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# Appeal Decision

Site visit made on 18 October 2022

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 November 2022**

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**Appeal Ref: APP/G4240/W/22/3299916**

**Lower Bennett Street Street Works, Tameside SK14 4PP**

- 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 GPDO).
  - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 21/01425/NCD, dated 16 December 2021, was refused by notice dated 17 February 2022.
  - The development proposed is a new 18m high Phase 8 3HG street pole and associated 3no. equipment cabinets.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The provisions of the GPDO 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 Council has referred to development plan policies in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. As such 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 Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

## Reasons

5. The appeal site comprises an area of pavement on the southern side of Lower Bennett Street (LBS), close to the junction with Dukinfield Road. Whilst the locality is predominantly residential in character, the appeal site is located adjacent to 2 landscaped areas of open space. The topography of the area is also such that LBS rises up from the junction with Dukinfield Road to the appeal site and beyond. The site thereby appears raised when viewed from Dukinfield Road and the west. Although there are some streetlights, signs and

trees nearby, the lack of built form on this part of LBS results in the appeal site sitting in a relatively open, prominent and exposed position.

6. The proposed site plan shows the monopole, which would be approximately 18 metres high, and equipment cabinets to be positioned at the back edge of a wider section of the LBS footway. Nonetheless, the proposed monopole would be appreciably taller and bulkier than the nearby streetlights and other vertical structures along LBS and Dukinfield Road. Whilst the trees would offer some screening and soften the appearance of the monopole, this element of the proposal would also project above them and be clearly visible, particularly at times when the trees would not be in leaf. This dominance would be further emphasised by the topography of the area.
7. As Dukinfield Road is long and straight, the proposal would be readily apparent from long distances in the approach from either direction of this highway. From other locations, including along LBS and Dunkirk Lane, it would appear bulky and prominent, particularly when seen against the skyline. It would also introduce an element of perceived visual clutter at low level through the siting and amount of the ancillary equipment cabinets.
8. The open and exposed nature of this location, along with its raised position would therefore have a consequential effect of emphasising the proposed development. Irrespective of any potential changes in its colour, the proposal would thereby result in the introduction of a dominant and visually obtrusive feature in the street scene.
9. The appellant contends that the associated equipment cabinets are within the size limits to be classified as permitted development. However, I am not convinced that there is a greater than theoretical possibility that the installation of the cabinets on their own may occur. In any case, the proposal before me relates to the whole installation, and I have therefore considered the effect of all of the proposed equipment in relation to the main issue of this appeal.
10. In light of the above, I find that the siting and appearance of the proposed development would result in unacceptable harm to the character and appearance of the area. As such, it would conflict with Policies U2 and C1 of the Tameside Unitary Development Plan 2004. These seek to ensure that, amongst other matters, the siting and external appearance of the apparatus has been designed to minimise its visual impact, and conserves and enhances the built environment.

## **Other Matters**

11. It has been put forward that the width of this part of the pavement would prevent any obstruction to the flow of pedestrians in the surrounding area. I have also been informed that the site has been selected in a location as feasibly distant as possible from houses and lines of sight from windows to minimise any encroachment on residential amenity. In addition, I have been made aware that the appeal site is not on Article 2 (3) land or any other environmentally sensitive designation, and that there were no objections from local residents or consultees to the proposal, including from the Council's Highways Section. However, these matters did not appear to be contentious in the appeal and the absence of harm in these respects, would be neutral factors, that do not weigh in favour of the proposal.

## **Benefits and Planning Balance**

12. I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure and 'levelling up' digital connectivity. The Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being, and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported.
13. The Council has not disputed the appellant's technical justification for the need to improve network coverage in the area. Nor has it questioned the constrained size of the search area or the list of alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued. I see no reason to take a different stance and consider these factors to all weigh in favour of the proposal.
14. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
15. Having regard to all relevant considerations, including national planning policy and the potential availability of alternative sites, I do not consider that the benefits of the installation in terms of the enhancement of the telecommunications network, including its contribution to economic growth and the operational and locational needs of the operators outweigh the significant harm arising to the character and appearance of the area.
16. For the reasons given above the appeal is therefore dismissed.

*Mark Caine*

INSPECTOR