



Appeal Decision

Site visit made on 8 June 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/N2739/W/23/3315637

Flaxley Road, Selby, North Yorkshire YO8 4LG

- 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) Ltd against the decision of Selby District Council.
 - The application Ref 2022/1093/TELC, dated 16 September 2022, was refused by notice dated 4 November 2022.
 - The development proposed is described as 'Proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development was originally determined by Selby District Council, however, following local government re-organisation, this is now North Yorkshire Council. However, I have retained the name of the original decision maker in the above details.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, requires the local planning authority 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.
4. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. However, I have had regard to the policies of the Selby District Core Strategy Local Plan, adopted October 2013, (CS), the saved policies of the Selby District Local Plan, adopted February 2005, (LP), and the National Planning Policy Framework (NPPF), only in so far as they are a material consideration relevant to matters of siting and appearance.
5. The Council's Decision Notice quotes LP policies ENV (1) and (4) and CS5 (3) and (4) in relation to Reason for Refusal 1, however the Officer's report specifies that it is ENV1 (1) and (4) and CS5 (3) and (4) that are relevant. Therefore, whilst the appellant has referenced both LP policies ENV1 and ENV4,

the latter relates to hazardous substances and so is not relevant to the appeal scheme. I have not therefore had regard to LP Policy ENV4 in this decision.

Main Issue

6. 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, considering any suitable alternatives.

Reasons

Character and appearance

7. The appeal site comprises part of the public footpath to the northern side of Flaxley Road. This part of the footpath is wide, exceeding 3.5m. A single storey commercial building - Yorkshire Engineering Services (YES) abuts the rear of footpath, with a further commercial premises opposite (a car dealership), also single storey in height. A bus stop lies directly within the highway to this frontage. The area contains a mix of commercial and residential uses, mainly single and two-storeys in height. Tall structures are limited to street lighting columns, telegraph poles and an existing telecommunications mast on land to the rear of the car dealership.
8. The site is not located within a designated area, such as a conservation area, or close to any listed buildings. However, I note that the Council's Conservation Officer considers the building to the rear to be of historic interest, forming part of the historic narrative of this area, sufficient to be considered as a non-designated heritage asset. I understand that the Council has given permission in principle for the re-development of the site, including demolition of this building. However, I have no definitive information as to the intentions of the landowner in this respect. As such, I have considered the significance of the building and the contribution it makes to the area, as part of my assessment.
9. I note that the proposal has been sited within a commercial setting to avoid any harm to the living conditions of occupiers of residential properties. A slim line design has been used, and the height of the mast reduced from a previously submitted application, to the minimum necessary to achieve the required coverage. It would not be dissimilar in appearance to the existing telecommunications installation to the rear of the car dealership, which is an established part of the street scene.
10. However, this existing installation is set back from the road, and lies close to a number of trees that are greater in height. In contrast, the proposed monopole and ancillary cabinets would be positioned centrally within the footway, to the front of the aforementioned YES building. The cabinets may be permitted development and not subject to prior approval, yet there is no compelling evidence that they would be installed in the absence of the proposed monopole. Whilst no concerns are raised that the equipment would impede movement along the footway, it would nevertheless hold a prominent and exposed position, with no screening, when viewed along Flaxley Road by passers-by.
11. Further, the monopole would be double the height of existing street furniture, such as the lighting columns and telegraph poles, as well as the YES building. It would also be considerably bulkier than existing street furniture. As such, the

proposed monopole would be an overly dominant feature in this context. Whilst its relationship to the YES building would not necessarily harm the contribution it makes to understanding the historic narrative of this area, the disproportionate scale and forward position of the proposed installation would detract from the modest contribution the building itself makes to the character and appearance of the area.

12. Overall, because of the dominant scale of the proposed monopole and its exposed position, the siting and appearance of the proposal would result in some detriment to visual amenity, particularly at close quarters, which would be harmful to the character and appearance of the area. Whilst a condition could be imposed to control the colour finish, this would not be sufficient to mitigate this harm. CS Policies SP18 and SP19 and LP Policies ENV1 and CS5, collectively and amongst other matters, seek to ensure that new development is of a high-quality design appropriate to the local character and context, which would minimise visual impact, including in terms of scale. The NPPF requires that new development adds to the overall quality of an area and that new telecommunication equipment be sympathetically designed. As the siting and appearance of the proposal would harm the character and appearance of the area, it would conflict with these policies.

Need for the installation to be sited as proposed considering any suitable alternatives

13. The purpose of the proposed installation is to facilitate improved coverage and capacity, most notably in relation to 5G services. The Council has not disputed a need for the siting of such an installation within this wider area, in order to achieve these improvements. I appreciate that the built-up nature of the cell search area increases the difficulty in finding a suitable location.
14. The Council queried the possibility of mast sharing with the existing installation located at the car dealership opposite, or a new mast, at or close to it, on the basis that this would be less prominent in the street scene. Whilst the appellants evidence relating to the site selection process references consideration of mast sharing or co-location, I find this information generalised and not site specific in explaining why the Council's suggestions are not feasible in this case. Nor is this information clear in terms of explaining how the option of installing the required equipment on an existing building has been considered and discounted.
15. Seven alternative locations are put forward and discounted within the appellant's evidence (numbered D1 to D7). There is little information to explain if and why, only these seven options have been considered. The seven options are discounted based on proximity to residential properties, obstruction to visibility at junctions, or due to narrow pavements.
16. These alternatives are marked on an aerial photograph, and whilst it was possible for me to identify the general location, the photograph was not at an adequate resolution to identify the precise positioning, to clearly understand the extent to which visibility might be obstructed, for example. Further, whilst I noted the narrow footpath at D2, this footpath is backed by a grass verge and there is no explanation as to why locating on this verge is discounted.
17. On the evidence before me, therefore, I do not find the appellant's submission to be sufficiently robust in discounting alternative sites. CS Policy CS5 indicates

that telecommunications equipment will be permitted where there is not a more appropriate alternative and NPPF paragraph 117 states that such proposals should be supported by the necessary evidence, including evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. As alternative sites have not been robustly discounted, the requirements of these policies have not been met.

Other Matters

18. The appellants Site Specific Supplementary Information refers to Green Belt policies. However, the Council has not indicated that the site falls within the Green Belt and they make no reference to this policy in any of their submissions. Therefore, I have not considered this matter further.
19. The appropriate ICNIRP certificate has been provided to address health and safety issues. I note that there have been no technical concerns raised by the Highways Authority or any landscape consultees, or any objections from the public. I understand that the appellant sought comments from the Council and Local Ward Councillors prior to submitting, with no response. However, these matters do not alter my conclusions on the main issues above.

Conclusion

20. For the reasons set out above, I have found that the proposal would result in harm to the character and appearance of the area. I acknowledge that the installation would deliver high quality and reliable communications infrastructure, particularly 5G services, which is essential for economic growth and social well-being, and which is supported under NPPF Paragraph 114. However, the search for and assessment of alternative sites is not sufficiently robust and so I cannot be certain that these economic and social benefits could not be delivered through an alternative site, where the harm would be less significant. As such, I find that the public benefits would not outweigh the harm that would be caused to the character and appearance of the area.
21. For the reasons given above, I conclude that the appeal should be dismissed.

S Brook

INSPECTOR