



Appeal Decision

Site visit made on 6 September 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2021

Appeal Ref: APP/V2004/W/21/3276650

Summergroves Way, Gipsyville, Hull HU4 6RZ

- 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 Hutchison UK Ltd against the decision of Kingston Upon Hull City Council.
 - The application Ref 21/00412/TEL, dated 13 March 2021, was refused by notice dated 11 May 2021.
 - The development is proposed 18m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

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 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 matters of siting and appearance.
4. I understand that the pole was reduced in height from 18 metres to 15m, since the application was originally submitted. Consequently, notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises 'proposed 15m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works'.
5. Since the application was determined, a revised version of the Framework has been published. The main parties were given the opportunity to comment on any relevant implications for the appeal and have not therefore been prejudiced. The main parties did not have any comments on this matter.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposal upon:
- the character and appearance of the surrounding area, including the setting of the nearby Grade II Listed Buildings; and
 - the living conditions of nearby residents, having regard to outlook.

Reasons

Character and appearance

7. The scheme would be located on a grass verge adjacent to the junction of Summergroves Way and Hessle Road. Neighbouring the appeal site are bungalows, trees and street furniture such as streetlights. Whilst the appeal site is not located within a conservation area, it is in close proximity to Grade II Listed Buildings (Pickering and Ferens' homes and the entrance gateway to Pickering Park) which make a positive contribution to the area.
8. The Pickering and Ferens homes are almshouses with front gables, central triangular pediment constructed of brick with ashlar detailing. The entrance gates to Pickering Park are a pair of scroll top iron gates with wrought-iron decoration.
9. The appeal site has a relatively open and spacious character due to the height of the neighbouring bungalows and their set back from the road. I acknowledge that the associated ancillary cabinets are within the size limited classified as permitted development without prior approval. The proposed monopole would be significantly higher than the bungalows as well as the trees. It would also be substantially more noticeable than the streetlights because of a combination of its height and massing.
10. Although the surrounding trees would, to a small degree, screen the proposal, the scheme would appear obtrusive and an incongruous feature when viewed from Summergroves Way and Hessle Road. This is due to its height, siting and appearance which would be seen in the context of single storey properties. Accordingly, the siting and appearance of the scheme would be visually intrusive.
11. For the reasons given above, the proposal would harm the character and appearance of the area and would also have an adverse effect upon the setting of the nearby Listed Buildings. The monopole would be on the opposite side of the road of the Listed Buildings. Nonetheless, it would detract from the ability to appreciate them because it would detract and draw undue attention from the architectural merits of the heritage assets. This is because of its height, siting and massing. Accordingly, and having regard to the statutory duty for the decision maker, as required under s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would fail to preserve the setting of the Listed Buildings.
12. Framework paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any

potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

13. The level of harm would be less than substantial, nevertheless it is of considerable importance and weight. The need for the installation weighs in favour of the appeal and I acknowledge the benefits highlighted by the appellant. Whilst I do not dispute the benefits, I am not convinced that less harmful alternatives have been properly explored and it is my overall view that the need for the installation does not in this case, outweigh the harm, having regard to paragraph 202 of the Framework.
14. For the reasons set out above I conclude that, due to its siting and appearance, the proposal would have a harmful effect upon the character and appearance of the area and the setting of the Grade II Listed Buildings. Consequently, insofar as they are a material consideration, the scheme would be contrary to the design aims of Policies 14, 15 and 24 of the Hull Local Plan 2016 to 2032 (2017) (LP).

Living conditions

15. The scheme would be in close proximity to the front gardens and front windows of the nearby bungalows. When viewed from the bungalows, the monopole would be significantly more noticeable than the existing street furniture and trees. The trees would also provide minimal screening, particularly in winter months.
16. As a result of the scheme's height and massing, as well as its siting, the proposal would be visually intrusive when viewed from the nearby bungalows. The monopole would therefore significantly compromise the outlook from the surrounding bungalows.
17. For the reasons set out above I conclude that, due to its siting and appearance, the proposal would have a harmful effect upon the living conditions of nearby residents with regard to outlook. Thus, insofar as they are a material consideration, the scheme would be contrary to the residential amenity aims of Policies 14 and 24 of the LP.

Other matters

18. I acknowledge that a condition could be attached to determine the colour of the apparatus. However, such a condition would not outweigh the harm identified above.
19. I have also had regard to the other matters raised by the appellant including the importance of the rollout of the 5G network, and its associated benefits, the Future Telecoms Infrastructure Review, the need for the pole to be a minimum of 15m high, discounted options, the sequential approach and the Letter to Chief Planning Officers: Planning for Growth.
20. An appropriate balance must be struck between these clear benefits and the harm that I have identified. In this case, I do not consider that the benefits are

sufficient to outweigh the significant harm that I have identified to the character and appearance of the area, including the setting of the nearby Grade II Listed Buildings, and the living conditions of the surrounding residents.

Conclusion

21. For the above reasons, having regard to the relevant identified policies of the development plan and the Framework, and all other matters raised, including the associated benefits, the appeal should be dismissed.

L M Wilson

INSPECTOR