



Appeal Decision

Site visit made on 29 March 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 4 May 2022

Appeal Ref: APP/Z4718/W/21/3287758

Wakefield Road, Earlsheaton, Dewsbury WF12 8AH

- 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 GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/93347, dated 15 August 2021, was refused by notice dated 15 October 2021.
 - The development proposed is a 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amendments to Schedule 2, Part 16, Class A of the GPDO came into force on 4 April 2022. The content of these changes has been considered but in light of the facts in this case it does not alter my assessment of the proposal.
3. The provisions of the GPDO 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 Council has referred to a development plan policy in its decision notice. However, 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 to be had to the development plan. As such 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.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area.

Reasons

6. The appeal site comprises an area of pavement on the southern side of Wakefield Road. The surrounding area is predominantly residential in character, however the appeal site is located adjacent to the car parking area of a health

centre, and opposite to an open area of grass land that is adjacent to a petrol station. Whilst there are streetlights nearby, the lack of built form on this stretch of Wakefield Road results in the appeal site sitting in a relatively open and exposed position.

7. The proposed elevation plan shows that the slimline monopole, which would be approximately 15 metres high, and equipment cabinets would be positioned at the back edge of the footpath and next to streetlights. The siting and height of the proposed mast has sought to satisfy technical and operational requirements, and to prevent any obstruction to the flow of pedestrians in the surrounding area. I have also been informed that the proposed 5G installation is the optimum design solution, which intends to remain as discreet as possible whilst ensuring that it has been 'future-proofed' for upgrades and can facilitate multiple 'sharers'.
8. Nonetheless, the proposed mast would be appreciably taller, bulkier and more prominent than the nearby street lighting columns and would clearly project above the height of the nearest buildings, some of which are at a lower level than the appeal site. Furthermore, Wakefield Road is a long, and straight road, and the proposal would be readily visible from long distances in the approach from either direction. The trees shown on the plans would also not be sufficiently close to the monopole to provide any obvious screening benefit. As such, it would be prominent in views through the area including from nearby residential streets and properties. Irrespective of any potential changes in its colour, the proposed monopole's excessive height and greater bulk would result in a dominant and visually obtrusive feature.
9. The appellant contends that the equipment cabinets are within the size limits to be classified as permitted development. However, I am not convinced that there is a greater than theoretical possibility that the installation of the cabinets on their own may occur. In any case, the proposal before me relates to the whole installation, and I have therefore considered the impact of all of the proposed equipment on the character and appearance of the area.
10. In light of the above, I find that the siting and appearance of the proposed development would result in unacceptable harm to the character and appearance of the area. In so far as it is a material consideration, the proposal would also be contrary to Policy LP24 of the Kirklees Local Plan 2019. Amongst other matters, this promotes good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape.

Other Considerations

11. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G. As such, I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure and 'levelling up' digital connectivity. I also note that in this case, there is no dispute that the equipment is needed to provide a 5G network and to infill coverage and capacity in the Earlsheaton area. Nor is there any contention of the benefits to mobile connectivity and the network (access and speed) to a multitude of users, devices, services and sectors.

12. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
13. Furthermore, paragraph 117 of the Framework advises that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts, or other structures.
14. The appellant has considered 8 other sites but concludes that these are not suitable alternatives and that there is no scope to move the proposed site to an alternative location. However, limited details are provided to substantiate this. Two of these sites are said to be discounted due to an obstructing tree canopy, one of which is also said to have accessibility issues on a 40mph road, with the others ruled out due to their proximity to a conservation area or residential properties or a pedestrian crossing. Insufficient pavement widths and the unknown scarring on a pavement, which the appellant considers to indicate underground services, are also put forward as short reasons for being unavailable.
15. Nonetheless, other than for the concise written reasons for being discounted and markers to roughly indicate the location of the 8 sites on a mapped image of the area, little evidence has been put forward to demonstrate these suggested constraints. Given the limited nature of the information before me, including the exact location of the sites, I am therefore unable to be certain that there are less harmful alternatives. As a result, I afford the lack of identified alternative sites limited weight in favour of the scheme.

Other Matters

16. It has been put forward that the appellant submitted a pre-application enquiry for this scheme and that no responses were received from the Council or Ward Councillors. I also recognise that the proposed monopole has been reduced in height since the previously refused application (Ref: 2021/92175). However, these matters have had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.
17. I have also been made aware that the proposal would not be on Article 2 (3) land or in close proximity to any listed buildings and that no statutory consultees objected to the proposal, including landscape experts, and the Council Highways Authority during the planning application and pre-consultation stage. Nonetheless, these matters did not appear to be contentious in the appeal and the absence of harm in these respects, are neutral factors, that do not weigh in favour of the proposal.
18. I also note the appellant's reference to the Letter to Chief Planning Officers: Planning for Growth, dated March 2011. However, this predates the Framework, which provides current national policy relating to telecommunications development.

Planning Balance and Conclusion

19. Having regard to all relevant considerations, including national planning policy and the potential availability of alternative sites, I do not consider that the benefits of the installation in terms of the enhancement of the telecommunications network, including the possible sharing capabilities of the structure, its contribution to economic growth and the operational and locational needs of the operators outweigh the significant harm arising to the character and appearance of the area. As a result, the proposal would not deliver sustainable development.
20. For the reasons given above the appeal is therefore dismissed.

Mark Caine

INSPECTOR