



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/23/3315500

Naburn Approach Street Works, Leeds LS14 2ET

Easting: 435963, Northing: 438055

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CK Hutchison Networks (UK) Limited against the decision of Leeds City Council.
 - The application Ref 22/06949/DTM, dated 13 October 2022, was refused by notice dated 1 December 2022.
 - The development proposed is Proposed 5G 15m telecoms installation: H3G street pole and additional equipment cabinets.
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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 5G 15m telecoms installation: H3G street pole and additional equipment cabinets at Naburn Approach Street Works, Leeds LS14 2ET, Easting: 435963, Northing: 438055 in accordance with the terms of the application, Ref 22/06949/DTM, dated 13 October 2022, and the plans submitted with it including layout plan 215, elevation 265 and location plan 002.

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.

Planning policy

3. 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 policy P10 of the Council's Core Strategy, saved policy GP5 of the Unitary Development Plan and the Framework. These seek, among other matters, for new development to protect

the visual, residential and general amenity of an area and for masts to be sympathetically designed and camouflaged where appropriate.

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; 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

5. Naburn Approach is within a residential area. Many residential plots present rear garden boundaries to this road forming a relatively inactive street to passing highway users. As such, the road is comparatively functional in character. The fence line is supplemented by a tall hedge beyond which creates a distinct delineation between the nearest residential plots and the highway. The appeal site is within a nondescript grass verge separating the carriageway from a footway. Accordingly, the site makes a neutral contribution to the character and appearance of the area.
6. The site is opposite a bus stop, within a layover area, and is close to a school and its playing fields and a woodland area. The proposed mast and cabinets would be partially framed by the fence and hedging behind it. Furthermore, the woodland and housing to its rear would largely form a backdrop to the mast, especially when road users are travelling north. The road includes streetlights at regular intervals. Therefore, whilst the mast would be taller than the adjacent streetlights and trees, it would largely integrate with the existing vertical features along the street. Furthermore, it would be largely perceived from the highway in narrow views, between trees and buildings, providing constrained views of the mast from wider views.
7. Nonetheless, the proposed mast and cabinets would be within an otherwise undeveloped section of the highway verge and would appear utilitarian in appearance within this mostly residential setting. Due to this context and its scale, the proposed development would be an obtrusive element of street furniture. The proposed mast would be prominent in the street and taller than the adjacent streetlights and would not readily complement the area's local character. The presence of partial screening would not sufficiently frame the proposal within its backdrop. Therefore, the proposal would be a discordant addition to the street scene and result in harm, albeit minor, to the character and appearance of the area.

Alternative sites

8. 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 has identified that no mast or site sharing opportunities or provision

on an existing building or structure has been found to be suitable. As such a new base station has been proposed.

9. The coverage map, at figure 1 of the Appellant's Statement of Case, illustrates that the search area currently receives poor coverage and has an identified need to be improved due to being densely populated. It is also of note that 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.
10. The Appellant asserts that the search area for a new site is extremely constrained due to the close-knit residential character of the area. The six alternative base station locations, shown at figure 2, are all within the immediate residential area and largely located along Naburn Approach and Coal Road. These are mostly in more prominent and exposed locations, than the appeal site, and were discounted due to some being within a narrow width of footway and as others would obstruct visibility splays.
11. Despite the Council's comments, based on my own observations and the Appellant's evidence, I am unconvinced that an alternative site, away from the public highway, is patently available. In contrast, the alternative site assessment demonstrates a clear and persuasive argument that no site, in a less obtrusive location within the search area, exists. As such, the siting and appearance of the proposed development should be assessed on the basis that it has been accepted in principle and has to be sited somewhere within the target area. A lack of suitable alternatives indicate that the proposal is the 'least worst' option. Given the acceptance of telecommunications equipment by the Order this is an important factor in favour of the proposal.
12. The absence of suitable alternative sites, the constrained nature of the area and the compelling need for local coverage would outweigh the minor harm found to the area's character and appearance. Consequently, the Framework is of over-riding importance identifying that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.

Conclusion and conditions

13. Any planning permission granted for a telecommunication mast 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 submitted details, 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 and the land restored to its condition before the development took place.
14. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Ben Plenty

INSPECTOR