



Appeal Decision

Site visit made on 4 December 2023

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/G4240/W/23/3317719

Manchester Road street works, Manchester Road, Tameside, M34 5PX

- 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 GDPO).
 - The appeal is made by Gallivan, CK Hutchison Networks (UK) Ltd against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 22/01198/NCD, dated 13 December 2022, was refused by notice dated 30 January 2023.
 - The telecommunications installation proposed is described as 'proposed 5G telecoms installation: H3G 18m street pole and additional equipment cabinets'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the GDPO 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 GDPO 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 the matters of siting and appearance.
 4. A telecommunications mast is already in place within the wide section of pavement which forms a pedestrianised spur at the busy signalised junction of Audenshaw Road and Manchester Road. The pole is sited at the back edge of the pavement next to the railings of the adjacent garage forecourt at the point where Audenshaw Road turns to join Manchester Road. I understand that this was installed recently, but saw at my visit that it is not in the position indicated for the pole that forms part of the appeal proposal. This is shown on the submitted plans to be sited further to the east in a position fronting Audenshaw Road. Additionally, the mast as erected is of a different design to that shown on the appeal plans, and no cabinets have been erected. Accordingly, I have assessed the proposed development as shown on the plans, rather than the installation that is in place.
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Main Issue

5. The principle of development is not subject to consideration in a prior approval application since this has been established by virtue of the GDPO.
6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and the significance of nearby heritage assets.

Reasons

The heritage assets

7. As set out above, the proposed installation would be located fronting Audenshaw Road close to its junction with Manchester Road. There are two listed structures within the same area of wide open pavement which forms a spur of public realm at the busy road junction.
8. The Former Transformer Pillar, junction with Audenshaw Road, Manchester Road Audenshaw is grade II listed (Ref: 1356484). It is a cast iron circular transformer pillar and hexagonal street light dating to around 1900. It relates to the historic route and operation of horse drawn tramcar services which were replaced with new electric trams running from Piccadilly to Audenshaw in around 1903. The passenger tram electricity transformer pillar is currently in storage awaiting repair and reinstatement after it was damaged by a vehicle collision in 2021.
9. The Cattle and Horse Trough at junction with Audenshaw Road (Ref:1381420) is also grade II listed building. This drinking trough dates to 1879 and is made of polished Cornish granite. It was erected at the junction of the Manchester Road and the Audenshaw Road at a time when both cattle and horses were still regular users of public highways. It is sited immediately adjacent to the transformer with which it has group value.
10. Both of the distinctive historic structures tell of the former prominence and importance of this intersection of the Manchester Salterbrook turnpike road. Despite their different ages and forms, and accepting that they each have their own particular features of interest and significance, there is nevertheless a cohesiveness to this tightly grouped and closely associated pair of structures. Insofar as relating to this appeal, their shared significance is derived from their historic interest as important vestiges of the historic development of the highway and the transport infrastructure in Audenshaw and the importance of the intersection where they are located, which collectively provide evidence of the role and status of Audenshaw.
11. Whilst the wider setting of the listed structures has changed over time, their immediate setting on the long standing and exposed spur of open highway land at the junction has remained and continues to provide open and unobstructed views of the assets. The settings of these structures, and the contribution they make to the significance of those assets, in so far as they relate to this appeal, is derived from the rich history of the intersection and the open nature of the surviving wide spur of pavement. These factors contribute to the settings of the listed structures and how they are appreciated.

12. The Framework defines setting as the surroundings in which a heritage asset is experienced. The historic structures are very close to the appeal site, overlook it and form part of the back drop to it. Overall I consider that there is some considerable inter-visibility between these and the appeal site, and that some contextual views of the structures identified include the appeal site. Thus the appeal site has a close and direct visual relationship with the listed structures and the streetscape/public realm, and therefore contributes to their settings. I have had special regard to this matter in considering the appeal.

The effect of the proposal

13. The proposal would introduce an 18 metre high slimline pole with a wraparound base cabinet along with three additional equipment cabinets, all of which would be finished in grey.
14. Paragraph 115 of the Framework states that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. The appeal site is within a suburban area next to a busy road within a wide footpath which is part of the adopted highway and forms an area of open public realm which is close to lamp posts and railings. There are some commercial buildings nearby and the proposed pole and cabinets would not be sited directly in front of residential properties. They would be of a simplistic functional design and the cabinets would be typical of control boxes commonly seen on the public highway. I also appreciate that the height of the pole proposed is the lowest required for the improved 5G service.
15. Nevertheless, the installation would introduce a substantial and dominant feature to the street scene. The buildings nearby are for the most part two storey and are appreciated as relatively low scale development which are set back from the highway and away from the appeal site. The proposed pole would be much taller than these buildings and would be seen in an open and exposed position on the edge of a clear and spacious area of public realm without the backdrop of tall buildings or landscaping. It would also significantly exceed the height of the existing street furniture and lighting columns nearby and appear bulkier than them. Despite being located next to the railings which enclose the garage forecourt, the pole would tower over these street level features.
16. Given its height and prominent siting, the installation would be obvious from a number of vantage points along Audenshaw Road, Manchester Road and the surrounding streets. It would also be highly visible in long range and short range views up and down these busy highways where it would be seen in some views against the sky. It would appear at odds with the scale and character of the streetscape and be highly conspicuous on part of the open spur of pavement. Additionally the cabinets would introduce a number of structures within an area which is spacious and has a clear and visually uncluttered appearance with only limited street furniture. This would result in visual clutter at street level.
17. The installation would be located in close proximity to the trough and the transformer and would impinge on the open area of land in which they are experienced. The installation would encroach on some views of those structures and be appreciated as an overtly dominating feature there that

would compete visually with and distract from those important historic structures.

18. Taking all these factors into account, I find that the proposal would be visually intrusive and would appear at odds with the suburban townscape. It would detract from its surroundings and stand out as an incongruous and jarring addition to the site and the street scene that would undermine the long established open nature of the public realm there. In doing so it would detract from the appreciation of the adjacent important historic structures and erode the character of the long standing intersection. Thus it would diminish the contribution of the setting of the nearby structures to their significance. For these reasons I conclude on the main issue that the proposal would fail to preserve the settings of the nearby listed structures.
19. Thus overall, I am not persuaded that the proposal has been sited and designed to minimise the impact on the visual amenity of the area or that it would assimilate with its immediate and wider surroundings.

Heritage balance

20. The Framework advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I consider that the harm in this case, although serious, would be less than substantial in the terms meant by the Framework. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
21. The proposal would provide 5G coverage to the area and improve service in and around the Manchester Road, Fairfield, Droylsden, Tameside area. A new site is required to meet the appellant's operational requirements and to provide much needed coverage to the densely populated area. The appellant refers to an acute need for a new base station. It would provide modern high speed communications to the residential area, where there is increased demand arising from home working, remote education, gaming and social media.
22. The Government is committed to promoting technology and recognises the importance of telecommunications to the wider economy. Paragraph 114 of the Framework states that advanced high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). Paragraph 118 of the Framework is also clear that local planning authorities must determine applications on planning grounds only and should not seek to prevent competition between different operators or question the need for an electronic communications system.
23. The appellant also refers to a letter from the Department for Digital, Culture, Media and Sport of 27 August 2020 urging local authorities to speed up digital infrastructure roll out. Further reference is made to the Government's 2017 White Paper 'Next Generation Mobile Technologies: A 5G strategy for the UK'. These also lend support to the scheme.

24. Additionally, the appellant advises that the Tameside Unitary Development Plan (UDP) also recognises the importance of reliable and efficient digital communications to meet the needs of businesses and communities. UDP Policy U2 states that telecommunications technology and its associated infrastructure are continuing to develop and expand to meet the growing demand for enhanced communications in business.
25. The appellant indicates that a 5G cell typically has a smaller radius area and stations must be situated within close proximity of the area they are covering. Reference is made to a search area with a radius of approximately 50 or 100 metres. Nevertheless, I appreciate that base stations operate on a low power and need to be located close to the residential areas they serve.
26. Against this background, the appellant undertook a sequential approach to site selection. Paragraph 117 of the Framework requires applications to be supported by the necessary evidence to justify the proposed development and indicates 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 (c).
27. A desk top study and physical inspection of the area was undertaken but no mast/site sharing opportunities or existing buildings/structures were identified. The appellant's Site Specification Supplementary Information and Planning Justification Statement (SSSI) states that in this location existing mast sites are not capable of supporting additional equipment to compliment or extend coverage reach, and prospective 'in-fill' mast sites are extremely limited.
28. Accordingly, with no scope to upgrade existing infrastructure or site share with other operators, a street pole with associated cabinets was deemed to be the only and most appropriate solution available in order to respond to the constraints of the area and its makeup. However, I have seen no assessment of the alternative buildings, masts or other structures that were considered as part of this exercise, or the reasons as to why they were ruled out.
29. The site search for alternative locations relates only to a street pole type of installation. Although the appellant's statement refers to one other option put forward during the site selection process no further details are given. Notwithstanding this, the SSSI considers five discounted sites.
30. All of these are in pavement locations and the majority of them were ruled out due to proximity to residential housing (amongst other things). No further details are given, and no explanation as to the proximity to residential properties that would have been considered acceptable. Additionally, whilst they are not before me for consideration as part of this appeal, the Council has reviewed the five discounted alternative locations, and in some instances found them to be more remote from residential properties than the appeal site, with a backdrop of buildings and high trees/hedges. I have seen no response from the appellant on these points.
31. Moreover, the possible presence of heritage assets nearby is not listed in the SSSI as a potential constraint to development or as a factor which has been considered as part of the site selection process. This being so, I cannot be assured that the important matter of the impact of the proposal on heritage assets has been taken into account in choosing the appeal site.

32. Whilst it is acknowledged that the appeal site is close to them, no consideration appears to have been given to the particular characteristics or significance of the listed structures in this case. The submitted plans do not show the trough, and the remaining base of the transformer pillar is labelled as a bench. The appellant states that the area of land does not have any relevant character which the proposal would have a detrimental impact on and I have seen no heritage impact assessment of the appeal scheme, in what is a highly sensitive location in terms of heritage assets.
33. As such, it has not been established that no suitable alternative sites for the installation exist that would prove less harmful. This limits the public benefit of the proposal, since I cannot be sure the benefits as outlined could not be realised by development elsewhere.
34. Bringing matters together, for the reasons set out above I find that the proposal would be harmful to the character and appearance of the area and nearby heritage assets. Even taking all the factors considered above into account, I find that the public benefits arising from the proposal would not outweigh the harm to the significance of the heritage assets I have identified.
35. In view of my conclusions, and insofar as they are material considerations relevant to siting and appearance, I consider that the proposal's harm to the character and appearance of the area and heritage assets, would conflict with UDP Policy U2 which is permissive of developments for telecommunications purposes providing amongst other things, there is no unacceptable impact on the appearance and amenity of buildings or on townscapes (b) and the siting an external appearance of the apparatus has been designed to minimise its visual impact (c). It would also be contrary to UDP Policy C1 which expects development to understand the townscape, and respect the nature of the surrounding area, and would fail to support UDP Policy C6 which advises that new development which fails to preserve or detracts from the setting of a listed building or structure will not be permitted. Furthermore it would be at odds with paragraph 197 of the Framework.

Other Matters

36. The appellant undertook pre-consultation with the Council and notified ward members. However this is not a reason to allow an installation which would be harmful.
37. Reference is made to an appeal decision in Walworth London. However, I am not aware of the full circumstances that led to that decision and so cannot be sure that they are the same as in the case before me. I note for example that that scheme was refused due to pedestrian safety concerns. I confirm in any case that I have considered the appeal proposal on its own individual merits and made my own assessment as to its potential impacts.
38. 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 Framework 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. The absence of harm in this regard counts neither for, nor against the proposal.

Conclusion

39. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR