and appearance of the proposal. The development would work against the provisions of paragraph 119 the Framework which states that equipment should be sympathetically designed to its surroundings.

Alternative Sites

14. An exercise to assess alternative sites for this proposal has been undertaken by the appellant. The appellant identified that during this process, no mast sharing or existing building structures were identified and therefore, new base stations were identified as being required. Sites D1 to D6 are discounted due to issues of visibility splays, narrow pavements to accommodate the proposed equipment, unsuitable pavements and would be located close to residential housing. However, the reasons as to why these were discounted have not been thoroughly explained and no evidence has been provided to allow an assessment of these sites to be undertaken.
15. I find that the from the evidence before me, a sequential approach to site selection has been undertaken. However, the severity of these constraints and why these sites have been removed from consideration is limited in reasoning and without sufficient rigour to enable me to ascertain that there are no realistic opportunities to erect a proposal such as this in a different location where its siting and appearance would be less harmful. The proposal therefore fails to comply with paragraph 121(c) of the Framework which encourages for communication infrastructure proposals to explore the possibility of utilising alternative sites.

Other Matters

16. 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.
17. 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 NPPF 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.

Conclusion

18. For the reasons given above, the appeal is dismissed.

J Smith

INSPECTOR