



Appeal Decision

Site visit made on 1 March 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/X4725/W/21/3287280

Manygates Lane, Sandal, Wakefield WF2 7DQ

- 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 Wakefield Metropolitan District Council.
 - The application Ref 21/02085/TEL, received 13 August 2021, was refused by notice dated 22 October 2021.
 - The development is a proposed 15m Phase 8 Monopole C/W wraparound 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 an 15m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at land at Manygates Lane, Sandal, Wakefield WF2 7DQ in accordance with the terms of the application Ref 21/02085/TEL, received 13 August 2021, and the plans submitted with it including WKF16036_M003 Issue C (002 Site Location Plan, 210 Proposed Site Plan, 260 Proposed Elevation, 303 Proposed Antenna Schedule & Line Configuration and 305 Equipment Schedule & Support Structure Details).

Procedural Matters

2. For clarity, I have taken the date of the application from the Council's decision notice.
3. 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.
4. 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 plan¹

¹ Including Policies D9 and D18 of the Wakefield Local Development Framework: Development Policies (2009) and Policy CS 1 of the Wakefield Local Development Framework: Core Strategy (2009)

and the National Planning Policy Framework (the Framework)² only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, having regard to the non-designated heritage asset, 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

6. The appeal follows a recent refused application for a higher, 20m, monopole. The site is adjacent to the car park and boundary treatment associated with the Wakefield Adult Education Centre. On the opposite side of Manygates Lane is Castle Grove Park which is a non-designated heritage asset. There are trees to both sides of Manygates Lane. The site is also close to the junction with Milnthorpe Lane which contains two-storey residential dwellings.
7. The Park is a large, open, grass area which provides a sense of openness. I understand that the park has heritage value considering its history in relation to the battle of Wakefield. Furthermore, the Council states that it consists of remnants of Wakefield Green which is said to be a well-preserved field of medieval ridge and furrow.
8. The design of the scheme is dictated by technical constraints and the appellant asserts that the height of the installation is the lowest that works effectively for the Operator. The monopole would be taller than the education centre building as well as nearby trees and streetlights. It would stand out as an obtrusive feature because of the open character of this part of Manygates Lane and due to its height and siting. Consequently, it would undermine the significance of the non-designated heritage asset. Nevertheless, the proposal would be less prominent from longer distance views due to the surrounding built development and surrounding trees which would collectively provide a degree of screening.
9. For the reasons given above, due to its siting and appearance, the proposal would harm the setting of the Castle Grove Park and character and appearance of the surrounding area.

Suitable alternatives

10. Paragraph 117 of the Framework sets out that applications, such as that proposed, should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
11. I have had regard to the Site Specific Supplementary Information which details the discounted options. The findings are not disputed by the Council, and they have not suggested alternative locations. Objectors have also not produced any robust evidence to demonstrate that there are suitable alternatives.

² Including Chapters 12 and 16

Consequently, there is no information before me to indicate that there are other alternative sites to provide the required coverage.

Other matters

12. The appeal site is located close to the Grade II listed monument on Manygates Lane, Richard Duke of York's Grave. The Council raise no concerns in respect of the effect of the development on the setting of the listed monument, and I have no substantive reason to consider otherwise. Given the set back and location of the grave monument, I am satisfied that the scheme would not harm the significance of the designated heritage asset.
13. I have had regard to the objection comments. Concerns have been raised about potential effects on health. 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. In addition, the proposal would not cause harm to pedestrian or vehicular safety. The Council did not refuse the application relating to the other matters raised in the objection comments and I see no reason to disagree with that assessment.

Balance

14. The proposal would cause harm to the setting of the Castle Grove Park and the character and appearance of the surrounding area. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
15. The level of harm would be less than substantial given the scale of the scheme, intervening highway and nearby trees which would provide a degree of screening. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, planning decisions should support the expansion of electronic communications networks.
16. The need for the installation weighs in favour of the appeal and I acknowledge the various economic and social benefits highlighted by the appellant. In addition, the absence of a feasible and practical alternative site and the need for the installation to be sited as proposed weighs in favour of the scheme. In weighing the harm against the benefits and the need for the installation to be sited as proposed, I conclude that these would be of a sufficient magnitude to outweigh the less than substantial harm to the significance of the non-designated heritage asset and the character and appearance of the area.

Conditions

17. I have had regard to the Council's suggested condition relating to archaeology. 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. Thus, there is no express provision in the GPDO enabling the imposition of additional conditions. Based on the evidence presented, I do not consider that the suggested condition is so fundamental that without the condition it would be necessary to dismiss the appeal.

18. The deemed conditions 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

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

L M Wilson

INSPECTOR