



Appeal Decision

Site visit made on 4 July 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal Ref: APP/Z4718/W/23/3316531

Moorfield Quarries, Sands House Lane, Huddersfield HD4 7AE

- 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 appeal is made by MBNL against the decision of Kirklees Metropolitan Council.
- The application Ref 2022/93449, dated 11 October 2022, was refused by notice dated 15 December 2022.
- The development proposed is described as 'a telecommunications installation. Proposed 25m High Valmont climbable monopole on 5.8 x 5.8 x 1.4m deep concrete base with 6No. Antenna apertures at 20°/110°/240° and 4 NO. 600w dishes, RRU's, MHA's, Active Routers and BOB's to be fixed to support poles below Antennas and associated ancillary works.'

Decision

1. The appeal is dismissed.

Procedural Matters

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 local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking account of any representations received. My determination of the appeal has been made on the same basis.
3. 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. I have nevertheless had regard to the policies of the Kirklees Local Plan; Strategies and Policies 2019 (KLP) and the National Planning Policy Framework (the Framework), in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue in relation to this appeal 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 that harm would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and Appearance

5. The appeal site comprises an area of undeveloped land adjacent to an existing small scale electricity substation on land off Sands House Lane. It is located

adjacent to an operational aggregate storage area associated with a nearby quarry, which is well contained by a planted bund. The area immediately surrounding the appeal site is rural in nature, with buildings dispersed within the landscape. Open fields and tree planting in a wide upper valley setting contribute positively to the character of the area.

6. Vertical structures are found within the vicinity of the appeal site including trees and a row of telegraph poles that extend along Sands House Lane. However, they are relatively limited in height extending to 11m and 7m respectively, as shown on the submitted plans. Reflecting the countryside location, there are no streetlights along the lane.
7. The proposed monopole mast at 25m in height would be significantly taller than the existing vertical structures and appreciably greater in thickness. Extending significantly above the height of the nearby trees would limit their screening value to the lower portion of the mast only. The protrusion of the chunky head frame with associated antennas and dishes would further draw attention to the utilitarian structure. Rather than appearing discreet, the mast would be a prominent and discordant feature, out of context with the natural landscape setting in which it would be viewed.
8. Whilst the proposed development would be readily visible from within Sands House Lane, due to its height and scale, it would also be obtrusive in wider views from Thewlis Lane, Blackmoorfoot Road and Felks Stile Road, as well as the nearby public rights of way network, including the footpath to the east of Hill Tree Park. This would particularly be the case when the nearby trees are not in leaf.
9. The ground-based equipment cabinets would be contained in a compound bounded by a mesh panel fence topped with razor wire coil, almost equivalent in overall height to the existing substation.¹ Whilst security of the site will be important, the specific utilitarian and somewhat urban treatment of the compound would exacerbate the unsightly appearance of the proposed development at eye level within the street scene, given that the low-level boundary wall would do little to mitigate its impact.
10. Therefore, even when accounting for the moderating effect of the proposed siting close to the existing quarry storage area, the magnitude of change arising from the proposed mast would cause a significant and adverse effect on the rural landscape.

Suitable Alternatives

11. I am referred to the Government's Future Telecoms Infrastructure Review (2018) which amongst other things, outlined plans for the majority of the population to have access to 5G mobile coverage by 2027. Reference is also made to the Government's focus on 'levelling up' digital connectivity and boosting UK productivity after leaving the European Union. Thus, there is a need to support the expansion of high quality and reliable electronic communications networks, specifically 5G infrastructure. I have taken into account that the proposal would enable providers to co-locate, and that the installation could also be used by the Emergency Services, factors which weigh in its favour.

¹ As shown on the General Arrangement drawing number 1686334_KKS256_98074_M001 Issue A.

12. The appeal site is said to have been carefully selected as a position capable of providing the required coverage for the area. However, there is no coverage map before me. An assessment of 8 other potential locations has been made but the reasons given for dismissing the alternative sites are ambiguous, referring largely to 'limited space for equipment,' without detailed explanation. Whilst I accept that 5G cell search areas are limited in size due to the frequency requirements of the technology, given the lack of a coverage map, I cannot be certain that all potential sites within the cell area have been appropriately considered.
13. Moreover, an alternative scheme for 2 smaller monopole masts is said to have been discussed between the parties and that despite a request from the Council for the provision of plans to consider, none were received.² The Appellant has failed to present evidence as to whether 2 smaller masts would be feasible, or what the implications for their siting and design would be. Consequently, on the evidence before me, I am not satisfied that a robust review of alternative sites or proposals has been undertaken, to demonstrate that less harmful alternative sites are not suitable or available within the locality.
14. The Appellant suggests that the proposed mast would be a replacement of an existing facility adjacent to industrial buildings on Blackmoorfoot Road, which the landowner has given a 'notice to quit' (NTQ). Whilst I do not doubt that this is the case, there is no substantive evidence of the NTQ before me including when that would take effect. Furthermore, no evidence has been presented that there is a pressing need for the installation as proposed, or that connectivity for local people and businesses would be unacceptably lost as a result of the NTQ.
15. Even if the proposed mast could be considered to be a replacement, it does not mean a mast of any siting and appearance would automatically be acceptable, hence the need for such matters to be approved. This is particularly the case, given that the proposed mast would be some distance from, and with a very different visual context, to the original site.
16. As it has not been satisfactorily demonstrated that there is a need for the development to be sited in the proposed location, or that more suitable sites or proposals are not available, the weight afforded to the economic and social benefits of the proposal is modest.
17. For the above reasons, I conclude that the proposed mast due to its proposed siting and appearance, would result in significant harm to the character and appearance of the area, that is not outweighed by the need for the installation to be sited as proposed, and its modest social and economic benefits. In so far as it is a material consideration, the proposed mast would conflict with Policy LP24 of the KLP which seeks amongst other things, that the form, scale, layout and details of all development respects and enhances the character of the landscape. There would also be conflict with paragraphs 115 and 130 of the Framework, which seek to keep the environmental impact of new telecommunications development to a minimum through sympathetic design.

Other Matters

18. The parties dispute whether pre-application advice was given prior to the submission of the planning application. Whether or not pre-application advice was sought and given, the Planning Practice Guidance is clear that such advice

² As cited in the Council's officer report.

- cannot pre-empt the democratic decision-making process, or a particular outcome in respect of a formal planning application.
19. Suggestion is made that the proposed equipment cabinets could be installed as permitted development. Nevertheless, they are detailed on the submitted plans and are required to support the operation of the proposed mast. There is no realistic prospect of the cabinets being implemented without the mast, which requires prior approval.
 20. There is no evidence before me that the Council is not qualified to assess the impact of the proposal upon the landscape. The proposed siting of the mast away from sensitive receptors and outside of any statutory or environmental designations, as well as the lack of objections from statutory consultees or landscape experts, are neutral matters that weigh neither in favour, nor against the proposal.
 21. Given that this is an application for prior approval³, there is no provision to enable the use of an additional condition, to satisfactorily specify the colour of the proposed mast. In any event, the colour of the mast would not successfully mitigate the impact of the proposed siting and appearance of the mast, including its height and form.
 22. Other tall structures are apparent in the wider landscape, not least the Emley Moor Transmitting Station. However, this does not provide support for this specific proposal which has been identified as having an intrusive and harmful impact on the character and appearance of the area, which is not outweighed by the need for the installation to be sited as proposed.

Conclusion

23. The harm arising from the siting and appearance of the proposed installation on the character and appearance of the area, would not be outweighed by the need for the installation to be sited as proposed, considering the potential for suitable alternatives. The appeal is dismissed.

M Clowes

INSPECTOR

³ Under Schedule 2, Part 16, Class A of the GPDO.