



Appeal Decision

Site visit made on 30 July 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/Z4310/W/24/3336786

Land adjacent to Handel Court, Lodge Lane, Toxteth, Merseyside, Liverpool L8 0QH

- 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 Cornerstone against the decision of Liverpool City Council.
 - The application Ref is 23PT/1580.
 - The development proposed is the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 3 no. equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is allowed and 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 siting and appearance of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 3 no. equipment cabinets and development ancillary thereto at land adjacent to Handel Court, Lodge Lane, Toxteth, Merseyside, Liverpool L8 0QH, in accordance with the terms of the application Ref 23PT/1580, 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 (GPDO 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 the appeal has been made on the same basis.
3. The Council has confirmed that there was a typographical error in the wording of the first reason for refusal, which should refer to Policy UD1 instead of Policy UD2 of the Liverpool Local Plan 2013-2033 (Local Plan). I have dealt with the appeal accordingly.

Planning Policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance, 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

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, with particular regard to the outlook from nearby dwellings; the effect of the siting of the proposal on trees; 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

Siting and Appearance

6. The appeal site is located on a wide pavement alongside Lodge Lane, adjoining the boundary with Handel Court, a residential building which is set back from the road by its car park and a landscaped area. There is an abundance of trees adjacent to the appeal site, within Handel Court and on land opposite.
7. The road is busy, with a predominantly commercial character, with residential streets spurring off the road. The street scene includes tall street lighting columns on both sides of the road, traffic signs, a bus shelter, and bollards. Despite this, the pavement and the appeal site does not benefit from a large amount of street furniture and the pavement has a wide, uncluttered appearance.
8. At a height of 17.5 metres, with a large headframe, the proposed monopole would be noticeably taller and thicker than the existing street lighting columns. However, from certain viewpoints, the proposal would benefit from the backdrop of adjacent trees, which would soften its appearance along the road. There is also a prevalence of mature trees opposite and elsewhere along the road frontage, which would provide screening. As a result, longer distance views of the proposed monopole along the road would be restricted. Consequently, the visual presence of the proposal would be largely restricted to views from within the immediate street scene and from Handel Court.
9. Some occupiers of Handel Court would have an outlook towards the proposal, but many views would be filtered by the trees. The equipment cabinets would also be largely hidden behind the front boundary wall. Nevertheless, there is a gap in the tree coverage on the front boundary and certain windows of Handel Court would have a direct outlook towards the upper parts of the proposed street pole. There would also be prominent views of the proposal from the immediate street scene and opposite the appeal site.
10. Consequently, even though the proposal would be located along a busy road of commercial properties, with the benefit of good tree screening, the monopole, due to its height, bulk, and functional appearance, would introduce a large structure onto the wide, open pavement. For similar reasons, it would be visually intrusive to neighbouring dwellings. As a result, there would be moderate harm to the character and appearance of the area, including the outlook from habitable windows of Handel Court.
11. There is an existing telecommunications mast on the rooftop of an adjacent building and the proposal would result in two masts in close proximity to one

another along the road. However, I am satisfied that the proposal would not result in a proliferation of masts along the busy road, which has a prevailing commercial character. Furthermore, views of the two masts would also be filtered by trees, which would also screen views of the structures from the wider area.

12. Nonetheless, for the above reasons, I conclude that the siting and appearance of the proposed installation would be unacceptably harmful to the character and appearance of the area, with particular regard to the outlook from nearby dwellings. Therefore, insofar as they are a material consideration, the proposal would be contrary to Policies UD1 and STP4 of the Local Plan, which requires consideration of, amongst other matters, the form and scale of a development proposal, and paragraph 119 of the Framework which highlights that telecommunications sites should be sympathetically designed.

Trees

13. The adjacent trees, within the grounds of Handel Court, are located close to the appeal site. However, the proposal is located on the pavement with a brick wall located on the boundary between the trees and the appeal site. As such, the main parties agree that the proposal would be sited outside the 'Root Protection Area' of the trees.
14. As part of the appeal submission, the appellant has submitted an Arboricultural Impact Assessment with Arboricultural Method Statement (tree report), which identifies that three individual trees and two groups of trees were recorded in accordance with BS5837:2012 'Trees in relation to design, demolition and construction'. The trees have good amenity value and make a positive contribution to the character of the area and their retention is necessary to soften and screen the proposal.
15. The Council have not responded to the tree report which concludes that no trees would need to be removed to enable the construction of the proposed development and the trees would be protected by the existing brick boundary wall. The appellant also confirms that no pruning works are necessary to facilitate the operation of the antennas / installation.
16. Furthermore, the upper section of the pole and antenna would be taller than the adjacent trees and while future pruning may be required when the trees grow, I am satisfied that due to the position of the proposal, it would not result in significant damage or loss of any of the adjacent trees. Therefore, the evidence before me indicates that the adjacent trees would be unaffected by the siting of the proposal.
17. For these reasons, I conclude that the siting of the proposal would not have a detrimental effect on trees. As such, insofar as they are a material consideration, the proposal would not conflict with Local Plan Policies GI9 and STP4, which seek new development to demonstrate adequate spacing between the development and existing retained trees.

Alternative Sites

18. Paragraph 118 of the Framework states that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. Accordingly, given the moderate harm to the character and appearance of the area, a balance must be struck,

and consideration must be given to the need for the installation to be sited as proposed, taking into account suitable alternatives.

19. Paragraph 121 of the Framework explains that applications for electronic communications, including prior approval, should be supported with the necessary evidence to justify the proposed development.
20. The submission details that the existing, shared rooftop installation at the nearby Chaplins Bar, cannot be upgraded / redeveloped to deliver the full range of technologies (2G, 3G, 4G) and new 5G for both operators. Therefore, the proposal is required to ensure 5G coverage is available in the area.
21. The appellant has undertaken a search for alternative sites within the constrained cell search area, applying a sequential site selection process. This included the rooftops of a number of buildings in the locality and a detailed analysis of alternative ground sites.
22. Alternative sites were discounted for a range of planning, operational and structural reasons. For example, sites were discounted for reasons including, buildings being too low; the footway being too narrow; location in relation to surrounding residential properties; the inability to offer structural integrity and an inability to provide viable coverage.
23. My attention has also been drawn to a previous application that was refused (reference 21PT/2383) on the footpath on Lime Grove, Adjacent To 129d Lodge Lane. The appeal site represents an alternative proposal to the previously refused scheme.
24. From my on-site observations, and the substantive evidence before me, I have no reason to doubt the legitimacy of the reasons provided as to why the alternatives were discounted in favour of the appeal site. There is also no other compelling evidence before me which would lead me to come to a different conclusion.
25. The lack of better or alternative options to deliver improved coverage and capacity as needed in this area is a consideration which weighs strongly in favour of the development.

Other Matters

26. Concern has been expressed regarding the implications of the proposal on obstruction to pedestrians. However, no objections have been received from the Local Highways Authority. Given the position of the site on a wide pavement, and in the absence of any firm evidence to the contrary, I have no reason to conclude that the proposal would result in impediment or obstruction to pedestrian movement.

Planning Balance

27. Under the terms of the GPDO 2015, the principle of the proposal is not at issue, rather it is for me to consider the matters of siting and appearance. Therefore, the various social and economic benefits presented by the appellant have not been taken into account.
28. It has been demonstrated that the proposal would enable 5G coverage to be rolled out in an area where there is a need for coverage, in addition to a lack of realistic suitable alternatives sites. The proposal would therefore improve

mobile connectivity for users, to assist in providing access to the latest superfast mobile technology to meet the demand of customers. These matters weigh significantly in favour of the proposal and when taken together, are sufficient to outweigh the moderate harm that I have identified. It would therefore accord with Local Plan Policy STP4 which supports new infrastructure where their contribution outweighs the potential for adverse impacts.

Conditions

29. The GPDO 2015 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 5 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.

Conclusion

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

N Bromley

INSPECTOR