



Appeal Decision

Site visit made on 14 September 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2022

Appeal Ref: APP/N4720/W/22/3300272

Old Lane, Old Bramhope, Bramhope, Otley, Leeds LS16 9LF

- 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 CK Hutchison Networks (UK) Ltd against the decision of Leeds City Council.
 - The application Ref 21/10059/DTM, dated 2 December 2021, was refused by notice dated 3 February 2022.
 - The development proposed is 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.

Procedural Matters

2. 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 account of any representations received. My determination of the 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 do not require regard to be had to the development plan. I have nevertheless had regard to the policies of the Leeds Unitary Development Plan Review 2006 (UDP), the Leeds City Council amended Core Strategy 2019 (Core Strategy) 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. There is a discrepancy between the submitted plans and the supporting information with regard to the location of the mast. I will come to this matter later in my decision but nonetheless, I am satisfied that I have sufficient information before me in order to assess the impact of the pole in terms of siting and appearance.
5. The site is within the Green Belt. However, the GPDO requires, as set out above, for the proposed development to be assessed solely on the basis of its siting and appearance. Therefore, the question of whether the proposal is inappropriate development and its effect on openness, does not arise. I have not therefore referred to Policy N33 of the UDP in my decision.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether that harm would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

7. The appeal site sits within a triangular shaped parcel of land, located on the brow of a hill at the junction of Old Lane and Harrogate/Pool Bank New Road (A658). The site is situated near to a number of built features, including the highway junction, a tarmacked footpath, some highway signage and lighting columns. Although the appellant's case simultaneously describes the site as being within a rural and urban context, the site itself is open and undeveloped and, as I observed on my site visit, the predominant character of the surrounding area is rural, being of largely undeveloped rolling and verdant countryside.
8. There are several vertical structures near to the site and along the A658, including street lighting columns at regular intervals and highway signage. Wooden telegraph poles and associated overhead lines are also visible within the fields nearby. I acknowledge that the least intrusive design solution and equipment configuration has been selected and the appellant has sought to minimise the mass and scale of the installation as much as possible, while still delivering the service and operational needs. However, despite a relatively simple form, the proposed pole would appear demonstrably different to the other existing vertical structures, being considerably higher and wider, including the antenna shroud.
9. The proposed pole would clearly be visible on the approaches to the appeal site, principally when travelling south-westerly along the A658 and easterly along Old Lane. Regardless of its colour finish, the proposed pole, due to its height and bulk would be highly visible and stand out as a jarring, intrusive and dominating feature, in contrast to the smaller structures in the vicinity, and the open and rolling agricultural fields that frame the open view.
10. When travelling in a north-easterly direction along the A658 the proposed pole would be visible for some distance. Notwithstanding that the pole would be significantly taller than existing structures, given that the views would be uphill, the pole would be partially viewed against the backdrop of the trees and vegetation forming a landscaping buffer between the A658 and the dwellings at Hilton Mews. This would help to soften its visual impact, although it would be more clearly visible in close-up views and when the trees are not in leaf.
11. The proposal additionally includes 4 equipment cabinets that would be positioned in line with the footpath. The appellant states that the proposed cabinets could be installed as permitted development. Nevertheless, they are detailed on the submitted plans and are required to support the operation of the proposed pole. There is no realistic prospect of the cabinets being implemented without the pole which requires prior approval. Due to their size, solid form and position, the cabinets would appear as dominant features attracting greater attention than the existing highway signage. The stone wall to the rear offers little screening or mitigation given its limited height and set

back position. Securing the colour of the cabinets by condition would not address the harmful size, form or position of the units.

12. In considering the need for the proposal, Government policy, as set out in the Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. In this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology.
13. I am referred to the Government's Future Telecoms Infrastructure Review (2018) which amongst other things outlined plans for the majority of the population to have access to 5G mobile coverage by 2027. Reference is also made to the Government's focus on 'levelling up' digital connectivity and boosting UK productivity after leaving the European Union. The proposed pole would introduce 5G coverage providing an enhanced, faster and more reliable level of communication service for transient users, residents and businesses. This is likely to have positive economic and social benefits including facilitating growth as advocated in the Letter to Chief Planning Officers: Planning for Growth (2011). I attach significant weight to these benefits accordingly.
14. Paragraph 117 of the Framework indicates that applications for telecommunications development (including those submitted for prior approval) should be supported by the necessary evidence to justify the proposed development. An area coverage map is provided within the appellant's site specific supplementary information (SSSI) and statement of case (referenced as figure 4 and 5 respectively), to show the gaps in coverage within the vicinity of the proposed pole. The SSSI advises that the proposed equipment has to be located in the position of the marker shown on the area coverage map or very close to it, to provide coverage and to not interfere with the adjoining CK Hutchison Networks (UK) Ltd sites. However, the marker shown on the coverage map does not correlate with the location of the proposed pole as shown on the submitted plans, nor is very close to it. In addition, there is no corresponding map showing how the coverage gap and, as identified by the appellant the acute capacity issues and need in the area, would be met by the proposed pole.
15. Whilst not questioning the overall need, in light of the discrepancy identified above, I cannot be certain that the pole is required in the location proposed, to serve the coverage gap, sufficient to deliver the suggested benefits of enhanced digital communication for local residents and businesses.
16. I have had regard to the search conducted by the appellant identifying a lack of less harmful alternative sites, following the sequential approach, and note that no specific alternative sites have been identified by the Council for consideration. All sites D1 to D8 are located within a very confined and linear search area along the A658 on highway land. Sites D2 and D4 have been discounted on the basis that the position of a pole would raise highway concerns. However, there is no clear persuasive evidence that this would be the case. Given the discrepancy on the area coverage map, I also cannot be sure that all alternative locations within the unshaded coverage areas have been comprehensively considered, nor sites on private land. Although the appellant claims the cell area is within a high density residential concentration, it is clear from the evidence before me and from my site visit observations,

that the area surrounding the appeal site is largely undeveloped and not overly constrained by significant residential development.

17. In light of the above and despite the lack of consultation objections from landscape experts, I conclude that the proposed pole would represent an incongruous and intrusive addition to the street scene, resulting in significant harm to the character and appearance of the area, that is not outweighed by the need for the installation to be sited as proposed and its social and economic benefits. In so far as they are material considerations, the proposal would be contrary to Policies P10 and P12 of the Core Strategy and saved Policy GP5 of the UDP which amongst other things, seek to ensure that new development is of a high quality that conserves and enhances the landscape according to particular local distinctiveness. It would also conflict with the Framework which seeks to facilitate the growth of new and existing telecommunications systems whilst keeping environmental impact to a minimum.

Other Matters

18. Reference is made to the proposal not affecting local residents due to the presence of landscaping. This is a neutral factor that would weigh neither against, nor in favour of the proposal.
19. I appreciate that the appellant tried to engage in pre-application discussions with the Council but that they did not receive a response. Whilst understandably frustrating this does not however, justify development that by virtue of its siting and appearance would be harmful to the character and appearance of the area. It does not alter my overall findings.

Conclusion

20. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR