



Appeal Decision

Site visit made on 25 April 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Appeal Ref: APP/N4720/W/23/3316439

Grass verge off Brownberrie Lane, Brownberrie Lane, Leeds LS18 5HA

- 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 Hutchinson Networks (UK) Ltd against the decision of Leeds City Council.
 - The application Ref 22/07575/DTM, dated 4 November 2022, was refused by notice dated 15 December 2022.
 - The development proposed is telecommunications equipment and cabinets, 18m high monopole - steel grey RAL 7035, Equipment cabinets - steel grey RAL 7035.
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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 proposed telecommunications equipment and cabinets, 18m high monopole - steel grey RAL 7035, Equipment cabinets - steel grey RAL 7035 at grass verge off Brownberrie Lane, Brownberrie Lane, Leeds LS18 5HA in accordance with the terms of the application, Ref 22/07575/DTM, dated 4 November 2022, and the plans submitted with it including: 002 Site Location Plan (LDS25050_B35_GA_A Rev A), 210 Proposed Site Plan (LDS25050_B35_GA_A Rev A) and 260 Proposed Elevation (LDS25050_B35_GA_A Rev A)

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Council 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.

Planning Policy

3. The principle of development is established by the GPDO and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policy P10 of the Core Strategy (Review 2019) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006) are material considerations as they relate to issues of siting and appearance. In particular they seek to ensure that development is well designed and appropriate to its location. Similarly, the National Planning Policy

Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.

Main Issue

4. The main issue is 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

5. The appeal site is part of a grass verge located next to a footpath and another grass verge that runs along Brownberrie Lane. The immediate area on the same side of Brownberrie Lane is open grassed playing pitches situated between student accommodation and buildings associated with Leeds Trinity University. To the opposite side of the road there are residential properties and a Brethren meeting hall set back from the main road. This section of Brownberrie Lane has a verdant character, owing to the grass verges, established hedging, mature trees and views of the playing pitches.
6. There are a number of vertical features nearby to the site, including street lights adjacent to Brownberrie Lane and further away the flood lights at the hard surfaced pitches that are next to the grassed pitches. A number of tall mature trees are spaced out along Brownberrie Lane and in the distance beyond the playing pitches. The proposed mast would be 18 metres to the top of the tower and would be coloured grey to match the existing street furniture in the area. The appeal site's position is near a highway and given the modest size of the proposed cabinets within the context of the existing street furniture would not appear overly utilitarian in appearance or obtrusive in this suburban location.
7. Owing to the site's position near a relatively well used road, views of the mast would often be in passing rather than it being a particular focal point, and due to the slender form, the mast would not be overly intrusive in these views. Nevertheless, it would appear taller than the street lights and existing trees along Brownberrie Lane. Despite not being closer to the appeal site, the existence of tall buildings at the University and flood lights within the backdrop to the proposed mast would help soften its appearance to a certain extent. However, the mast would still be perceivable by road users and pedestrians on Brownberrie Lane or when viewed from nearby properties and would contrast with the verdant qualities of the locality.
8. I therefore find that the proposed development would cause some harm to the character and appearance of the area, to which I ascribe moderate weight.
9. Paragraph 114 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks. The appellant has indicated that the area does not have a 5G service which would be addressed by the proposal. It would enhance the national communications network in this part of Leeds and generate other social and economic benefits. These are clear benefits of the proposal.

10. In line with Paragraph 117 of the Framework, the appellant has set out the sequential approach in relation to suitable alternative sites for the proposed development, driven by the coverage requirements to improve voice and data coverage for users across the local area. The search area for the proposed site is small due to the operational requirements and capacity issues. Alternative locations for the siting of the proposal within the search area are assessed and have been discounted by the appellant with reasonable justification.
11. The Council suggest there are less sensitive sites nearby that the proposal would be better suited to, including utilising existing buildings at the University campus which they indicate would minimise the visual intrusion of the mast, or placing the mast against the backdrop of the tall buildings. I note that the site selection process did include, as an alternative option, the car park of the University which was discounted due to a lack of space and needing to take up car parking spaces.
12. The appellant's submissions have addressed the Council's suggestion of using the University buildings and concluded that these are too far west of the target area for the required coverage owing to the shorter wavelength and higher frequency radio waves needing to be located closer to the mobile devices. As such, the appellant has satisfactorily demonstrated that the proposed development is needed at this location, taking into account any suitable alternatives.
13. I acknowledge the various potential economic and social public benefits highlighted by the appellant. In addition, the absence of a suitable alternative site and the need for the installation to be sited as proposed weighs in favour of the scheme. In weighing the harm against the benefits and the need for the installation to be sited as proposed, I conclude that these would outweigh the moderate harm that would be caused to the character and appearance of the area that I have identified.

Conditions

14. Any planning permission granted for the development 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

15. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

F Harrison

INSPECTOR