



Appeal Decision

Site visit made on 2 August 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/V2635/W/22/3312607

John Kennedy Road Street Works, Kings Lynn PE30 1AW

- 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 King's Lynn and West Norfolk Borough Council.
- The application Ref 22/01724/T3, dated 21 September 2022, was refused by notice dated 3 November 2022.
- The development proposed is 5G 18m telecoms installation: H3G street pole and additional equipment cabinets.

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 5G 18m telecoms installation: H3G street pole and additional equipment cabinets at land at John Kennedy Road Street Works, Kings Lynn PE30 1AW in accordance with the terms of the application Ref 22/01724/T3, dated 21 September 2022, and the plans submitted with it including KWN21179_KWN116_85949_PE0764_GA_REV_A (002 Site Location Plan, 215 Proposed Site Plan, 265 Proposed Site Elevation).

Procedural Matters

2. 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, Paragraph A.3(4) require 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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the guidance within the Norfolk Street Area Conservation Area Character Statement¹ and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.
4. The appeal site is in proximity to four Grade II listed buildings, 37-38, 51-53, 61 and 99-100 Norfolk Street. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply in prior approval appeals. This is

¹ Borough Council of King's Lynn & West Norfolk, Norfolk Street Area Conservation Area Character Statement, Approved July 2003, Revised November 2008

because a prior approval application is not an application for planning permission or permission in principle to which S66(1) applies. However, the relevant paragraphs of the Framework regarding conserving and enhancing the historic environment are applicable to any development that would affect the significance of a heritage asset, including any contribution made to that significance by their setting.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the setting of Norfolk Street Conservation Area (Conservation Area) and the street scene.

Reasons

6. The appeal site is located on the footpath on John Kennedy Road, adjacent to Lidl car park, and a short distance from the Conservation Area. Paragraphs 199 and 200 of the Framework require great weight to be given to designated heritage assets' conservation and any harm to the significance of assets, including from development within its setting, which would require clear and convincing justification.
7. John Kennedy Road is a main arterial road within King's Lynn which can be used to access a supermarket and large surface car parks. There is a significant amount of activity associated with the supermarket and car parks, which creates a busy, urban character.
8. The Council explain within the Character Statement² that Norfolk Street historically was a busy commercial street bringing traffic and goods from the East Gate to Tuesday Market Place. It indicates that the pedestrianisation of part of the street alongside the promotion of Austin Street and John Kennedy Road into major circulation roads means it is less dominated by traffic, than it previously was. The Character Statement also explains that despite alteration of the facades the scale of the buildings and the size of the plots on Norfolk Street largely remain as they were in the 15th Century. The Conservation Area's significance, insofar as is relevant to this appeal, can therefore be attributed to the pattern of development along Norfolk Street and the setting of buildings which reflect the original scale and plot size.
9. Norfolk Street accommodates a number of listed buildings including Grade II listed buildings, 37-38, 51-53, 61 and 99-100 Norfolk Street, which are all in proximity to the appeal site. The special interest of these buildings is derived from their architecture which is reflective of the historical development of Norfolk Street as an important commercial thoroughfare within the area.
10. The proposed development would introduce a mast which is taller than development in the immediate surroundings, including the boundary treatment for the Lidl car park. Nonetheless, this section of John Kennedy Road accommodates particularly tall street lighting and two CCTV camera posts.
11. The proposed installation would be sited next to a large car park, with low boundary treatments, and a wide arterial road as well as the largely single storey Lidl. However, the provision of telecoms equipment is expected within

² Norfolk Street Area, Conservation Area, Character Statement, Borough Council of King's Lynn & West Norfolk, November 2008

what is a busy, urban, roadside environment. Also, one of the CCTV camera posts is located at the junction of John Kennedy Road and Norfolk Street. Therefore, views toward the Conservation Area from John Kennedy Road already include tall street furniture. Likewise, when viewed from the Conservation Area, the mast would be seen alongside a large pylon which dominates the surrounding landscape. For these reasons, the proposed installation would blend with the existing street furniture and would assimilate with the surrounding development.

12. The proposed installation would not be overly prominent in views from and toward the Conservation Area which already include tall street furniture. The proposed installation would not affect the scale or plot size of any of the properties on Norfolk Street. As above, it would also not disrupt the visual setting of the buildings on Norfolk Street, especially those with frontages close to the junction with John Kennedy Road. There is also a significant amount of intervening development between the appeal site and the nearest listed properties. Therefore, the proposed installation would preserve the significance of the Conservation Area and the listed buildings.
13. As part of the planning application the appellant submitted evidence of a site selection process which identified 6 alternative sites, all of which were deemed to be unsuitable. There is no cogent evidence before me to dispute the findings of this process, which concluded that the proposed siting was the most suitable.
14. I conclude that the siting and appearance of the proposed installation would not have a harmful effect on the setting of the Conservation Area and the street scene. It would therefore comply with paragraphs 199 and 200 of the Framework as it would preserve the significance of the Conservation Area.

Conditions

15. 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

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

J Hobbs

INSPECTOR