



Appeal Decision

Site visit made on 13 December 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/N4720/W/22/3309686

Corner of Houghley Lane/Stanningley Road, Leeds LS12 2RF

- 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 GPDO).
 - The appeal is made by Cornerstone against the decision of Leeds City Council.
 - The application Ref 22/01775/DTM, dated 4 March 2022, was refused by notice dated 3 May 2022.
 - The development proposed is described as 'proposed streetworks base station installation, including proposed 17.5m high Hutchinson Engineering Apollo street pole on new root foundation; proposed 1No. (VF) GPS module; proposed 3No. (VF) antennas with shroud; proposed 1No. (VF) Tyrone Lancaster XES enclosure cabinet; proposed 1No. (VF) Side-Pod; proposed 1No. (VF) SFMC 160 meter cabinet'.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a streetworks base station installation, including: a 17.5m high Hutchinson Engineering Apollo street pole on new root foundation; 1No. (VF) GPS module; 3No. (VF) antennas with shroud; 1No. (VF) Tyrone Lancaster XES enclosure cabinet; 1No. (VF) Side-Pod; 1No. (VF) SFMC 160 meter cabinet, at the corner of Houghley Lane/Stanningley Road, Leeds LS12 2RF, in accordance with the application ref: 22/01775/DTM, dated 4 March 2022, and the plans submitted with it, including:
 - Drawing No. 100 Rev A (Site Location Maps) dated 01.09.21;
 - Drawing No. 200 Rev A (Existing Site Plan) dated 01.09.21;
 - Drawing No. 300 Rev A (Existing Site Elevation) dated 01.09.21;
 - Drawing No. 201 Rev B (Proposed Site Plan) dated 15.12.21; and,
 - Drawing No. 301 Rev C (Proposed Site Elevation) dated 03.02.22

Preliminary Matters

2. Under the GPDO, planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions. 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 material considerations relevant to matters of siting and appearance.

4. Plans indicating existing and proposed coverage in the area for 2,3,4 and 5G were submitted with the appeal. I am satisfied this does not introduce significant new information and, as part of the appeal, the Council have had the opportunity to provide comments. As such and having regard to the Wheatcroft principles¹ and guidance², I am satisfied there is no risk of prejudice if I take the plans into account. I have therefore determined the appeal on this basis.
5. I have amended the description of development used in my decision from that set out in the banner heading above, which has been taken from the planning application form. The amended description leaves out wording that is unnecessary to describe the development.

Main Issue

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

Reasons

Character and appearance

7. The appeal site is located within the public footway on Houghley Lane, against a low brick wall. It is situated on the rise of Houghley Lane on approach to the junction with Stanningley Road, a dual carriageway. The site is positioned alongside a forecourt and parking area to a row of commercial properties. Immediately behind the low brick wall abutting the footway is an area used for refuse storage which fronts a restaurant with accommodation above. The location is urban in character with predominantly built-up surroundings that include residential and commercial buildings and a large church on the opposite side of the dual carriageway.
8. The development would be screened from near and far views travelling east along Stanningley Road due to extensive tree planting on the north side of the road, which provides some visual relief and greenery to an otherwise built-up area. Views travelling westward would be seen against a multitude of other vertical structures including lighting columns, wooden telephone poles with overhead wires, a bus stop and road signs alongside the busy dual carriageway.
9. The rear elevations and gardens of three residential properties on Martindale Close face the appeal site; however, they are positioned at a lower level, and the separation distance and intervening tree cover would limit views of the proposed development. Similarly, the wide carriageway provides a visual separation between the appeal site and residential properties on the opposite side of Stanningley Road. The development would be clearly apparent when approaching the junction along Houghley Lane and from the forecourt of the

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² 'Procedural Guide Planning Appeals – England'

commercial premises. Nonetheless, the monopole would not stand out as an isolated or unduly exposed structure or appear alien or unexpected in the urban context as described above.

10. However, the monopole would be readily visible from the gable windows of 2 and 4 Houghley Lane and sits in close proximity to the side facing first floor windows of 154 Stanningley Road and the restaurant on the ground floor. The cabinets and lower part of the monopole would be screened by the existing wall at the back of the footway but given its 17.5m height, the monopole would be visible against the skyline. However, there are other windows offering an outlook other than towards the proposal at the aforementioned properties. Nonetheless, I consider the close proximity to properties and the prominent location of the development on the corner of the junction would appear visually disruptive to the character and appearance of the site when viewed from the immediately surrounding area.
11. For the above reason, I therefore conclude that the siting and appearance of the proposal would result in a moderate level of harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would be contrary to Policy GP5 of the Leeds Unitary Development Plan (Review 2006) (UDP) and Policy P10 of the Core Strategy (amended 2019) (CS). Together the policies seek development that is appropriate to its location, scale and function.

Alternative sites

12. Paragraph 117 of the Framework states, among other things, that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by necessary evidence to justify the proposal. Where this in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
13. The appellant seeks to secure a site for Vodafone Ltd, who currently share nearby telecommunications equipment with Telefonica UK Ltd. The appellant's submission states that a separate site is required to ensure continued provision of 2G,3G and 4G coverage in the area and meet license obligations. Furthermore, it is stated that it would not be possible to provide a shared site to enable 5G for either operator without upgrading the existing equipment, which would result in a taller and bulkier structure than the proposal that would result in a greater level of visual harm. This would also not be feasible on the restricted footway.
14. I have had regard to the search conducted by the appellant identifying a lack of alternative sites, following the sequential approach, and note that the Council has raised no concerns regarding the sequential approach and has suggested no further sites. The appellant's evidence sets out reasons why the 10 ground based and rooftop alternative sites within the search area have been discounted. I note the limitations in siting new infrastructure too close to the existing facility at the corner of Cockshott Lane and Stanningley Road due to interference. As such, I accept the relevant search area is constrained and all effort has been reasonably made to investigate suitable alternative sites in a dense urban environment. From my site visit observations, it appeared that whilst some of the alternative sites had broad similarities to the appeal site, they nevertheless had been discounted for valid reasons.

15. Furthermore, I recognise that the appellant has forgone the possibility of 5G provision at the appeal site by proposing a slender monopole below 20m without 5G antenna in order to minimise the visual appearance of the pole. Accordingly, based on the available evidence, I consider that the appellant's findings that there would be no other feasible, available, and more suitable location for the development to be both reasonable and justified.

Balance and Conclusion

16. It has been shown that there are no suitable alternative sites. There is also an identified and undisputed need for improved mobile telecommunications provisions meaning that the installation has to be sited somewhere in the target area. Despite the harm that would arise from the siting of the proposed development to the character and appearance of the area, and that the principle of the development has already been accepted by the grant of planning permission for such development by the GPDO, I find that prior approval should in this case be granted.

Other Matters

17. Concerns have been raised about potential effects on health and wellbeing. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
18. Although concerns have been raised about the loss of property values that may result from the proposed installation, there is no evidence to suggest that this would be the case and, in any event, planning is concerned with land use in the public interest. As such, any possible influence on house prices, business or rental income is not a material factor in the determination of this appeal.

Conditions

19. Any planning permission granted for telecommunications apparatus under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is allowed, and prior approval is granted.

A Veevers INSPECTOR