



Appeal Decision

Site visit made on 13 September 2022

by C Megginson BA(hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2022

Appeal Ref: APP/Z4718/W/22/3295201

Rochester Road, Oakwell Industrial Park, Birstall WF17 9BU

- 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 Hutchinson Networks (UK) Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/93348, dated 15 August 2021, was refused by notice dated 13 October 2021.
 - The development proposed is described as a proposed 15.0m Phase 8 Monopole C/W wraparound 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 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 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the Kirklees Local Plan (2019) (the Local 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

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area. If any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed having regard to the potential availability of alternative sites.

Reasons

5. The appeal site is on the back of the pavement adjacent to a triangle of grassed open space and directly adjacent to a bus stop. It lies close to the junction of Rochester Road and Charlotte Close. The area is residential in character and in the immediate vicinity of the site dwellings are predominantly

two storeys in height, with the exception of a three-storey residential block approximately 10m in height, which adjoins the grassed open space to the west. The site sits in a prominent curve in the road, highly visible on approach from both directions along Rochester Road. Vertical structures including streetlights up to approximately 6m high are common in the street scene; however, these have regularity in height, spacing and siting.

6. The proposed monopole has been reduced from a height of 18m and at 15m is stated to be the minimum height which can be deployed to bring the benefits of 5G. The height would be significantly greater than the existing vertical structures already present and would be greater in thickness and a noticeably different shape. This would appear alien and unexpected in such a context and would interrupt the regular rhythm of spacing between the existing streetlights. The presence of street furniture, such as the existing bus stop sign and waste bin adjacent to the proposal would not result in the proposal appearing compatible.
7. Mature trees and shrubs up to approximately 9m in height sit in the corners of the triangle of open space adjacent to the appeal site and along the surrounding streets. These will provide some screening to the lower part of the mast from some views when in full leaf. Nevertheless, the prominent roadside position would remain highly visible from the surrounding residential area. I appreciate that efforts have been made to keep the monopole away from potentially sensitive receptors and to locate it on a wider stretch of pavement. However, the height and positioning of the proposal would stand out as an incongruous feature, would add to the visual clutter and would cause harm to the character and appearance of the area.
8. Insofar as they are a material consideration, the proposal would be contrary to the aims of Policy LP24a of the Local Plan, which seeks to minimise the impact on visual amenity as well as paragraph 130 of the Framework which seeks to achieve well-designed places.
9. Paragraph 115 of the Framework states that the number of communications masts and the sites for such installations should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. It encourages the use of existing masts. The appellant has investigated alternative sites as required by paragraph 117 of the Framework and discounted them, in summary, due to pavements being too narrow, highway concerns and the proximity to residential property. Based on the submitted evidence, I am not convinced that sufficient justification has been provided to support the discounting of these sites.
10. I appreciate that the search area for the proposed development is constrained and that its residential character further restricts potential sites. However, limited information has been provided as to why the alternative sites were discounted or why these were the only possible locations within the search area. The appellant states that the industrial area to the east is not viable from a radio perspective but have provided no further evidence in this regard. I am not, therefore, convinced that less harmful alternatives have been properly explored.

Other Matters

11. I acknowledge the benefits that the proposal would provide with regard to greater 5G coverage and various other social and economic benefits. However, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. Therefore, the potential wider benefits of the proposed development cannot not be taken into account.
12. The appellant has noted that there were no objections from statutory consultees, landscape experts or members of the public. However, the absence of objection does not in itself render the scheme acceptable.

Conclusion

13. For the reasons given above, I consider that the siting and appearance of the proposal would be unacceptable. I therefore conclude that the appeal should be dismissed.

C Megginson

INSPECTOR