



Appeal Decision

Site visit made on 24 June 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2022

Appeal Ref: APP/N4720/W/22/3297374

Magpie Lane, Morley, Leeds LS27 8GQ, 427213, 427489

- 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 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 Leeds City Council.
 - The application Ref 21/08386/DTM, dated 3 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is Proposed 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary 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 which does not require regard to be given 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.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the amenity of the area with particular reference to the outlook of occupiers of nearby dwellings;
 - the effect of the siting and appearance of the proposed installation on highway safety along Magpie Lane (the Lane) with particular reference to vehicles exiting Brambling Mews onto the Lane; 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

5. The appeal site forms part of an area of grassed verge along the Lane to the rear of No 5 and 7 Brambling Mews (No 5 and 7). These properties are two storey dwellings with modest sized rear gardens.
6. The proposed mast would rise above the boundary fence and be a dominant feature. There are other tall features nearby such as streetlights and trees and the appellant has reduced the height of the mast from the initial submission. However, even at 16m, the height of the mast would be significantly taller than these other features. Its height, and the width of the antenna at the top, at such close distance to both the gardens and dwellings, would have an overbearing presence.
7. Irrespective of the colour treatment of the mast, it would be a visually intrusive feature detracting from the amenity of the area with particular reference to the outlook of occupiers of nearby dwellings.
8. It is maintained that the cabinets to serve the installation are permitted development, but they have been included in the application. The proposed mast and associated cabinets would be positioned within the 2.4m x 43m visibility splay from the junction of Brambling Mews onto the Lane. This visibility splay figure is derived from guidance within the Manual for Streets for the speed of the road.
9. The existing streetlight is also within this visibility splay. However, its narrow profile and limited area allows views either side for drivers when exiting the Lane. As such, I saw that good visibility can still be achieved.
10. The Council illustrate that the proposal would reduce the visibility to approximately 27.5m. The appellant has not disputed these calculations. This is a significant reduction below the recommended visibility splay and, at this level, would result in an increased highway safety risk for vehicles exiting Brambling Mews onto the Lane.
11. I have no reason to question the appellant's evidence regarding the need for improvements in the area. However, the Designated Search Area which has guided the site selection is broadly described as being the densely packed residential area and is not clearly defined. Moreover, it is unclear what criteria was used to guide the selection of alternative sites. Several sites have been discounted only due to their visual effects. However, the appeal site has been selected despite its position within the visibility splay for the nearby junction whilst also having harmful visual effects.
12. There are no substantive details why other areas of land such as the grassed areas either side of Magpie Lane were not considered and discounted. These may have allowed greater distance to residential properties and less effects on highway safety. Overall, the level of detail provided is very brief.
13. I recognise that the Council did not provide feedback at the pre-application stage which may have assisted in site selection. Nonetheless, the search and assessment of alternative sites is not sufficiently robust. As such, I do not consider that the harm, in terms of the outlook at No 5 and 7 and in relation to highway safety, is outweighed by the need for the installation to be sited in the proposed location.

14. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.
15. A certificate to confirm that the proposal has been designed to comply with the guidelines published by ICNIRP has been provided. In such situations, the Framework advises that health safeguards are not something which a decision-maker should determine and there is no reason to depart from national policy in this respect.

Conclusion

16. To conclude, the siting and appearance of the proposed installation would harmfully effect the amenity of the area, with particular reference to the outlook of the occupiers of No 5 and 7. Moreover, it would harmfully effect highway safety along the Lane. Based on the evidence before me, it has not been demonstrated that this harm is outweighed by the need for the installation to be sited as proposed having regard to any suitable alternatives.
17. Accordingly, the appeal is dismissed.

Mr R Walker

INSPECTOR