



Appeal Decision

Site visit made on 6 September 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/G4240/W/22/3291282
Hyde Road, Denton, Manchester M34 3DN

- 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 CK Hutchison Networks (UK) Ltd against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 21/00999/NCD, dated 20 August 2021, was refused by notice dated 29 October 2021.
 - The development proposed is described as 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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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 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets at Hyde Road, Denton, Manchester M34 3DN, in accordance with the application Ref 21/00999/NCD, dated 20 August 2021, and the plans submitted with it including:

002 Site Location Plan - TMS16597_Planning_Rev_A, 215 Proposed Site Plan - TMS16597_Planning_Rev_A, 265 Proposed Site Elevation - TMS16597_Planning_Rev_A, 304 Proposed Configuration Antenna Schedule - TMS16597_Planning_Rev_A, 307 Equipment Schedules & Dependencies - TMS16597_Planning_Rev_A.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), 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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have however 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.

4. The appellant considers that the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site without prior approval. However, it is reasonable to assume that these would only be constructed as part of the proposed works as they are intrinsically connected to the functioning of the proposed mast. They would not be built if the mast were not built, and equally the mast would not be built without the ground level works. I have therefore considered the cumulative effects of the proposed mast and ground level works.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and, if any harm is identified, whether it would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site forms part of the footpath on the southern side of Hyde Road in close proximity to the junction with St Annes Road. On the opposite side of Hyde Road is the M67 motorway which sits at a lower level than the appeal site in a deep cutting. Immediately to the south of the site is a retail premises and its associated car park. The surrounding area is otherwise predominately residential in nature comprising a mixture of house types including terraced, semi-detached and bungalows.
7. Whilst there are a number of vertical features nearby, including streetlights along the footpath and flag poles at the adjacent retail premises, these are slimline in design and no greater than approximately 10 metres in height. The proposed 15-metre-high street pole would be significantly taller, bulkier, and more prominent than these existing features. When combined with the associated equipment cabinets, the proposed development would appear at odds with the prevailing size and scale of existing street furniture.
8. The visual dominance of the proposal would be further exacerbated by the location of the appeal site. By virtue of the car parking area to the south and the highway to the north, the site occupies a prominent and open position. The openness of the site and its distance from any existing buildings would result in the proposed development appearing as an isolated feature which would not be viewed against a backdrop of built form or trees.
9. Despite the curvature in the road, due to its height and siting the proposed development would be readily visible from many vantage points along Hyde Road, including from residential properties located some distance away to the south-east and north-west. The proposal would be noticeably taller than the surrounding buildings and would therefore be a prominent and imposing structure within the street scene.
10. As such, I conclude that the siting and appearance of the proposed development would be harmful to the character and appearance of the area, albeit I find that the degree of harm to be moderate. In so far as they are a material consideration, the proposal would be contrary to Policies U2 and C1 of the Tameside Unitary Development Plan (Adopted November 2004). These policies, among other matters, seeks to ensure that developments do not result

in an unacceptable impact on the appearance and amenity of buildings or on townscapes.

Alternative Sites

11. Paragraph 117 of the Framework states, among other things, that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by necessary evidence to justify the proposal. Where this in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
12. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. It is noted that, as with all 5G cells, the relevant search area is very constrained and that in this case, and the designated search area covers what is largely a densely populated residential area.
13. The sequential approach undertaken by the appellant identified that there were no existing mast or site sharing opportunities. Similarly, given the sites location within a predominately residential area consisting of largely one and two storey properties, no suitable buildings or structures were identified within the search area. From both the information before me and from my own observations during my site visit, I find no compelling reason to disagree with this conclusion which has also not been contested by the Council.
14. Accordingly, a new ground-based installation was sought with the appellant considering and discounting a number of other sites, which are listed and described. These sites were discounted for a variety of reasons including pavements being too narrow, impacts upon visibility splays, and the proximity to residential properties. Due to the residential nature of the area, it was apparent during my site visit that several of the discounted sites were in very close proximity to residential properties. Consequently, the location of the appeal site adjacent to a retail premises and motorway weighs in favour of the proposal.
15. I am therefore satisfied that a thorough review of possible site options within the cell search area has been conducted, and I have no robust evidence before me to suggest that there would be other more suitable alternative sites.
16. Paragraph 114 of the Framework provides that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of economic communications networks, including next generation mobile technology (such as 5G), should be supported. The Council acknowledges the importance of telecommunications infrastructure. As no suitable alternative sites have been identified, I attach substantial weight to the social and economic benefits that would result from the proposal.
17. As a result, the moderate harm that I have found would be caused to the character and appearance of the area by the siting and appearance of the proposed development, would be outweighed by the social and economic benefits of the proposal.

Other Matters

18. A consultation response was received from National Highways concerning the site's location in the vicinity of the M67 which forms part of the Strategic Road Network (SRN). Whilst having no objection in principle to the proposal, National Highways were currently unable to determine whether the mast was of a height that, should it fail, it would compromise the safe operation of the SRN. Should it be established that the proposed mast was within 'falling distance' of the SRN then, in addition to obtaining planning approval, the appellant would also be required to obtain formal technical approval by a competent Technical Approval Authority.
19. Whilst the evidence available to me suggests that such approval has not yet been obtained, National Highways did not object to the proposal or raise any particular concerns. This indicates that National Highways were not materially concerned about the likelihood of the appellant obtaining the necessary approval in due course, should it be required. Accordingly, I see no reason why any technical approval from National Highways could not be obtained prior to works commencing on site.

Conditions

20. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.
21. Consultation responses from the Council's Environmental Services Team and National Highways recommended that two additional planning conditions were imposed. These conditions sought to restrict the hours of construction and require the design of the structure to be approved by a competent Technical Approval Authority to the satisfaction of National Highways. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions mentioned above. Consequently, I have not imposed the suggested conditions.

Conclusion

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

David Jones

INSPECTOR