



Appeal Decision

Site visit made on 14 February 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/N1350/W/22/3308961

Land at Abbey Road Sports Field, Darlington DL3 8HL

Grid Ref Easting: 427962, Grid Ref Northing: 514444

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter the 'Order').
 - The appeal is made by Cornerstone against the decision of Darlington Borough Council.
 - The application Ref 21/01445/PA, dated 9 December 2021, was refused by notice dated 12 April 2022.
 - The development proposed is the installation of telecoms equipment including 17.5m high monopole supporting 6 no. antennas and 2 no. 300mm dishes, installation of 2 no equipment cabinets, bollards and associated ancillary works (amended plans received 17 March 2022).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the determination of the application the height of the mast proposed was reduced from an original 20m to 17.5m. The description of the development proposed was consequently amended. Accordingly, the description in the banner heading above reflects this amendment.
3. The provisions of paragraph A.3(4) of the Order 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.

Planning Policy

4. Part 16 of the Order establishes that the proposal is permitted development. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
5. Nevertheless, Policy IN7 of the Darlington Local Plan 2016-2036, adopted in 2022 (LP) is a material consideration as it relates to issues of siting and appearance. In particular, the policy states that telecommunications infrastructure will be permitted where its siting and appearance seeks to minimise its impacts on the character and appearance of the area whilst it should not cause unacceptable effects on, amongst other matters, conservation areas. Furthermore, Policy IN7 states that, in respect of new mast proposals,

the applicant should demonstrate that options to erect apparatus on existing buildings, masts or other structures have been explored.

6. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on supporting high quality communications, achieving well-designed places, and conserving and enhancing the historic environment.

Main Issues

7. The main issues are the effect of the siting and appearance of the installation on:
 - The outlook of the occupiers of 41 Abbey Road;
 - the character and appearance of the area, including West End Conservation 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

Effects upon the occupiers of 41 Abbey Road

8. To one side the appeal site is bordered by a hedge which forms the boundary with the rear garden of 41 Abbey Road. No 41 is a large property set within a spacious plot including a large rear garden. Mature trees are located within the front and rear gardens of No 41, including those protected by virtue of tree preservation orders. Properties to the north of No 41, on the opposite side of Abbey Road, are set well back within their plots. To the west of No 41, is the sports field whilst residential gardens border to the south. No 41 therefore benefits from having a relatively verdant setting and separation from buildings in several directions.
9. Although there are mature trees within the rear garden of No 41, they are set away from the proposed siting of the mast. Immediately adjacent to the proposed position of the mast there is the boundary hedge. Whilst the mast has been reduced in height, at 17.5m, it would nevertheless be substantially taller than the section of hedge which would separate it from the garden of No 41. By reason of its girth and the inclusion of antennas the mast would also appear bulky. Given this scale, appearance and proximity, the proposed mast would appear as a dominant utilitarian structure which would tower over the rear garden of No 41, particularly the more southern sections of the garden.
10. From other sections of the rear garden of No 41 and from within the rooms at the back of the property the mast would be positioned farther away, at an angle, and, together with some more effective screening afforded by the trees, the visual effects of the mast would be less pronounced than those described above. The introduction of the mast would nevertheless be quite transformative in these views and cause some harm, albeit not to the same extent as that which would be experienced from within the more southern sections of the garden.
11. Consequently, I find the proposed mast would constitute a harmful dominating feature when viewed from the neighbouring property at No 41, particularly

from sections of the rear garden. The development would therefore adversely affect the living conditions of the occupiers of the property.

Character and appearance including West End Conservation Area

12. Within West End Conservation Area (CA) there are many large and traditionally designed residential villas often set within spacious plots. There is extensive tree coverage owing to the many mature garden trees, tree lined streets, and areas of parkland. I find that the verdant character and large residential villas contribute positively to the character and appearance of the CA and its significance.
13. Although sections of the Abbey Road Sports Field where adjacent to Abbey Road are within the CA, most of the sports field including the appeal site is located outside of the boundary of the CA but closely beside it. Being a part of a larger open space, views across the sports field inclusive of the appeal site from both Abbey Road and Cleveland Terrace of areas within the CA are available. I find that the openness of the sports field contributes to the setting of the CA, in particular the extensive tree coverage and some of the large residential villas within the CA can be readily appreciated in views across it.
14. Proposed within an open space and being such a tall structure of utilitarian appearance, the mast would appear unduly prominent and would jar with the architectural merit of many of the residential properties within its surrounds. I accept that a monopole design as proposed is quite commonplace within urban areas and I also acknowledge that there are large mature trees including those between Cleveland Avenue and the sports field which would be in the backdrop in some views from Abbey Road. However, the design and appearance of the mast would nevertheless be at odds with, and thereby detract from, the verdant character created by the extensive tree coverage. The proposed grey colour finish of the mast may help moderate its visual effects when viewed against the sky, particularly on cloudier days, but against the backdrop of trees it would serve to make the mast more conspicuous. Although there are street lights, CCTV and railings within the area, the mast would be substantially taller and appear clearly dissimilar to such features. The adjacent sports pavilion is a single storey building with a low-slung appearance. As a result, the presence of such existing structures would do very little to help assimilate the mast into its proposed location.
15. The appellant has put to me that Abbey Road is a busy route into Darlington town centre and that therefore the views of the proposed development would be fleeting ones from drivers of passing vehicles. However, being sited within a residential area, closely situated to schools, parkland and the town centre, Abbey Road will likely be frequently used by pedestrians and cyclists as well.
16. Therefore, the development would create an incongruous feature which would be at odds with the open nature of the sports field, the architectural merit of nearby residential buildings and also detract from the verdant character of the area. I acknowledge that there may not be other designs more appropriate which would meet the technical and coverage requirements of the site, but this does not alter that for the above reasons the proposal would result in harm. The proposed equipment cabinets being relatively small in size and finished in green would not be prominent in the area nor cause any harmful visual effects. However, this does not alter that the mast itself would be harmful.

17. For these reasons, I conclude the proposed development would have adverse visual effects upon the character and appearance of the area. The architectural merit of the surrounding residential properties and the verdant character of the area are elements which contribute positively to the character and appearance of the CA. The development would be harmful in views from within the CA, would adversely affect these positive elements and, accordingly, would also cause less than substantial harm to the character and appearance of the CA, to which I give great weight.
18. In accordance with the Framework, the harm to the designated heritage asset must be weighed against the public benefits of the proposal. I shall return to this later in my decision.

The availability of alternatives

19. The Framework is clear that the need for an electronic communications system should not be questioned nor should competition between different operators be prevented. However, and having regard to paragraph 117 of the Framework, the requirement for the development to be sited in the location and form proposed should be justified.
20. To this end the appellant has submitted details of the technical constraints affecting the site search together with details of the sites and proposals which have been considered as alternatives to this development. The alternative sites presented, but discounted, include the exploration of site sharing and alternative new mast installations. The sites are discounted for a range of reasons including that they would fail to fulfil the operator's technical requirements, that site sharing would be unfeasible for structural reasons, and that tree coverage would inhibit the signal. I note that the Council have not disputed these conclusions and I have no reason to disagree.

Other Matters

21. As the appellant submits, given Part 16 of the Order establishes that the proposal is permitted development, there is an acceptance of the development in principle by virtue of the legislation. Nevertheless, this is subject to conditions, and this includes that the development is subject to the prior approval procedure which is an essential component embedded in the permitted development right. In this particular case, and for the above reasons, I have identified that the proposed siting and appearance of the development would cause harm.
22. I note the submissions of the appellant in regard to the highways related effects of the development and, in particular, the infrequent vehicular trips which would arise from the proposal. I accept that the proposed development would also not cause any harm to the significance of any listed buildings. However, the absence of harm in relation to these matters is a neutral factor in my determination.
23. I note that pre-application consultation exercises took place. I also note that the proposal would also meet the International Commission guidelines on non-ionising radiation protection. Again, however, these factors weigh neither for nor against the appeal proposal.
24. As submitted by the appellant, the effect of a development upon a private view is not a matter to which I would attribute any significant weight but, in the

main issues, I have identified that harm to living conditions and to character and appearance would result, which both differ from the matter of private views.

25. The appellant has drawn my attention to a number of appeal decisions which, in their view, provide support for the appeal proposals. Firstly, only the appeal decisions are before me rather than the full details of each case and, as a result, it is not possible to draw accurate comparisons between those schemes and that proposed in this appeal. Secondly, and notwithstanding this, from the details before me there are material differences between the cases. In some, the effects of the siting and appearance of the infrastructure proposed upon a designated heritage asset or upon living conditions was either not a main issue or the Inspector identified no harm in that regard. In other cases, the development either involved masts of a considerably lower height than in this case or involved roof mounted antennas. In such circumstances the various appeal decisions submitted in evidence are not a strong influence in my decision.

Balance and Conclusion

26. The appellant has drawn to my attention a number of benefits which the telecommunications infrastructure would bring and in doing so draws upon a range of documentation and publications within their submissions. This includes, but is not limited to, the Code of Best Practice for Wireless Network Development in England (March 2022) and the Tees Valley Digital Strategy. Furthermore, the appellant has put to me that they are under obligation to meet the reasonable demands of customers and that this includes a 5G service.
27. The proposed installation would improve the digital mobile communication service provision within the area. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Without it, a constraint would be placed upon the potential for future innovation, productivity and growth. The availability of reliable indoor service coverage supports the operations of a range of commercial sectors as well as flexible working practices such as home working within residential areas, such as that the appeal site is within, all of which is at a time that recovery from the COVID-19 pandemic continues.
28. The appellant has put to me that the Council have not given due weight to the public benefits of the proposal. Given the matters I outline above, I do attribute significant weight to the benefits the proposed telecommunications infrastructure could deliver. General support for the public benefits which such proposals can bring are clearly set out in the Framework. Content within the LP similarly offers support, in principle, to digital infrastructure expansion. Furthermore, the absence of suitable alternative sites weighs strongly in favour of the proposal as this indicates that, without the implementation of the proposal, no improvement to the digital mobile communication service provision within the area will take place.
29. However, in the second main issue I have identified that harm to the character and appearance of the area would result, and this would extend to less than substantial harm to the character or appearance of the CA. The Framework confirms that great weight should be applied to the conservation of designated heritage assets, and this applies even when, as in this case, the harm identified is less than substantial.

30. Given the harm that I have identified to the designated heritage asset and despite the economic and social benefits of the development proposal, having regard to paragraph 202 of the Framework, these benefits would be insufficient to outweigh the great weight that I must attribute to the less than substantial harm to the heritage asset.
31. Furthermore, I have identified in the other main issue that harm upon the living conditions of the occupiers of 41 Abbey Road would result and, together with the harm to the designated heritage asset, there would be a totality of harm which would not be outweighed by the benefits of the development. For these reasons, the appeal is dismissed.

H Jones

INSPECTOR