



Appeal Decision

Site visit made on 6 December 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2023

Appeal Ref: APP/G4240/W/22/3304546

Land at Wilshaw Lane, Wilshaw Lane, Ashton under Lyne OL7 9AU

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Cornerstone against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 21/01408/NCD, dated 7 December 2021, was refused by notice dated 4 February 2022.
 - The development proposed is described as 'the installation of a 20m Orion monopole supporting 6no antennas, 1no 300mm dish together with the installation of 1 no York and 1 no Shire cabinet, and ancillary development 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 20m Orion monopole supporting 6no antennas, together with the installation of 1 no York and 1 no Shire cabinet, and ancillary development thereto at land at Wilshaw Lane, Ashton under Lyne OL7 9AU, in accordance with the terms of the application, ref 21/01408/NCD, dated 7 December 2021, and the plans submitted with it, including: Drawing No. 100 Rev A (site location maps), Drawing No. 201 Rev B (proposed site plan), and Drawing No. 301 Rev B (proposed site elevation).

Preliminary Matters

2. Since the time of the Council's decision, amendments have been made to Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) relating to Communications. However, the amendments made under The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 (SI 2022/278) do not vary the requirements in relation to the prior approval for the development proposed.
3. The provisions of the GPDO 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.
4. The Council has referred to development plan policies in its decision notice. However, 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. As such 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 material considerations relevant to matters of siting and appearance.

5. The description of development above is taken from the application form. During the course of the application, amended plans were submitted to remove the 300mm dish (Drawing 301 Rev B). The Council determined the proposal on the basis of the amended plan and so shall I.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area 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 an area of pavement on Wilshaw Lane close to the junction with Oldham Road. The proposed development would be located at the back edge of the pavement, adjacent to metal railings, behind which are a row of conifer trees and a single storey detached medical centre. Immediately adjacent to the site is a detached dwelling and opposite, is a row of traditional terraced houses directly abutting the pavement.
8. The area generally comprises of traditional terraced housing, commercial businesses along Oldham Road and Langham Street and a car park, public house and school to the rear of the medical centre. It is therefore a densely built-up area of mixed character.
9. The proposed development would occupy a prominent location on the pavement, particularly having regard to the low height of the medical centre, the open grassed land next to it and the car park lying between the medical centre and public house on Oldham Road, which provides a visual break in the built-up area. The monopole would be extensively visible in views from the north, in the skyline above surrounding one and two storey buildings. Furthermore, due to the position of the monopole at a higher land level it would be clearly apparent on approach to the signalised junction from Wilshaw Lane to the east.
10. Whilst there is a streetlamp positioned adjacent to the site and other highway directional and information signs, these features are considerably lower in height and slimmer in profile than the proposal. It would thus not blend with these highway features that are recognised as typical street furniture and are well assimilated into the street scene. Moreover, Wilshaw Lane is relatively narrow at the junction where it meets Oldham Road and the closeness of terraced properties on one side of Wilshaw Lane and the presence of conifer trees on the other, provide a sense of enclosure to the immediate area surrounding the appeal site between Taunton Lane and the signalised junction with Oldham Road. The proposal would introduce an obtrusive and prominent feature within this space and in significant proximity to residential properties.

11. I have had regard to the presence of conifer trees between the pavement and the medical centre, which would form a backdrop to the proposal. However, whilst I accept that these would provide a certain degree of visual mitigation, the proposed monopole would be significantly taller than the trees and, in combination with the wider headframe of visible antennas, would appear as a highly prominent feature in the street scene. Whilst the cabinets would introduce further structures in the street scene, unlike the mast, given their low-level positioning, they would not be prominent nor uncommon features on footways and their positioning to the rear of the pavement would assimilate into the urban fabric.
12. Notwithstanding the mixed-use, high-density nature of the area, the overall effect of the siting and appearance of the proposal in the context of this location, would be to introduce an incongruous and visually intrusive feature, harmful to the character and appearance of the local area. In so far as they area material, this would fail to accord with the expectations of Policy C1 of the Tameside Unitary Development Plan 2004 (TUDP) which seeks to ensure development, amongst other things, respects the townscape and Policy U2 of the TUDP which supports telecommunications development where they would not harm the appearance of the street scene.

Need and Suitable Alternatives

13. 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 is 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.
14. 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, the designated search area covers what is largely a densely populated residential area.
15. The sequential approach undertaken by the appellant identified that the existing site on Langham Street is shared with Vodafone and cannot be upgraded to serve both operators without being replaced with a bulkier and bigger structure to accommodate all the equipment required to meet the site-specific demand of both operators in order to provide a 5G service. I noted at my site visit that the current shared equipment is located on the pavement on Langham Street. I acknowledge that any increase in size of ground-based equipment over and above the current arrangement would be likely to result in obstruction of the pavement. Even if mast sharing was an acceptable solution, there is no evidence to suggest that it would negate further telecommunications equipment from coming forward within the local area.
16. I also recognise that the dense residential nature of the area provides limited alternative options and rooftop installations may not be possible due to the structural nature and height of commercial buildings in the area. This has consequentially led to several discounted options. The Council has not questioned the constrained size of the search area or the list of alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued. Having reviewed the submitted evidence and seen the

alternative locations, I have no reason to disagree. I also note that the Council has recently refused prior approval for an alternative mast in the local area at the junction of Langham Street and Oldham Road which was intended to meet the 5G requirement in the area.

17. Given this background, I can only conclude that it is unlikely that suitable alternative sites are reasonably available. Therefore, unless this site comes forward, the need for a new radio base station to provide new 5G coverage and capacity, and replacement 2G, 3G and 4G services to this area of Ashton under Lyne would remain unmet.

Balance and Conclusion

18. It has been shown that there are no suitable alternative sites. There is also an identified and undisputed need for improved mobile telecommunications provisions meaning that the installation has to be sited somewhere in the target area. Despite the harm that would arise from the siting of the proposed development to the character and appearance of the area, and that the principle of the development has already been accepted by the grant of planning permission for such development by the GPDO, I find that prior approval should in this case be granted.

Conditions

19. 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.

Conclusion

20. For the reasons given, and having regard to all other matters raised, the appeal is allowed, and prior approval is granted.

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INSPECTOR