



Appeal Decision

Site visit made on 27 September 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/N4720/W/22/3299299

Deighton Road, Wetherby, Leeds LS22 7TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Article 3(1) and 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 21/09898/DTM, dated 7 December 2021, was refused by notice dated 28 January 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 20m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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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) (the Order), 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 Order and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard be had to the development plan. I have had regard to the policies of the Leeds Core Strategy (as amended 2019), saved policies from the Leeds Unitary Development Plan Review (2006), the Wetherby Neighbourhood Plan 2017–2028 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 character and appearance of the area, including the setting of designated and non-designated heritage assets, and trees; and
 - If any harm is identified whether that harm would be outweighed by the need for the installation to be sited as proposed and the lack of less harmful alternative sites.

Reasons

Character and Appearance

5. The appeal site is located at the back of a wide pavement on Deighton Road. Deighton Road is a busy road in and out of Wetherby town centre. The proposed mast would be located adjacent to a high stone wall which forms the boundary of Stone Dene (Grade II listed) and associated residential development. The wall itself is considered by the Council to be a non-designated heritage asset.
6. This section of the road is predominantly residential in character. Directly opposite the appeal site, substantial two storey houses are set back from the highway behind low walls and hedges. There are several mature trees which are protected by a Tree Preservation Order, close to the appeal site. As a result, the road has a verdant, suburban feel to it at this point.
7. Vertical structures such as modern street lighting columns and telegraph poles are located at regular intervals along the road. Notably, however, there is, otherwise an absence of street furniture and clutter within the street scene, particularly within the stretch of pavement where the mast and cabinets are proposed to be located. The lack of visual clutter in the street scene contributes positively to the character of the road.
8. The proposal involves the installation of a 20-metre monopole and associated cabinets at the back of the pavement adjacent to the high stone boundary wall. The mast and the cabinets would be painted grey. The height of the pole would be significantly higher and noticeably thicker in diameter at all heights than the existing vertical structures along the road. The proposed ground level cabinets would be bulky and utilitarian in their appearance.
9. Together with the cabinets around the base of the mast, the proposal would appear alien and visually intrusive in its context, introducing an element of clutter where there is otherwise very little. The appearance of the proposal would not be mitigated by painting the equipment grey which would not alter the fundamental issue of its scale, height and siting, which set within the pavement and against the varying hues of the stone wall, would fail to integrate the development into the area.

Effect on Designated Heritage Asset

10. The appeal site is close to a Grade II listed dwelling known as Stone Dene, a mid-eighteenth-century house noted for its architectural interest. Some of the former grounds of the house have been previously developed for housing. Nevertheless, the area immediately in front of the house and adjacent to the appeal site remains undeveloped and forms the landscaped garden of the house, and the access to a number of dwellings. Consequently, this area enables the heritage asset to be appreciated in its setting. The introduction of a utilitarian feature in this location would, as a result, detract from its setting, both in views towards the listed building from Deighton Road and looking outwards from it.
11. No heritage statement has been submitted with the application to demonstrate that the setting of the heritage asset would not be affected by the proposal. From my observations on site, the mast would be clearly visible rising above the wall when viewed from the heritage asset and views towards it from

opposite and further along the road would also be affected by the presence of the mast. Nevertheless, the harm to the setting of the heritage asset is likely to be less than substantial. Paragraph 202 of the Framework requires the decision maker to weigh that harm against the public benefits of the proposal.

Effect on Non-designated Heritage Asset

12. Immediately adjacent to the appeal site is a high stone wall which denoted the historical boundary of the nearby Grade II listed Stone Dene. The wall stretches for a significant distance along Deighton Road and forms an attractive feature at the back of the pavement. The wall adds to the local distinctiveness of the road and contributes to the character of the locality. The Council consider this to be a non-designated heritage asset, and I have no reason to disagree.
13. The telecommunications installation would be located immediately adjacent to the wall and whilst I have no information to say that it would cause physical harm to the integrity of the wall, its form and presence would significantly harm the character and appearance of it. This would cause less than substantial harm to the significance of the setting of the heritage asset which according to paragraph 203 of the Framework requires a balancing judgement.

Effect on Trees

14. The trees closest to the appeal site are protected by a Tree Preservation Order. No information has been submitted with the appeal to demonstrate that the health of the trees would not be adversely affected by the proposal.
15. Although the details submitted state that mast and cabinets would be constructed on 'new root foundations' no details of these are provided and the appellant does not state whether the works would be undertaken in accordance with the relevant British Standard relating to trees and development¹ and that root protection areas (RPA's) of the trees would be avoided. Based on the information before me, given the proximity of the nearest proposed cabinets to the nearest tree, it cannot be established with certainty that the development proposed would not cause the loss of, or damage to, that tree.

Conclusion – Character and Appearance

16. Accordingly, having regard to its scale, height, prominent position, the proposed installation would be an incongruous feature, which would adversely affect the character and appearance of the street scene and wider area, including the Listed Building and non-designated heritage asset. I also find that the proposal fails to demonstrate that it would not have an unacceptable impact on trees which the proposal would be located immediately adjacent to. The loss of any of the nearest trees would have a significant effect on the character and appearance of the site, as well as the contribution they make to the setting of the Listed Building. Further consideration of paragraphs 202 and 203 of the Framework are set out below.
17. Therefore, insofar as they are a material consideration, the proposal would be contrary to the aims of Policy ENV1 of the Wetherby Neighbourhood Plan which seeks to protect heritage assets within the parish. The proposal would also be contrary to Policies P10, P11, P12 of the Leeds Core Strategy (as amended 2019) and GP5 of the Leeds Unitary Development Plan Review (2006), which

¹ BS 5837:2012 Trees in Relation to Design, Demolition and Construction

seek to minimise the impact of development on the visual amenity of a locality as well as the Framework's policies for achieving well designed places. Amongst other things, these policies seek to ensure development is high quality in design and ensure that heritage assets are conserved and enhanced, and their character protected.

Siting and Consideration of Alternative Sites

18. I recognise that the 5G cell search area is constrained due to the residential nature of the area, and that the location has been selected to be close to those who would benefit from the technology. I note that the appellant has provided a map detailing discounted options. Limited information has been provided as to why the alternative sites were discounted. I note that the alternative site search has been limited to public highway land. I am therefore not persuaded that less harmful alternatives have been properly explored.

Balance

19. Paragraph 199 of the Framework sets out that great weight should be given to the conservation of heritage assets. I have identified in my reasoning above that the proposal would cause less than substantial to the setting of both Stone Dene and the boundary wall. Paragraph 202 of the Framework indicates that less than substantial harm to designated heritage assets should be weighed against the public benefits of the proposal. Paragraph 203 of the Framework requires a balancing judgement on the less than substantial harm caused to the setting of the non-designated heritage asset (the boundary wall).
20. Approval of this application would allow for the construction of infrastructure which would enable the roll out of 5G coverage, enhance network speeds and connectivity within the surrounding area. As a result, the proposal would contribute to the use of smarter infrastructure in this part of Wetherby where I note there is demand for the technology from increased working from home.
21. I have had regard to the advice in the Framework in respect of the installation of telecommunications equipment and have attached significant weight to the benefits that the roll out of 5G coverage would provide. Although I consider that the public benefits would be moderate in this case, they would not be sufficient to outweigh the 'less than substantial' harm to the significance of the heritage assets that I have identified. As a result, these matters are not sufficient to outweigh the adverse effect that the proposed installation would have on the character and appearance of the area.

Conclusion

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

KL Robbie

INSPECTOR