

# Report to the Planning Committee

16 February 2023

<b>Subject:</b>	Decisions of the Planning Inspectorate
<b>Director:</b>	Director – Regeneration and Growth Tony McGovern
<b>Contact Officer:</b>	John Baker Service Manager - Development Planning and Building Consultancy <a href="mailto:John_baker@sandwell.gov.uk">John_baker@sandwell.gov.uk</a>  Alison Bishop Development Planning Manager <a href="mailto:Alison_bishop@sandwell.gov.uk">Alison_bishop@sandwell.gov.uk</a>







## 1 Recommendations

- 1.1 That Planning Committee notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

## 2 Reasons for Recommendations

- 2.1 This report is submitted to inform the Committee of the outcomes of appeals that have been made to the Planning Inspectorate by applicants who were unhappy with the Committee's decision on their application.

### 3 How does this deliver objectives of the Corporate Plan?

		We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.
		Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
		Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

### 4 Context and Key Issues

- 4.1 Applicants who disagree with the local authority's decision on their planning application may submit an appeal to the Planning Inspectorate. An appeal may also be made where the local authority has failed to determine the application within the statutory timeframe.
- 4.2 Appeals must be submitted within 3 months (householder proposals) six months (commercial developments) of the date of the local authority's decision notice.
- 4.3 Decisions on the following appeals are reported, with further detailed set out in the attached decision notice:-

<b>Application Ref</b>	<b>Site Address</b>	<b>Inspectorate</b>
PD/21/01964	Telecommunications Mast SWL18015 Land Fronting The Green Wolverhampton Road Oldbury	Allowed

## 5 Alternative Options

5.1 There are no alternative options.

## 6 Implications

<b>Resources:</b>	There are no direct implications in terms of the Council's strategic resources. If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.
<b>Legal and Governance:</b>	The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe
<b>Risk:</b>	There are no risks associated with this report.
<b>Equality:</b>	There are no equality implications associated with this report.
<b>Health and Wellbeing:</b>	There are no health and wellbeing implications associated with this report.
<b>Social Value</b>	There are no implications linked to social value with this report.
<b>Climate Change</b>	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

## 7. Appendices

Appeal decision



## Appeal Decision

Site visit made on 8 December 2022

**by Rachel Hall BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 January 2023**

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**Appeal Ref: APP/G4620/W/22/3299639**

**Wolverhampton Road, Hilltop, Causeway Green, Sandwell B68 8DU**

- 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 Sandwell Metropolitan Borough Council.
  - The application Ref DP/PD/21/01964, dated 30 May 2021, was refused by notice dated 7 January 2022.
  - The development proposed is 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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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 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works at land at Wolverhampton Road, Hilltop, Causeway Green, Sandwell B68 8DU in accordance with the terms of the application Ref DP/PD/21/01964, dated 30 May 2021, and the plans submitted with it including plan nos: 002 Site Location Plan; 210 Proposed Site Plan; 260 Proposed Elevation; 302 Proposed Antenna Schedule & Line Configuration; and 305 Equipment Schedule & Support Structure Details.

### 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 do not require regard be had to the development plan. Consequently, I have taken it into account as a material consideration but only insofar as the policies relate to matters of siting and appearance.

### Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the adjacent Major Road Network and a proposed multi-modal cycle route.

## Reasons

5. The appeal site is adjacent to the Wolverhampton Road (A4123) (the Road). It is located within a wide grass verge that separates the adjacent footpath from the Road. The location of the proposal adjacent to the Road forms part of the Council's reason for refusal. However, the proposed site does not appear to be so close to the Road or nearby junctions that it would be likely to prevent or unduly constrain road maintenance or any improvement works as may reasonably be required in future. No substantive evidence is before me to suggest otherwise.
6. The Council's reason for refusal also cites conflict between the proposed appeal site and an intended multi-modal cycle route (the Route). Email correspondence from the Council's highways department indicates that the Route is proposed along the A4123 and would typically require the removal of some existing infrastructure, such as the adjacent bus stop and some trees, in order to create sufficient space.
7. However, the correspondence also points to the north east side of the Road (the opposite side to the appeal site) being the intended location for the majority, though not necessarily all, of the Route. Furthermore, details of any development plan policies or other Council reports that commit to provision of the multi-modal route have not been provided. In addition, details of its funding or likely timescales for implementation have not been submitted.
8. Also, in the event that the appeal site was to conflict with the Route, details of the likely dimensions that would be required to secure sufficient space for cycling and walking routes have not been put forward. Therefore the implications of the appeal scheme on the installation of the Route are unclear. For these reasons, I can only afford very limited weight to the potential conflict between the appeal proposal and delivery of that Route.
9. I note the alternative options considered by the appellant. Clear reasons are given for discounting each of the alternative locations considered. The Council has also not expressed a preference for any of those alternative sites. The Council suggested land at the junction of Brandhall Road and Wolverhampton Road as a possible alternative location for the appeal scheme that would be sufficiently remote from the proposed Route. However it appears that such a location would be considerably more visible from the surrounding area, including from adjacent houses. Accordingly, on the evidence before me I am not persuaded that it would be a less harmful alternative than the appeal site.
10. Therefore, in the absence of a suitable alternative, I conclude that the effect of the siting and appearance of the proposed installation on the adjacent Major Road Network and a proposed multi-modal cycle route would be acceptable.

## Other Matters

11. I acknowledge the concerns expressed by a local resident. Although there may be other masts in the locality, the appellant has demonstrated that there is a need for the installation as proposed, to improve 5G coverage in this location. The appearance of the mast would be functional, but I see no reason to indicate that it would be of poor quality. The proposed site is not a particular focal point and would appear relatively discreet given the backdrop of trees. It would not impinge on the existing adjacent footpath. No substantive evidence

is before me to indicate that matters of highway safety or flood risk are a concern here.

**Conditions**

12. 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**

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

*Rachel Hall*

INSPECTOR