



Appeal Decision

Site visit made on 20 May 2025

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Appeal Ref: APP/D4635/W/24/3357836

Land at Hugh Porter Way, Aldersley, Wolverhampton, West Midlands WV6 9NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval 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 Atlas Tower Group against the decision of Wolverhampton City Council.
 - The application Ref is 24/00557/TEL.
 - The development proposed is Installation of a 22.5m high lattice tower, 3 no. antenna apertures, 2 no. 600mm transmission dishes and equipment cabinets inside a 6.25m x 8.6m compound enclosed by a 2.1m high palisade fence with a 3m wide access gate and development ancillary thereto.
-

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 22.5m high lattice tower, 3 no. antenna apertures, 2 no. 600mm transmission dishes and equipment cabinets inside a 6.25m x 8.6m compound enclosed by a 2.1m high palisade fence with a 3m wide access gate and development ancillary thereto at land at Hugh Porter Way, Aldersley, Wolverhampton, West Midlands WV6 9NW in accordance with the terms of the application Ref 24/00557/TEL, and the plans submitted with it, including 002 Site Location Plan, 215 Max Configuration Site Plan, 265 Max Configuration Elevation A, and the Arboricultural Impact Assessment.

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. 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 are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and Green Belt, nearby trees, and the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

5. The appeal site comprises a small portion of a wider sports complex and is located against the boundary formed of mature trees that separates the complex from Aldersley Road. Adjacent to the appeal site is a small brick building containing a substation. The wider complex contains a mixture of sports pitches and fields secured by metal fencing, amongst these are four larger buildings linked to the wider use. Aldersley Road is characterised by houses on the opposite side of the road from the sports complex. They are set back from, and raised above, the road. Due to the substantial line of mature trees, the two areas are visually separate from each other.
6. The proposal is utilitarian in design and would not be particularly in keeping with the surrounding development. However, given its positioning at the edge of the complex, against the abovementioned tree line, its scale in relation to the site as whole and the relatively compact design of the mast and its head, the proposal would not be harmful to the character and appearance of the wider area. This is further protected by the latticework nature of the mast which would allow views to pass through.
7. Although close to the residential street, the proposal would not be directly read in connection with it given the substantial mature tree line that separates the appeal site from the road. This treeline would block all but limited glimpses of the top of the mast which would be a retiring feature from within the street scene. It would not, therefore harm the character or appearance of the street scene or its appreciation from neighbouring dwellings.
8. Although it may be visible within more distant views, the lattice work and compact head would reduce the appearance of the mast above the tree line. It would not, therefore, unacceptably affect the appearance of the wider area, including the openness of the nearby Green Belt.
9. The siting and appearance of the proposal would not unacceptably affect the character and appearance of the surrounding area. It therefore complies with Policies CSP4 and ENV3 of the Black Country Core Strategy (the BCCS), and Policies D4, D6, D7, D8, D9 and EP20 of the Unitary Development Plan (the UDP). Collectively, and amongst other issues, these policies require developments to be of a high quality design that in their appearance, massing and scale, respond to their surroundings to preserve local distinctiveness and minimise visual impact. Although the Council have also referred to BCCS Policy CSP2 and UDP Policy G2, these are not directly relevant to this matter.

Trees

10. The proposal would sit within the root protection area of a sycamore that is part of the row of mature trees, identified as T2 in the appellant's Arboricultural Impact Assessment. This assessment considers the tree to be category B as it is in

generally good condition and contributes towards the landscape value. It further considers that trees of this quality should be retained.

11. The proposal, by sitting within the root protection area and close to the crown, would affect the sycamore tree. However, the portion of the root protection area affected would only be modest in relation to the area as a whole. Further, the assessment sets out clear methods for which the works could be carried out in to minimise any damage to the tree. I am content that, subject to the proposal being carried out in accordance with the method statement any impact on the tree would be limited and would not prejudice the long-term health or retention of the tree.
12. Although there would be some short-term impact on the tree and it would be necessary to prune the crowns of nearby trees to accommodate the proposal, these works would not be so significant as to erode the contribution they make to character, appearance or well-being.
13. The siting of the proposal would not unacceptably affect nearby trees and therefore complies with UDP Policies N1, N7, D6, D12, EP20 which collectively require, amongst other matters, that proposals protect nature and biodiversity, properly manage and maintain trees and retain trees where possible.

Living Conditions

14. As noted above, the nearby dwellings are set back from Aldersley Road. These properties are therefore separated from the appeal site by a noticeable distance. The outlook from these properties is likely to primarily be across the road to the line of trees and the sky above the tree line.
15. The mast would be visible above the tree line in views from the nearest properties on Aldersley Road. However, the nature of its latticework construction and compact head would limit its prominence in these views. Moreover, given the distance between the houses and proposal, the presence of the mast would not be intrusive or overbearing to the detriment of the living conditions of occupiers.
16. Consequently, I find that none of the occupiers along Aldersley Rd would be unacceptably affected by the siting and appearance of the proposed development. The proposal therefore complies with UDP Policies D7, D8 and EP20 which collectively, and amongst other things, requires development to relate positively to their surroundings so as to not adversely affect outlook. Although BCCS Policies CSP4 and ENV3, and UDP Policy D9 were raised by the Council, they are not directly relevant to this matter.

Other Matters

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.

18. The Framework does not require developers select the best feasible siting and so, as I have found no harm would occur as a result of the proposal, it is not necessary for me to consider the other sites raised by the appellant and Council.
19. It has been suggested by interested parties that the mast is not needed, and that the proposal is speculative as the appellant is not a service provider. However, I must consider the proposal on planning grounds only and who the ultimate service provide is not such a ground.

Conditions

20. 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 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

21. For the reasons given above, I conclude that the appeal is allowed and prior approval granted.

Samuel Watson

INSPECTOR