



Appeal Decision

Site visit made on 24 April 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/J4423/W/22/3312742

Area of footpath on Shirland Lane, Sheffield S9 3FF

- 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 Sheffield City Council.
 - The application Ref 22/03434/TEL, dated 16 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is a 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 Area of footpath on Shirland Lane, Sheffield S9 3FF, in accordance with the application ref 22/03434/TEL, dated 16 September 2022 and the plans submitted with it, including drawings (all numbered SHF19565_SHF399_87987_S1228_GA_REV_A) and titled: 002 Site Location Plan, 215 Proposed Site Plan, and 265 Proposed Site Elevation.

Procedural Matters

2. The site address on the application form is Shirland Lane Street Works. The Council amended this to Land at Shirland Lane and the address on the appeal form is area of footpath, Shirland Lane Street Works. It is evident from the submitted plans, information, and my site visit, that the correct street name is Shirland Lane and that the proposed mast and cabinets would be sited on an area of the footpath. I have therefore amended the address to Area of footpath on Shirland Lane as this is more accurate.
3. The principle of development is established by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of the GPDO require the local planning authority to assess the proposal solely based on its siting and appearance, taking account of any representations received. I have determined the appeal on the same basis. 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 Sheffield Unitary Development Plan, adopted

1998 (the UDP), the Sheffield Development Framework Core Strategy, adopted 2009 (the CS) 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 is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

Reasons

5. The proposed 15m high pole and associated cabinets would be located on the edge of a pavement, which is bound by an area of open greenspace, comprising a large grass mound planted with trees and shrubs. There is a large utility sub-station directly opposite the site. The nearest residential properties are located behind the area of open space and further up the street, both on higher level ground than the appeal site.
6. The pole would be of functional design and would be higher than the nearby streetlights, telegraph poles, trees and buildings surrounding it. This is necessary for operational reasons. However, it would still be relatively slender and only marginally higher than the backdrop of trees that it would be viewed in context with.
7. Three cabinets would be located adjacent to the back edge of the wide footpath. Such features are not uncommon in the area. Although these would project into the footpath, the local highway authority has raised no concerns regarding their siting causing obstruction. I also note that the highway authority does not consider the pole would cause a visual distraction for road users. I have no reason to reach a different view on these matters.
8. The pole and the cabinets would be finished in black, which would match the street lighting columns that are also located in the footpath. I acknowledge that the adjacent trees are deciduous, however even in winter, the bare pole would be viewed in context with the tree trunks and branches, together with the other vertical street structures.
9. Although the development would be highly visible, given the presence of other nearby vertical features, the presence of other cabinets of varying heights, the width of the footway, the topography of the area and the raised landscaped backdrop of trees and shrubs, it would not appear overly dominant or out of scale and character with the street scene.
10. Whilst I acknowledge that the open greenspace provides an attractive setting in what is otherwise a built-up area, the proposed siting, between the open space and industrial area, avoids any direct conflict with nearby residential properties. The siting of the mast adjacent to the existing group of trees and vegetation would reduce its visual impact.
11. I therefore conclude that the siting and appearance of the proposal would not result in harm to the character and appearance of the area. Whilst not determinative, the proposal would accord with Policies BE14 and H14 of the UDP and Policy CS74 of the CS, in so far as they are a material consideration in relation to siting and appearance. These policies require amongst other things that the character and appearance of the area is protected, and that

telecommunications development be sited and designed to minimise its visual impact. As Policy BE5 of the UDP relates specifically to buildings and extensions it is not relevant to this proposal.

12. The proposal would also comply with the Framework, which recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and well-being, and supports new sites where equipment is sympathetically designed, and camouflaged where appropriate.

Other Matters

13. The appellant's Site Specific Supplementary Information (SSSI) confirms that the local school, Al-Huda Academy, was consulted prior to the submission of the application, and that no issues were raised by them.
14. Nearby houses do not have their main elevations facing the proposed site. Given the separation distance, difference in land levels and the landscaped mound between them and the proposal, there would be no harm to the outlook of occupiers of these properties.
15. Concerns have been raised about potential effects on health. 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.
16. Whilst I acknowledge the concerns raised regarding the other potential long term cumulative impacts of 5G telecommunications equipment in the UK, on amongst other things, greenhouse gas emissions and the natural environment, as planning permission is granted by the GDPO, and the only matters before me are siting and appearance, I can give no weight to these matters in reaching my decision.
17. Paragraph 118 of the Framework is clear that decision makers should not question the need for electronic communication systems. Whilst mast sharing, and the use of existing buildings, should be considered in preference to new sites, the appellant has demonstrated in their SSSI that such alternatives have been considered. Given the absence of the harm in this case, the availability of other sites has not been a determinative issue in reaching my decision.

Conditions

18. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

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

R Bartlett

INSPECTOR