



Appeal Decision

Site visit made on 2 August 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/N4720/W/23/3315545

Lofthouse street works, Lofthouse, Wakefield WF3 3LW

- 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), 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 Limited against the decision of Leeds City Council.
 - The application Ref 22/07269/DTM, dated 28 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In accordance with the provisions of Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development.
3. The provisions of Paragraph A.3 of Part 16, Class A of Schedule 2 to the GPDO require the local planning authority to assess the proposed development based solely on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The main parties have referred to development plan policies in their evidence. However, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
5. Nevertheless, saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006) (the UDP) and Policy P10 of the Leeds Local Plan Core Strategy (as amended) (September 2019) (the Core Strategy) are material considerations as they relate to issues of siting and appearance. In particular, amongst other things, they seek to ensure detailed planning considerations including design and loss of amenity are resolved; that development is appropriate to its context and respects the character and quality of the streets and spaces that make up the public realm and the wider locality; and that development enhances existing landscapes, streets, spaces and buildings according to the particular local distinctiveness and wider setting of the place. Similarly, the National Planning Policy Framework (the Framework) is also a material

consideration, and this includes a section on supporting high quality communications.

Main Issues

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 taking into account any suitable alternatives.

Reasons

Character and appearance

7. The appeal site is located in a wide grass verge alongside the footway to Leeds Road, a busy main road. Leeds Road is generally undulating along this section, and the proposal would be positioned in a plateau before the road rises up again in both directions. Due to the location of the site adjacent to the carriageway and footway, and its proximity to the junction with Carlton Lane and the vehicular access to the car park serving a nearby convenience store, it is prominent in views from the public realm.
8. The surrounding area includes single-storey and two-storey residential development in addition to the convenience store and a nearby pharmacy on Carlton Lane, both of which are two-storey and, notwithstanding their ground floor shopfronts, are of a domestic scale. The overall character of the area is defined principally by low density low-rise development in an urban fringe location, and there are clear views towards nearby open countryside from the appeal site.
9. There are mature trees and various modest items of street furniture, including seating, bus shelters, a litter bin, highways signage and low bollards close to the site. Whilst not free from development, the grassed verge nevertheless has a pleasant sense of openness which makes a positive contribution to the character and appearance of the area.
10. There are a range of elements in the street scene with a vertical emphasis, including lamp posts and telegraph poles. However, these features are slender in form and not particularly tall relative to the nearby buildings. Consequently, they are not visually obtrusive in the street scene and do not detract from the verdant and open character and appearance of the site and immediate area.
11. The proposed street pole mast would be some 20m in height and would be sited a short distance from a number of associated cabinets. The appeal submissions indicate that the development is required to provide the infrastructure necessary for 5G coverage, to meet an identified need to improve service in the area. The mast would be the minimum height required to achieve the operational requirements in this location and, together with the cabinets would be coloured light grey.
12. The presence of mature trees in the immediate vicinity would provide a backdrop to and would partially conceal the mast in views from some of the nearby residential properties. However, due to its height in an exposed location, it would be noticeably taller than the existing trees, street furniture and nearby residential properties from vantage points in the highway. Moreover, the position of the development would result in views of the mast

from a living room window and the front garden of the nearest dwelling, 259 Leeds Road, through a significant gap in the trees, notwithstanding the existing stone wall and tall hedge at the back edge of the highway.

13. Furthermore, whilst the proposed cabinets would be modest in scale and typical of the form of structures seen on roadsides, the number would be extensive, and they would appear as intrusive features in the green space. As such, in addition to the proposed mast and other existing signage and structures near to the site, they would create undue visual clutter. The cabinets themselves could be erected as permitted development. However, there is no compelling evidence that this would take place in the absence of the proposed mast.
14. For these reasons, by virtue of its siting and appearance, the proposal would be a dominant and obtrusive feature that would fail to integrate with its surroundings and would detract from the open and verdant setting of the area. The proposal would therefore result in significant unacceptable harm to the character and appearance of the area. Insofar as they are material considerations, for the same reasons, the proposal would also be contrary to Policy GP5 of the UDP and Policy P10 of the Core Strategy.
15. The appellant highlights the fact that the site is not located within a conservation area or subject to any other similar constraints. However, this does not diminish the harm I have found.
16. *Availability of alternative sites*
17. I have no reason to dispute that new installations are required to enable the roll-out of 5G technology, or that a 5G cell search area may be limited by several factors. From my observations during my site visit, and given the characteristics of the area, which did not appear to be typically urban or densely populated, I accept that there may be no opportunities for mast/site sharing or for the use of existing buildings/structures to accommodate antennae in the immediate vicinity of the appeal site.
18. However, information provided about the cell search area is not particularly clear. A 'target search area' is said to be defined by a red line in Figure 4 of the 5G Site Specific Supplementary Information and Planning Justification Statement (SSSI) submitted with the application. However, that red line does not define an area. While I recognise that 5G cell search areas may be small, and the appellant refers to an area having a radius of approximately 100m centred over the Leeds Road area of Wakefield, the information provided does not assist in understanding the physical extent of the search area in this case, and no key is provided for the relevant aerial photographic evidence. Nevertheless, I have had regard to the information provided about discounted sites given in the SSSI, which is repeated in the appellant's Statement of Case.
19. Although no clear explanation is given about the criteria applied to the site selection or assessment process, six sites were identified and discounted for various briefly described reasons. From my observations, it appeared to me that sites D4, D5 and D6 would not be genuine possible locations largely for the reasons given. It is therefore unclear why those sites were identified as potential alternative locations.
20. Having regard to the characteristics of the urban fringe location of the search area, as best I can ascertain from the evidence, and the extent of similar

screening tree cover in other nearby locations along Leeds Road, from the information available to me I am not satisfied that it has been demonstrated that less harmful alternative sites have been explored to a reasonably comprehensive or meaningful extent.

21. I am also not satisfied that it has been demonstrated that sufficient effort has been employed in seeking to resolve or convincingly discount the limited concerns given by the appellant in respect of the alternative sites chosen for consideration. In particular, sites D1 and D2 are discounted due to insufficient pavement at site D1, despite there being a substantial grassed verge beyond, and uncertainty about whether the grassed area at site D2 is adopted, although no evidence regarding investigations into this matter is provided.
22. I acknowledge the support in the Framework for the expansion of electronic communications networks, including 5G mobile technology, and that advanced, high quality and reliable communications are considered essential for economic growth and social well-being. I also recognise the benefits associated with the proposal which would facilitate home working and the use of mobile phones and other equipment in the home; and the encouragement by the Department for Digital, Culture, Media and Sport for local authorities to support the expansion of networks. However, I must balance these matters against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching aims of the Framework, which seek to achieve well-designed places for the long term.
23. No other potential sites have been identified by the Council. However, the Framework requires the appellant to demonstrate how the sequential approach has been applied. Notwithstanding the principle of the development being established through the GPDO, it remains the case that I am unable to conclude with certainty that a robust review of the availability of alternative sites within the cell search area has been undertaken to demonstrate that the appeal site represents the only viable option, even if it represents the appellant's favoured solution from a coverage perspective. As such, the proposed installation would be contrary to the aims of the Framework in respect of supporting high quality communications which requires evidence to demonstrate that alternative sites have been explored.
24. It has not been demonstrated, with appropriate and comprehensive evidence, that the benefits of the proposal could not be achieved in an alternative way that would have a less harmful effect in the search area, or just outside it.
25. I therefore find that, in this instance, notwithstanding the support given to the development and expansion of electronic communications networks in the Framework, and in the development plan, the harm I have identified with regard to the character and appearance of the area is not outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Conclusion

26. For the reasons given above the appeal is dismissed.

David English

INSPECTOR