



Appeal Decision

Site visit made on 16 September 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/Z4718/W/22/3295479

Walton Lane, Hartshead Moor, Kirklees, BD19 6LP

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Kirklees Council.
 - The application Ref 2021/93657, dated 12 September 2021, was refused by notice dated 9 November 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. The name of the appellant company is spelt differently on the Application Form and Appeal Form. I have used the spelling from the latter in this decision.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on this basis.
4. The principle of development is established by the GPDO and the provisions of the Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the Kirklees Local Plan Strategy and Policies (Local Plan) and the National Planning Policy Framework (Framework) insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. 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 this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site is positioned to the north-western side of Walton Lane, close to its junction with Halifax Road. It is situated on a grass verge area set back

from the footpath and close to a field. Although there is some nearby residential development fronting Halifax Road, the areas of open land and vegetation bounding Walton Lane, gives the area a distinctly semi-rural rather than urban character.

7. The siting of the proposed mast with open land to its rear, would result in a highly prominent addition when viewed from the long and straight Walton Lane in the vicinity of the site which allows for uninterrupted views. The proposal would also be seen from Halifax Road, around the junction with Walton Lane. Reference has been made by the appellant to the presence of tall mature trees, but the area around the appeal site is devoid of such planting, and trees further away would provide little by way of screening. There are some existing items of nearby street furniture that have a vertical emphasis. The tallest of these is a streetlight at around 10m tall, but the proposal would be significantly taller than this and the proximity of this and other street furniture would not enable the proposal to blend into the streetscene.
8. I do not doubt that efforts have been made to minimise the mass and scale of the slimline static installation, but from the submitted plans, the pole would be noticeably wider than nearby street lighting columns, particularly its upper section. This would result in the proposal having a bulky, visually intrusive appearance in this open, semi-rural area which would not be overcome by selecting the colour of the pole. Although the appellant considers the installation would not appear unusual in this location, I consider that its siting and appearance would have an unacceptable impact on the character and appearance of the area.
9. I therefore conclude that the siting and appearance of the proposed installation would result in significant harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 115 of the Framework and Local Plan Policy LP24a, which seek, amongst other matters, for all development to respect and enhance the character of the landscape.
10. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage and a number of potential benefits have been set out by the appellant relating to improved connectivity. I acknowledge the benefits that would be provided, to the economy and society of facilitating 5G provision. Local Plan Policy LP4 also supports the provision of infrastructure.
11. The appellant states that the proposal is in a highly constrained cell search area geographically and the wider cell search area is dominated by residential uses and that there is also a need to avoid interference with existing telecommunication sites. The assessment of alternative sites resulted in them being discounted for various reasons, including insufficient pavement width and residential amenity issues. Physical constraints such as underground services have also been cited. Based on my site observations, I have no reason to disagree with the rationale for discounting many of these alternatives. However, 'Option 3' was discounted as it was said to be less robust than the appeal proposal, but there is little evidence before me on the reasons for this.

The area around 'Option 3'¹, along Halifax Road, particularly towards the motorway bridge, may provide a realistic alternative. As such, I find the analysis by the appellant to be not sufficiently comprehensive to eliminate all other reasonable options.

12. The provision of 5G coverage in the area would provide benefit in terms of access and speed to a multitude of users and this weighs in favour of the appeal as does the potential of this proposal to facilitate future site sharing and the use for future technologies. I have also no reason to question the need for a new site for this proposal and the adherence by the appellant to the sequential approach in considering existing base stations/structures, site sharing or installing on an existing building or tall structure. The proposal would, however, for the reasons set out above, harm the character and appearance of the area. I note that a mast with a height of 15m is required to clear surrounding clutter and provide suitable coverage. On the evidence before me it is not clear that less harmful alternatives have been properly explored and it is my overall view that the need for the proposal does not in this case, outweigh the harm identified.

Other Matters

13. The appeal scheme would not impede the flow of pedestrians, the safety of passing motorists and maintains a reasonable distance from sensitive receptors such as residential properties and schools. The appeal site is not on Article 2(3) land and it is not near any listed buildings. The proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection and it has not attracted any objections. A lack of harm in these areas are neutral matters and do not weigh in favour of the proposal.
14. Although it is stated by the appellant that other locations would place the mast closer to such sensitive receptors or require an increase in height, I am not persuaded from the available evidence, including alternative site 'Option 3', that this would necessarily be the case.
15. I note the appellant sought pre-application discussions and no comments were received from the Council or other stakeholders when there was an opportunity to suggest alternative sites. I am required to assess the proposal before me having regard to siting and appearance. Having done so in this case, I have found the proposal to be unacceptable for the reasons set out.
16. The appellant has also stated that the number of cabinets have been kept to a minimum and these are Permitted Development without the need for prior approval. Given the low-level nature of these structures, I do not find this aspect of the development to be harmful, but this does not alter or outweigh my conclusion about the harm that the proposal would cause.

Conclusion

17. For the above reasons, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR

¹ as indicated in Figure 6 of the Appellant's Appeal Statement