



Appeal Decision

Site Visit made on 12 October 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/X4725/W/21/3276613

Dewsbury Road, Lupset, Ossett, Wakefield WF2 9DQ

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Hutchinson UK Ltd against the decision of Wakefield Metropolitan District Council.
 - The application Ref 21/00932/TEL, dated 31 March 2021, was refused by notice dated 26 May 2021.
 - The development proposed was originally described as a '*20m 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 a 15m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works at Dewsbury Road, Lupset, Ossett, Wakefield WF2 9DQ in accordance with the terms of the application, Ref 21/00932/TEL, dated 31 March 2021, and the plans and documents submitted with it, including drawings 002 Site Location Plan, Issue B; 100 Existing Site Plan, Issue B; 150 Existing Elevation A, Issue B; 210 Proposed H3G Site Plan, Issue B; 260 Proposed H36G Elevation, Issue B; 303 Proposed H3G Antenna Schedule & Line Configuration, Issue B; 305 Equipment Schedule & Support Structure Details, Issue B.

Procedural Matters

2. The application was amended prior to the Council's determination to reduce the height of the proposed monopole from 20m to 15m. Notwithstanding, the description of development set out above in the banner heading, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises '*15m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works*'. I have therefore used the description of development given on the decision notice in my formal decision, as this is reflective of the amendments and the Council dealt with the proposal on this basis and so shall I.
3. 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.

4. It has been contended that the proposed associated ancillary equipment cabinets would be permitted development. However, they are clearly part of the telecommunications works that were applied for. Moreover, I have no power under the relevant prior approval provisions to make this determination.

Planning Policy

5. 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 development plan, the National Planning Policy Framework, 2021 (the Framework) and Planning Practice Guidance, only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area.

Reasons

7. The appeal site is a section of grass verge adjacent to Dewsbury Road (A638) and adjacent to an existing bus stop with a shelter. Directly behind the site is the pavement followed by a further grassed slope extending down to a smaller highway off Dewsbury Road. This leads to a small area of green open space which is positioned between gardens of properties. The area is predominantly residential with commercial premises towards the east but has a pleasant verdant character with stretches of grass verges adjoining the highway boundaries.
8. As I observed at the time of the site visit, there is existing street furniture continuously along Dewsbury Road, including street lighting, wooden telegraph poles, speed cameras, bus stops and road signage. There were also well-established trees along the grass verges and several existing cabinets positioned within grass areas along both sides of Dewsbury Road. These all contribute to the overall visual character and appearance of the busy through route in the city.
9. Paragraph 114 of the Framework advises that advanced, high quality and reliable communications and infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). At paragraph 115, it encourages use of existing masts, buildings and other structures for new electronic communications capability. It also says that where new sites are required (such as 5G networks), equipment should be sympathetically designed and camouflaged where appropriate.
10. The development would be sited where currently none exists. Although the mast would be taller than other nearby buildings and structures and visible on approaches along the highway. It would be of a slim structure, grey and the reduced height of 15m would be more appropriate to the residential character of the area compared to the original 20m mast proposed. Long distance views

would be limited when approaching from the west due to the bend and alignment of the main roadway. The proposal would be seen in the context of the line of existing street furniture, including mature trees and against the backdrop of properties rather than the relatively small green space to the south. It would not be so much taller than these features as to dominate, appear incongruous or as an alien feature in the street scene.

11. Furthermore, in consideration of the siting of the mast, the appellant confirms that the target coverage area includes Lupset and has been selected as a position capable of providing the required essential coverage. The 15m height would be essential to enable local provision and clear surrounding buildings and provide connection between cells. The Framework is clear that the need for an electronic communications system should not be questioned. Given my findings above, it is not necessary to undertake any detailed assessment of the merits of the discounted alternative sites.
12. Moreover, I have no evidence that the development would set a precedent for other similar proposals, or for the potential for additional equipment to be added to the site at a later date. Any such proposals would need to be considered on their own merits, as I have done in this case.
13. For the reasons given above, I conclude that the siting and appearance of the proposal would not unacceptably harm the character and appearance of the area. The Council has cited a number of development plan policies in their decision notice, these do not specifically refer to telecommunications development and associated equipment.
14. Nevertheless, insofar as they relate to the siting and appearance of the proposal, I consider that it would accord with Policy CS10 of the Wakefield Local Development Framework Core Strategy, 2009 and Policy D9 of the Wakefield Local Development Framework, Development Policies, 2009. These policies, amongst other things seek to protect character and appearance; ensure good design and that development will make a positive contribution to the environment and amenity of its locality. The proposal would also accord with the provisions of the Framework.

Other Matters

15. My attention has been drawn to a previous appeal decision¹ in the vicinity of the appeal site, to the opposite side of the bus stop and closer to Townley Road. However, I have not been provided with precise details of this case. Moreover, it would appear from the limited evidence that this was some years ago, predating the publication of the Framework. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
16. In relation to potential effects on health, 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

¹ APP/00X4725000/A/06/2008338

that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

17. Additional concerns have been raised about the proposal including highway safety for pedestrians and vehicles, obstruction of the footway, wildlife, bats and living conditions of nearby occupiers. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. The matter of permission to carry out any works within the public highway are a separate consent and outside of the planning regime.
18. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. In regard to public consultation, the evidence before me indicates that the Council carried out the appropriate and proportionate publicity for the proposal, despite the claims to the contrary. Accordingly, these matters and concerns raised do not outweigh my conclusions on the main issue.

Conditions

19. Any planning permission granted for the appeal proposal 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 above, I conclude that the appeal should be allowed, and prior approval should be granted.

K A Taylor

INSPECTOR