



Appeal Decision

Site visit made on 8 September 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2021

Appeal Ref: APP/V2004/W/21/3274621

Kesteven Way, Kingswood, Hull HU7 3HJ

- 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).
 - The appeal is made by Hutchison UK Ltd against the decision of Kingston-upon-Hull City Council.
 - The application Ref 21/00411/TEL, dated 13 March 2021, was refused by notice dated 30 April 2021.
 - The development proposed is described on the application form as 'Proposed 18m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works'.
-

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 2015), 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 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the adopted Hull Local Plan (HLP) 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. On 20 July 2021 a revised version of the Framework was published, and the main parties have been given an opportunity to comment on it. As a result, I am satisfied that neither party has been prejudiced in relation to this matter.
5. The Council have described the development as 'Application for the prior approval for the siting and appearance of a 15m high mast and ancillary equipment (Revised Design)'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issue

6. In light of the above, the main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area, and in the event that any harm is identified, whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

Reasons

7. The appeal site is situated at a junction between two footpaths within a predominately residential area. Immediately adjacent to the appeal site on one side of Kesteven Way is an area of active new residential construction. On the other side of the road there are existing residential properties of varied types and styles. On the other side of the footpath there are several dwellings on Kilcoy Drive which face in the direction of the appeal site. There are also several trees located between these dwellings and the site which according to the submitted plans would be approximately 10 metres in height. Beside the tree closest to the site are two streetlights, which according to the submitted plans would be approximately 8 metres and 4 metres in height respectively. The proposal would install a monopole telecommunications mast with a height of approximately 15 metres as well as associated cabinets relatively close to the existing residential properties on Kilcoy Drive.
8. This combined with the fact that the proposal would be much higher than the existing street furniture and nearby trees means that it would not be sufficiently screened from view and would be fully visible from these residential properties. For this reason, I consider that the proposal would be in a prominent location on the street scene thereby interrupting the existing views and outlook from these properties particularly nos. 1, 2, 3, 4 and 20 Kilcoy Drive given their orientations.
9. Similarly, the proposal would also be in a relatively prominent location within the street scene when viewed from other residential properties particularly no. 67 Bowmont Way and nos. 1 and 2 Blackhall Close meaning that their occupiers would also be able to see it given its height and position. Furthermore, for similar reasons, the proposal would also be clearly visible from several public vantage points such as the footpaths on Kesteven Way and the other adjacent footpath that intersects it.
10. Consequently, given its scale, massing, height, and the fact that it would not be camouflaged or fully screened when viewed from certain directions means that the proposal would appear bulky and intrusive particularly when seen against the skyline. As a result, it would not be sympathetically designed and would therefore represent a discordant addition to the street scene thereby having an unacceptable adverse visual impact. It is therefore my view that the proposal would, particularly from certain directions, appear as an intrusive feature that would significantly and harmfully detract from the character and appearance of the area.
11. I note the appellant's point that the proposed monopole is of a slimline design. However, even so, given its height and location I consider that this would not sufficiently mitigate the proposal's harmful visual impact.

12. Accordingly, and being mindful of paragraphs 114 and 115 of the Framework, I conclude that the proposed development would materially harm the character and appearance of the area thereby failing to meet the requirements of policies 14 and 24 of the HLP.

Other considerations

13. The benefits that the proposal would provide include meeting a need for 5G mobile phone coverage in the area; allowing multiple operators to potentially share base stations; the appeal site not being in a sensitive area; providing improved connectivity, increased productivity, and more efficient and secure service delivery. These benefits carry modest weight in favour of the appeal scheme.
14. In relation to the exploration of alternative sites for the location of the proposal the Council consider options 1, 3, D1 and D4 as identified by the evidence to be more acceptable than appeal site as in their view, if the proposal was located at any of these sites it would be likely to have a less harmful impact.
15. Regarding options 3, D1 and D4 from reviewing the evidence these potential alternative sites would appear to be located a comparable distance from the nearest residential properties to that of the appeal site and the properties nearest to it. It would therefore be reasonable to think it likely that if installed at any of these locations the proposal would have a similarly harmful adverse visual impact.
16. In terms of option 1, according to the appellant's evidence this potential alternative site would be located just off the roundabout at the junction of Kesteven Way and Wawne Road, and I note the reason why this alternative site was discounted by the appellant was its proximity to residential properties. However, this potential alternative site would be located on the opposite side of the road and next to a large roundabout with a greater quantity of street furniture in its vicinity than the appeal site.
17. Furthermore, based on the evidence, and what I saw on my visit, it would also appear to be further from the dwellings nearest to it than the appeal site is from those closest to it. Consequently, to my mind if the proposal were to be sited here it would be likely to have a less harmful adverse visual impact than if it were located at the appeal site.
18. As a result, I find that there is not a lack of less harmful alternative sites for the proposal and that this consideration does not therefore weigh in favour of the appeal scheme.

Other Matters

19. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties and a leisure centre. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Planning Balance and Conclusion

20. I have taken into account the need for the installation relating to the provision of new 5G network coverage which weighs in favour of the appeal scheme. However, I am in no doubt that the proposal would be harmful to the character and appearance of the area, particularly because of its size and it being situated in a prominent visible location.
21. Furthermore, I am also not convinced that there is a lack of less harmful alternative sites. In these respects, the proposal would be in clear conflict with the development plan and the Framework when read as a whole. As a result, it is my overall view that the need for the installation does not in this case, outweigh the harm.
22. Therefore, having had regard to all matters put forward, including the appellant's views on the sustainability of the proposal and the support offered by the Framework and the Code of Best Practice¹ to both sustainable development in general, and more particularly towards the creation of a high-quality communications infrastructure, I find nothing to alter my conclusion that, for the reasons set out above, the appeal should be dismissed.

C Coyne

INSPECTOR

¹ The Code of Best Practice on Mobile Network Development in England 2016