



Appeal Decision

Site visit made on 17 April 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/N4720/W/23/3315483

Whitehall Road Cp Street Works, Leeds LS1 4AW

Easting : 429335, Northing : 433228

- 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 Hutchison Networks (UK) Limited against the decision of Leeds City Council.
 - The application Ref 22/06909/DTM, dated 12 October 2022, was refused by notice dated 29 November 2022.
 - The development proposed is Proposed 5G 20m telecoms installation: H3G street pole and additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no dispute between main parties that the proposal would accord with the requirements of Schedule 2, Part 16, Class A, Paragraph A.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance. My determination of this appeal has been made on the same basis.
3. The appeal site is within an area of footway that is proposed to be altered as part of a wider regeneration project. As such, the plan provided by the Appellant, showing the proposed mast at a back of pavement location, does not reflect the long-term spatial objectives of the Council. The footway is located in front of a redevelopment plot 'The Whitehall Riverside Site'. This is subject to off-site highway improvement works as shown at appendix 2 of the Highway Authority's Statement of Case. This shows the footway being increased in width to accommodate a wide landscape strip with tree planting and wider footway. The proposed mast would be within this landscape zone. The approved plan would also extend the cycle way over the junction of Riverside Way resulting in a change to the location of the give way line.
4. During my visit I noted that the Whitehall Riverside Site was vacant and the approved scheme for the plot does not yet appear to have been commenced. The footway is also unaltered. Nonetheless, the approved off-site highway works represent a material consideration in my assessment of this proposal.

Planning policy

5. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, I have had regard to the development plan and the National Planning Policy Framework (The Framework) only in so far as they are material considerations in reference to matters of siting and appearance. As such, I have had regard to saved policy GP5 of the Unitary Development Plan 2006, policies SP11 and T2 of the Core Strategy, the Council's Street Design Guide and the Framework. These seek, among other matters, to maximise highway safety and to improve facilities for pedestrians.

Main Issues

6. The main issues are:
- the effect of the siting and appearance of the proposed installation on the safety of highway and footway users, with particular regard to the visibility splay from Riverside Way and safe pedestrian movement within the footway, and
 - if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed taking account of any suitable alternatives.

Reasons

Character and appearance

7. Whitehall Road is part of the City's Strategic Road Network and is an urban highway within the City Centre. The appeal site is close to the junction of Riverside Way and adjacent to a cycle route. A traffic controlled pedestrian crossing is located close to the site on a section of highway that includes a slight curvature. During my visit I observed that pedestrian numbers were relatively high in the area. Although providing only a snap-shot in time, this seemed likely to be a typical characteristic of the area being within a city centre location.
8. The highway has a speed restriction of 30mph. A vision splay of 2.4 metres by 70 metres has been plotted by the Appellant. This demonstrates that the installation would not obscure views of motorists leaving Riverside Way by virtue of the shown vision splay. However, as no speed data has been submitted to confirm the speed of motorists, the Council's Design Guide¹ requires visibility splays on Strategic Routes to be extended to 2.4 metres by 90 metres. Therefore, the Appellant has failed to demonstrate that the proposed mast would comply with the correctly plotted visibility splay.
9. Furthermore, several sites close to the site appear to have been recently regenerated and public realm improvements are evident around and opposite the site. It appears that the Riverside Site will be delivered shortly. As a material consideration, it is important that the proposal responds positively to the evolution of the local environment.
10. The approved public realm changes include the recessing of the give way line of Riverside Way to accommodate the extended cycle way. Taking into account

¹ Street Design Guide (2009), paragraph 3.120

the curvature of the highway and a visibility splay of 2.4 metres by 90 metres, the proposal would appear to fall within the revised visibility splay. The mast and its associated cabinets would form a large mass of visually conjoined equipment. In combination, these would obscure views of oncoming traffic from motorist exiting Riverside Way and thereby pose a hazard to highway safety.

11. The footway is around three metres wide around the appeal site. The proposal would reduce the width of this to around two metres, narrowing the footway at a location where high pedestrian flow occurs. Paragraph 3.136, of the Council's Street Design Guide, seeks footway widths to be three metres in areas with high levels of pedestrian activity such as around the appeal site. The proposed mast and cabinets would reduce the extent of footway and force pedestrians into the adjacent cycleway at busy times. This would result in harm to pedestrian safety. However, once the approved improvement public realm works are undertaken, the mast and cabinets would be within a landscape zone. As such, in that scenario, the proposal would have no effect on the free-flow of pedestrians resulting in no harm in this regard.
12. Accordingly, whilst the proposal would not materially erode pedestrian safety, it would adversely affect highway safety, with respect of road users exiting Riverside Way.

Alternative sites

13. The coverage map, figure 4 of the Appellant's Site Specific Supplementary Information, demonstrates that the search area currently has limited coverage. The Appellant has identified a need to improve this due to the area being densely populated. The search area is relatively constrained due to the high frequency and low power output of the installation. Although the need for a mast is not required to be proven by the Framework an absence of coverage can be a material consideration. I am also cognisant that the proposal is located away from immediate views of occupiers of residential properties.
14. The Framework encourages the reuse and adaption of existing base stations. It also states that proposals for new masts should evidence the possibility of erecting antennas on an existing building, masts or other structures. This establishes a sequential approach first favouring the reuse of existing sites. The Appellant identifies that the upgrading of existing sites is not available and that the use of existing buildings for equipment could not be identified. However, the evidence fails to demonstrate that roof top installations have been adequately considered to discount such an option.
15. The Appellant provides details of five discounted alternative sites that were found to be unsuitable for various reasons. The alternative sites are in locations with narrow footways and near tall buildings. However, the search area for the alternative sites is comparatively wide, whilst the selected sites are relatively few. Furthermore, it is unconvincing that footway widths are narrow and therefore unsuitable in the entire search area. As such, the alternative site assessment fails to demonstrate a clear and persuasive argument that no site, in a less harmful location within the search area, exists. Consequently, the harm identified to highway safety is not outweighed by evidence that there is an overriding need for the mast to be located where proposed.

Other Matters

16. Chapter 10 of the Framework identifies that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It requires planning decisions to support the expansion of electronic communication networks, including next generation mobile technology. The proposed mast would provide improved 5th Generation coverage in and around the Whitehall Road area of Leeds. However, these considerations do not outweigh the identified harm to highway safety.

Conclusion

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

Ben Plenty

INSPECTOR