



Appeal Decision

Site visit made on 17 April 2024

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/U4610/W/23/3330010

Grass Verge, Kenpas Highway/Green Lane, Stivichall, Coventry CV3 6EA

- 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 Cornerstone against the decision of Coventry City Council.
 - The application Ref: PL/2023/0000182/PAEC, dated 23 January 2023
 - The development proposed is the installation of a 20 metre high slim-line monopole supporting 6 no. antennas, 2no. transmission dishes, 2 no. equipment cabinets, and ancillary development thereto, including 3 no. Remote Radio Units (RRU's).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a 20 metre high slim-line monopole supporting 6 no. antennas, 2no. transmission dishes, 2 no. equipment cabinets, and ancillary development thereto, including 3 no. Remote Radio Units (RRU's) at Grass Verge, Kenpas Highway/Green Lane, Stivichall, Coventry CV3 6EA, in accordance with the application PL/2023/0000182/PAEC, dated 23 January 2023, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Council 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. The provisions of Schedule 2, Part 16, Class A of the Order do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area;

- the effect of the siting and appearance of the proposed installation on the living conditions of the occupiers of neighbouring properties; and
- if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed taking account of any suitable alternatives.

Reasons

Character and appearance

5. Kenpas Highway is a main route through a residential area. The site is adjacent to it and a junction with Green Lane and within a landscaped, broadly triangular shaped, grass verge. The verge includes some mature trees, a street lighting column, and a sign. There are further grassed verges nearby which also contain trees, streetlighting, equipment cabinets, a telecommunications mast, and a variety of road signage. Other telecommunications masts are located nearby, one of which is to be replaced by the appeal scheme. Buildings are typically two storeys in height and set back from the highway edge. This gives the appeal site and the surrounding area an open character.
6. The proposed mast would have a height of 20m, as shown on the submitted plans. This means that the height of the mast would be visible over the height of the noticeably lower surrounding houses. The proposed mast would be viewable when approaching the site from both directions of Kenpas Highway. In addition, the mast would be visible from sections of Green Lane located to the south of the site. Owing to the broadly consistent built form, the mast would be a prominent protrusion into the skyline and the sudden provision of a larger structure would be discordant.
7. The telecommunications mast would be sited in front of the building line of houses in Kenpas Highway. This means that the mast would not be viewed against a backdrop of buildings, which would render it more prominent, particularly when viewed from Kenpas Highway.
8. Kenpas Highway is a dual-carriage way. Adjacent is a service road, which also forms part of Kenpas Highway. The site is next to this service road. This means that the street lighting columns, which are a regular feature, are located some distance further forward of the siting of the proposed telecommunications mast. In result, the mast would not be assimilated into views of the area's street lighting. Although the verge features some street furniture, these are relatively few and smaller than the appeal scheme. This means that the introduction of the telecommunications mast would be particularly apparent.
9. The verge includes some mature trees. Although these have a lower height than the appeal scheme, owing to the proportions of their trunks and canopies, views from some vantage points would be diffused. This would be particularly the case when the development is viewed from the widely used Kenpas Highway.
10. In addition, the appeal scheme has been designed to replace an existing installation on the opposite side of Kenpas Highway. Therefore, the development would not result in an overall increase in the number of telecommunications installations. The development would also be near to an existing mast, which is sited closer to the Kenpas Highway than the proposal would be. Therefore, the existing installation is more prominent than the

appeal scheme would be, even allowing for the current proposal's greater height. This reduces the adverse effects of the proposed installation and is demonstrated by the photomontages provided by the appellant.

11. On balance, and even when having regard to the positive matters set out in the preceding paragraph, I nevertheless find that the development would conflict with the requirements of Policies C2 and DE1 of the Coventry Local Plan (2016) (the Local Plan). Amongst other matters, these seek to ensure that developments have regard to the visual amenity, character or appearance of the surrounding area; and positively contribute towards the local identity and character of an area.
12. Given the localised effects of the development, I conclude that the development would have a moderate adverse effect upon the character and appearance of the area.

Living conditions

13. The verge is located at the junction between Kenpas Highway and Green Lane. The nearest house is identified on the submitted plans as being 350 Green Lane, which has windows that face the verge on which the mast is to be sited. There are further houses on the southern side of Green Lane and northern side of Kenpas Highway.
14. The side wall of No. 350 features several windows that face the verge on which the installation is to be located. However, the siting of the development is such that it would not be directly in front of any of the windows at No. 350. Therefore, any such views would be at an oblique angle. This means that the proposal would not have an enclosing, or overbearing effect upon the windows of this house.
15. Furthermore, the proposal would be screened by the trees that are present on the verge and in the garden of No. 350. In addition, the proposed telecommunications mast has a relatively narrow width. In consequence, the installation would not have an overbearing effect upon the nearby garden. Therefore, the living conditions of the occupiers of this property would not be harmed.
16. The proposed development would be visible from the windows of houses to the south of Green Lane and north of Kenpas Highway. However, any such views would be over a significant distance and diffused, to a significant degree, by the presence of landscaping, boundary treatments and street furniture. In addition, the development would also be experienced in a relatively wide field of view. Therefore, it would be viewed alongside several other buildings and the retained telecommunications mast.
17. Therefore, the development would not have an enclosing, or overbearing effect upon the windows and gardens of the other properties in Green Lane and Kenpas Highway. This means that the proposal would not have a deleterious effect upon the living conditions of these neighbouring occupiers.
18. The development, in this regard, would comply with the requirements of Policy DE1 of the Local Plan. Amongst other matters, this requires that developments respond to the physical context of the site.

19. I therefore conclude that the development would not have an adverse effect upon the living conditions of the occupiers of neighbouring properties.

Alternative sites

20. Paragraph 121 of the Framework provides that, amongst other things, applications for electronic communications development (including applications for prior approval under the Order) should be supported by the necessary evidence to justify the proposed development, and that this should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
21. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. It is noted that, as is often the case with 5G cells, the relevant cell search area is constrained; with most buildings being of two storeys in height, and that the designated search area is intended to cover a densely populated residential area.
22. The appellant submitted with the application details of 10 alternative sites, which have been discounted. It has been suggested that alternative sites at Green Lane and Kenpas Junction; the Kenpas Road Bridge; the Burnt Post Public House; Woodside Avenue Methodist Church; Renaissance Court; and St Martin's Finham are not possible for a variety of technical reasons. I have not been provided with any evidence that challenges the conclusions reached by the developer in respect of these sites. I therefore have no reason to disagree with these findings and these sites can be discounted.
23. The appellant has also suggested that a site at the junction with Kenpas Highway and Kenilworth Road is inappropriate. On my site visit, it was readily apparent that the pavement is a busy location, and that the pavement is of a narrow nature. Therefore, the installation the proposal at this location would impede the flow of pedestrians and would erode highway safety. As such, the location would not represent a preferable position for the proposed development. A further site in Kenpas Highway, towards the east of the appeal site, is of narrow proportions. Therefore, developing this location is likely to have an adverse effect upon the safe use of the highway.
24. The appellant has also explained that upgrades to existing installations are not possible owing to the combined weight of the existing and proposed infrastructure. In result, such a sharing arrangement would require a mast of greater bulk than is currently the case. These factors would mean that any such shared mast would have a greater adverse effect on the character of the vicinity than the appeal scheme would have. There also no compelling alternative sites near to the search area.
25. There is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered and I have no robust evidence before me to suggest that there would be other more suitable sites either within, or near to, the search area. Consequently, on the evidence before me, I find that it has been proven that less harmful alternative sites are not available.

Conditions

26. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic

communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within five years of the date of the approval and 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.

27. The Council has suggested a condition requiring that the development be commenced within three years from the date of the approval. This is a shorter timescale than that prescribed in the Order. As there is no justification before me as to why a shorter timeframe is required, I am not persuaded that such a condition would be appropriate.

Conclusion

28. Reference has been made to the various social and economic benefits of the proposal. However, these are not to be considered in an application for prior approval where there is no effect on a designated heritage asset¹ because they have already been recognised by the grant of permission under Article 3(1) of the GPDO. Instead, the prior approval considerations are limited only to matters of siting and appearance. In this respect, I have found that there would be moderate harm to the character and appearance of the area from the siting and appearance of the proposal.
29. Nonetheless, the principle of development within the target area has been established through the General Permitted Development Order. The appellant has also demonstrated that there are no less harmful sites to accommodate the proposed development. Accordingly, I find that the harm is outweighed by the need for the installation to be sited as proposed, taking into account the lack of suitable alternatives. Accordingly, for the preceding reasons, I conclude that the appeal should be allowed.

Benjamin Clarke

INSPECTOR

¹ And therefore no need for any harm to designated heritage asset to be weighed against the public benefits of the scheme