The Planning Inspectorate

# Appeal Decision

Site visit made on 1 August 2023

**by N Teasdale BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 October 2023**

**Appeal Ref: APP/N4720/W/23/3322752**
**Gelderd Road Street Works, Leeds LS27 7LG**

- 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 Mr Cameron Wilson (CK Hutchison Networks (UK) Limited) against the decision of Leeds City Council.
- The application Ref 22/06923/DTM, dated 12 October 2022, was refused by notice dated 1 December 2022.
- The development proposed is described as: 'proposed 5G 17m telecoms installation: H3G street pole and additional equipment cabinets'.

## 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 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 policies of the development plan and the National Planning Policy Framework (the Framework) only 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 highway safety 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

5. The appeal site relates to land that is currently a narrow gravel footpath and grass verge adjacent Gelderd Road which is a busy road network.

6. The Council explain that the telecommunications equipment conflicts with approved plans as part of application reference 15/02557/RM. Off-site highways works associated with that application proposes to construct a new

footway in this location. A plan has been submitted showing the new footpath arrangements and based on the lack of evidence to the contrary, I have no reason to question the proposed off-site highways works which appear to be within very close proximity of the appeal site.

7. Having regard to the plans submitted, the proposed street pole would be sited centrally within the gravel footpath and the associated cabinets would be sited partly within the gravel footpath and partly within the grass verge.

8. The proposed equipment by reason of its positioning along with its overall width and depth would obstruct the existing footway linking into the new footpath as there would not be sufficient width of footway remaining for pedestrians to use including those with disabilities. As a result, pedestrians would have to step into the busy road in order to pass the proposed development leading to increased highway safety issues for all road users.

9. Paragraph 117 of the Framework sets out that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. The appellant has followed a sequential approach. It explains that the cell search area is very constrained, covering a small radius with limited options and that existing telecommunications sites, structures and buildings, which could potentially accommodate the necessary equipment, were not identified. Therefore, a street works installation was considered to be the most viable solution.

10. A number of alternative sites were considered and subsequently discounted, but the information before me is limited with a list of discounted options and a brief explanation on why other sites have been discounted. Many of these sites have been discounted due to their unsuitable pavements in terms of their width and visibility splay issues. However, such reasoning is no different to the appeal site in that the proposed development would also be located within a narrow footway which would lead to conditions prejudicial to highway safety.

11. I acknowledge the key drivers and challenges associated with site selection. However, based on the evidence before me, I am not persuaded that the appeal site represents the only viable option.

12. For the above reasons, I conclude that the siting of the proposed installation would be prejudicial to highway safety. Whilst not determinative, in this respect the proposal would be contrary to Policy GP5 of the Leeds Unitary Development Plan (Review 2006) and Policies SP11 and T2 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) which together, amongst other matters, explains that new development should be located in accessible locations that are adequately served by existing or programmed highways, by public transport and with safe and secure access for pedestrians, cyclists and people with impaired mobility. For the same reasons, the proposed development would also be contrary to the aspirations of the Framework relating to promoting sustainable transport and the Leeds City Council Street Design Guide Supplementary Planning Document, 2009.

## Other Matters

13. The area subject to this appeal is not located within a Conservation Area or subject to any other environmental designations or covered by a Tree Preservation Order. However, such matters are a neutral factor in my decision.

14. I appreciate that mobile operators must continually invest in their network, to keep pace with ever-increasing demands and needs. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.

15. I note the appellant's comments relating to overall design matters and outlook from nearby properties. The Council has confirmed that there are no concerns raised over the appearance of the development and based upon the evidence before me and my own observation onsite, I do not disagree in respect of such matters. This however would not overcome the harm identified in relation to siting.

## Planning Balance and Conclusion

16. Paragraph 114 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

17. On the basis of the evidence in front of me and my own observations on site, I have found that the siting of the proposed installation would be prejudicial to highway safety. It has not been sufficiently demonstrated that the appeal site represents the only viable option. Therefore, notwithstanding the need to upgrade the network and assist the governments aspirations, the harm that would arise from the siting of the development would not be outweighed by the overall need in this location.

18. The appeal is therefore dismissed.

*N Teasdale*

INSPECTOR