



Appeal Decision

Site visit made on 22 October 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/D4635/W/24/3344491

**Land at South Staffordshire Golf Club, West of Codsall Road,
Wolverhampton WV6 9QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Cornerstone against the decision of Wolverhampton City Council.
 - The application Ref is 23/01028/TEL.
 - The development proposed is the installation of a 20.6m monopole comprising 12 no antennas and 4 no dishes together with 4 no ground-based cabinets, 1 no metre cabinet and ancillary development thereto, including 1.8m closeboard fence compound.
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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 (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 this appeal has been made on the same basis.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. The fact that the appeal site is in the Green Belt does not alter this. I have had regard to the policies of the development plan, 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. As the question of whether the proposal represents inappropriate development in the Green Belt does not arise, I have not had regard to Policy CSP2 of the Black Country Core Strategy (2011) (BCCS), referenced in the Council's reasons for refusal.
4. Nevertheless, Policies CSP4 and ENV3 of the BCCS and Policies G2, D4, D6, D7, D8, D9, D12, E20, N1 and N7 of the Wolverhampton Unitary Development Plan 2001-2011 (2006) (UDP) are material considerations as they relate to issues of siting and appearance. In particular, they seek to ensure developments respect the landscape and townscape character and natural features of the Borough, do not have an adverse effect on amenity, and that telecommunications development is sited to minimise visual impact. Similarly, the Framework is also a material consideration and this includes a section on supporting high quality communications. Detailed advice contained in the Council's

Supplementary Planning Guidance Interim Telecommunications Policy (2002) (SPG) is also a relevant material consideration for this appeal.

5. The appellant has submitted additional details of alternative sites considered in their appeal statement of case. I am satisfied that all relevant parties have had the opportunity to comment on these and that no-one's case is prejudiced by my taking them into account.

Main Issues

6. The main issues are:-

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area;
- whether adequate information has been provided to ensure that the proposal would not have an adverse impact on trees;
- the effect of the siting and appearance of the proposed installation on the living conditions of neighbouring occupiers with regard 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

Character and appearance

7. The appeal site is located at the periphery of South Staffordshire Golf Club, in a predominantly residential area, to the west of Codsall Road and north of Tynninghame Avenue. There are mature trees within the appeal site, and trees and vegetation along the site's boundary with Codsall Road. Together with the mature gardens in the locality, and narrow grass verges, this provides for a harmonious green and verdant character.
8. The monopole and cabinets would be located in a compound enclosed by fencing. Although visible from the golf course, the ancillary works at the base of the installation would be well screened from nearby streets by the surrounding vegetation. The mature trees at the appeal site would help to screen the monopole from certain viewpoints. However, the trees would not be as tall as the proposed monopole and antennas, which would tower above the trees and be visible from the golf course and from public vantage points along surrounding residential streets. The trees would therefore fail to obscure the proposed structure or fully assimilate it into the landscape. This would be particularly apparent during the winter months when some of the trees would not be in leaf.
9. The monopole and its headframe, due to its height and bulk, would therefore be readily apparent and would appear as a stark, incongruous man-made feature in the landscape particularly in the context of the softer, more natural surroundings. As such, the installation would be a visually intrusive and prominent addition to the surrounding area. It would be particularly noticeable from short and medium range views from Codsall Road, where it would appear dominant in the street scene.

10. An alternative external colour would fail to overcome the impact of the structure, which would rise above the height of anything around it, including the vertical street furniture items in the vicinity, such as street lighting columns, bus stops, and telegraph poles. Moreover, the proportions of the proposal would be thicker and bulkier than the nearby vertical structures, particularly the headframe designed to support the antennas.
11. The proposal would replace an existing installation located nearby at a petrol filling station at the junction of Codsall Road and Pendeford Avenue, and would therefore not be a totally alien feature within the street scape. However, the existing monopole is slimmer and less bulky than the proposal, and viewed in the context of surrounding built development, vertical features and paraphernalia associated with the garage forecourt. As such it is not as incongruous as the proposed development, and has a less harmful impact on the character and appearance of the area.
12. Accordingly, having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would be contrary to BCCS policies CSP4 and ENV3; saved UDP policies: G2, D4, D6, D7, D8, D9, and EP20; and the SPG, which together seek to ensure that telecommunication installations are appropriately located, and that developments are of a high quality design that respects local character and relates positively to the surrounding environment.

Trees

13. Whilst not formally protected through a Tree Preservation Order, as outlined above the mature trees on the appeal site add to the verdant and green character of the area and make a significant contribution to the local environment.
14. It is clear that the proposed installation would be very close to the trees which are located within the appeal site. Due to the proximity and potential growth of the trees, there is a reasonable likelihood that the proposed development would impact on them, either during construction or by restricting the spread of the canopies. This may lead to considerable pressure to thin or remove the trees in the future. Furthermore, it is likely that the proposed apparatus would be sited within the root protection areas of the trees.
15. Whilst the appellant has indicated that the proposal would comply with the requirements of BS5837:2012 and the National Joint Union Group 'Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees', in the absence of an Arboricultural Report, there is no substantive evidence that demonstrates that the proposed development would not constrain the root area or result in the need to undertake significant pruning works to the tree canopies. Indeed, the submitted plans indicate that tree pruning may be necessary and required to compensate for root damage due to the foundation installation. Accordingly, due to the lack of evidence to the contrary, I cannot be confident that the health and appearance of the trees would not be significantly and adversely affected by the proposals.
16. Any loss or significant reduction of trees near to the site would harm the significant positive contribution that they currently make to the local environment and visual amenity. It would also reduce screening of the

development, increasing its prominence and exacerbating the harm that I have identified would be caused to the character and appearance of the area.

17. In the absence of sufficient information, I am unable to conclude that the proposal could be accommodated without causing harm to trees, and whether any harm identified could be mitigated. Accordingly, insofar as they are material considerations, the proposal would not comply with saved UDP policies N1, N7, D6, D12 and EP20, and the SPG, in their collective aim of ensuring that telecommunication installations are appropriately located and that trees and natural features are protected and enhanced.

Living conditions

18. The proposed development would be located in proximity to side facing habitable windows of 35 Codsall Road (No 35). Views of the monopole and equipment would be afforded from these habitable windows and the side amenity area of the property. Despite some screening from greenery, the monopole and its ancillary equipment would draw the eye on account of its scale and bulk. The proposal would dominate the outlook and loom over the dwelling. This would be overbearing on the occupiers of No 35 and harm their living conditions. The harm would be exacerbated should the nearby trees be lost due to root damage, the canopies of the existing trees be significantly pruned to accommodate the proposals, and during periods of leaf fall.
19. There is a greater distance from the front facing row of houses along Codsall Road which are on the opposite side of the road to the proposal and set back from the footpath behind front gardens. Whilst the headframe would be visible, views of much of the monopole and ancillary equipment would be filtered through the trees. Taking into account the separation distances between the properties on the opposite side of Codsall Road and the proposed development I do not find that the siting or appearance of the development would cause harm to the living conditions of the occupiers of those dwellings.
20. Accordingly, having regard to its siting and appearance, the proposed development would harm the living conditions of the occupiers of No 35 with regard to outlook. Insofar as they are a material consideration, the proposal would not comply with Policies CPS4 and ENV3 of the BCCS, saved UDP Policies D7, D8, D9 and EP20 and the SPG in their collective aim of ensuring that telecommunication installations are appropriately located, not overbearing, in scale and compatible with their surroundings.

Alternative sites

21. 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 harm that I have identified, 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.
22. 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. The submission details how the proposal is required to provide maintained and improved

network coverage and capacity whilst establishing 5G connectivity services to the network users within the Claregate area of Wolverhampton.

23. I have no reason to doubt that the height of the proposed monopole is the lowest that would work effectively for the operator. Moreover, the target area within which the equipment can be located is constrained. I am satisfied that the search area is appropriate and reasonable based upon the evidence before me.
24. The appellant has undertaken a search for alternative sites within the constrained cell search area, including consideration of the use of existing structures, the existing base station at the filling station at the junction of Codsall Road and Pendeford Avenue, and a detailed analysis of alternative ground sites. A total of 22 alternative sites were discounted for a number of planning, operational and structural reasons.
25. The existing base station is not suitable due to technological advances which mean that it cannot be upgraded to accommodate the two operators' requirements via a single street furniture style mast. A larger scale mast would be required which could not be suitably located at the site of the existing base station. Other sites were discounted for reasons including visible prominence; location in relation to surrounding residential properties; narrow footways; unresolvable underground and overhead services; inability to offer structural integrity; encroachment of coverage upon other networks; distance from existing masts; and an inability to provide viable coverage.
26. 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 and there is no counter evidence before me which would lead me to come to a different conclusion. Furthermore, it was not apparent that there were any obvious better alternative locations within the search parameters before me. The lack of realistic alternative options to deliver improved coverage and capacity as needed is a consideration which weighs strongly in favour of the development.
27. However, I have identified that by reason of its siting and appearance, the proposed development would harm the character and appearance of the area and the living conditions of the occupiers of No 35 with regard to outlook. Furthermore, I have insufficient evidence to conclude that the proposal would not harm trees which make a valued contribution to the street scene. In these particular circumstances, the harm that I have identified would be so significant that it would not be outweighed by the need for the installation to be sited as proposed, even accounting for the absence of suitable alternatives.

Other Matters

28. Whilst I note the Government's support for expansion of electronic communications networks, such equipment should also be sympathetically designed. 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.
29. I recognise that, were the appeal to be allowed, the existing Cornerstone street furniture base station site adjacent to the filling station would be decommissioned. Moreover, if no solutions for mast sharing can be found, it

may be, instead, that two separate street furniture installations would be required. However, I have determined the appeal on the proposal before me, and these factors do not outweigh the harm that I have identified above.

30. The appellant has drawn my attention to a number of appeal decisions where Inspectors have allowed telecommunication installations¹. From the details before me there are material differences between the cases. In some cases, the effects on living conditions was not a main issue or the Inspector identified no harm in that regard. In other cases, the site circumstances and surrounding context was different, or involved masts of a different height or with less antennas. Only one of the appeals had a main issue relating to the likely effect on trees, and in that instance an arboricultural assessment had been undertaken. I have determined this appeal on the specific site circumstances, and the various appeal decisions submitted in evidence are not a strong influence in my decision.

Conclusion

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

L C Hughes

INSPECTOR

¹ APP/B5480/W/20/3251086; APP/B5480/W/21/3285473; APP/P4605/W/22/3294052; APP/J4423/W/22/3300959; APP/E5330/W/23/3321769; APP/P4605/W/23/3325535.