



Appeal Decision

Site visit made on 12 September 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/N4720/W/23/3323007

Sholebroke Mount Streetworks, Sholebroke Mount, Leeds, LS7 3HG

- 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 Leeds City Council.
 - The application Ref 23/00946/DTM, dated 14 February 2023, was refused by notice dated 23 March 2023.
 - The development proposed is Proposed 5G telecoms installation: 20m street pole and additional ancillary equipment cabinets and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO 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.
4. The Council has referred to development plan policies in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. As such, I have had regard to the policies of the development plan, related guidance, and the National Planning Policy Framework (the Framework) only in so far as they are material factors relevant to matters of siting and appearance.
5. The Council has advised that no precise red line boundary was provided as part of the application. They note that the site location is identified by a dropped pin on the *Site Area Plan* and the *Proposed Site Plan* clearly shows the intended footprint of the works and determined the application on that basis. The GPDO only requires that an application be accompanied by a written description of the proposed development and a plan indicating its proposed location. Sufficient information has been provided to satisfy this requirement and to allow the appeal to be determined.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on:
- the character and appearance of the area;
 - the living conditions of nearby residents, with particular regard to outlook; and
 - whether any harm caused 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 proposal consists of a 20m high 5G telecom mast alongside three cabinets. The drawings show the monopole and cabinets placed at the wider extent of the junction of Sholebroke Mount with Scott Hall Road towards the back edge of the pavement. Scott Hall Road is a wide dual carriageway and an arterial road to Leeds city centre. Although there are residential properties along its length, this exerts the main visual influence in the area. Residential properties are 2 storeys, and whilst some are positioned on embankments above the road, those closest to the appeal site at No 116 Sholebroke Mount and No 132 Scott Hall Road are on the same level as it. Sholebroke Mount is also wide, and there are landscape features, parking areas and commercial businesses close to the appeal site.
8. There is a proliferation of regularly spaced streetlights (of varying heights), telegraph poles, bus shelters, road signs and tall speed cameras along Scott Hall Road. There are some trees, but those in the vicinity of the site are within private residential gardens and set back from the pavement. The wideness of the road and absence of street trees within the pavement exacerbates the presence of these urban structures which are highly visible and reinforce the road as the dominating feature. Despite this, the proposed monopole would be significantly taller, would stand as an isolated features and the additional base cabinets would add to the general visual clutter created by the mix of infrastructure.
9. Scott Hall Road also starts to slope down towards Leeds from the roundabout near Potternewton Lane. This provides long distance views on approaching the city centre and the surrounding residential areas. From this direction the upper section of the monopole would be seen against the skyline. Because the monopole would be significantly higher than the tallest streetlights, the nearest trees and towers above residential properties it would draw the eye for a distance and become a focal point. Although I acknowledge the urban surroundings and that the site is not within a conservation area, nor has other designations, due to its height and prominent location it would be highly visible and would not readily integrate into its surroundings.
10. Despite the wide footpath and surrounding street furniture I therefore find that the siting and appearance of the proposed development would cause harm to the character and appearance of the area, to which I ascribe significant weight.

11. Insofar as they are a material consideration, it would conflict with Policy P10 of the Core Strategy (Review 2019) (the Core Strategy) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006) (the UDP) as they relate to issues of siting and appearance. In particular they seek to ensure that development is well designed and appropriate to its location. Paragraph 115 of the Framework also provides guidance that equipment should be sympathetically designed.

Living Conditions

12. The officer report explains the side gardens of the corner properties of No 116 Sholebroke Mount and No 132 Scott Hall Road are the main garden spaces. Bound by low fences these dwellings and gardens are very exposed and I could clearly observe the gardens and the front and side of these properties.
13. The monopole and cabinets would be positioned alongside the front garden boundary of No 132 Scott Hall Road. Although a revised and slimline mast is proposed, it would be significantly taller than the surrounding infrastructure and natural features. The additional base cabinets are also comparatively wide and would exceed the height of the boundary fence.
14. The front and side garden of No 132 does not have a significant depth or width. Although there is a large tree, this would not offer substantive screening as the development would be situated in front of it. It would therefore be highly visible within the garden of No 132 and oppressively close. Whilst the monopole would not be positioned directly in front of property windows, the development, including the high and wide base cabinets would be visible in unobstructed peripheral views from within the frontage windows across the garden area of No 132. The development would feel very overbearing and would unacceptably affect the outlook of the occupiers of this dwelling within their garden and home, to the detriment of their living conditions.
15. Although No 116 also has main garden space to the front and side, the garden of No 132 would create a buffer. The garden to the front of No 116 would be slightly offset from the development. As such, it would also be afforded some screening by the tree. Although significantly higher than the tree, there are also no windows on the side elevation of No 116. The development would still be highly visible within the garden, but due to the above reasons the effect of the development would not be as stark and oppressive. On balance, due to the position of the mast relative to the garden area and dwelling and the screening afforded by the tree, I do not find that the proposal would result in unacceptable harm to the living conditions of the occupiers of No 116.
16. Although I have not found unacceptable harm to No 116, or the occupiers of other dwellings, which are further away, this would not outweigh the harm to No 132 to which I attach significant weight.
17. On the above basis, the proposed development, through its siting and appearance, would harm the living conditions of occupiers of No 132, with particular regard to outlook. Insofar as they are a material consideration, the proposal would be contrary to Policy P10 of the Core Strategy and Policies GP5 and BD6 of the UDP which together, amongst other matters, seek to avoid environmental intrusion and achieve good design that protects the residential amenity of the area. The aforementioned paragraph 115 is also relevant where it seeks sympathetic design.

Alternative Sites

18. Paragraph 114 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and planning decisions should support the expansion of electronic communications networks. The appellant has indicated that the area does not have a 5G service which would be addressed by the proposal. It would enhance the national communications network in this part of Leeds and generate other social and economic benefits. These are clear benefits of the proposal, and the Council has not disputed the importance placed on enhanced and improved telecommunications infrastructure.
19. However, as I have found that the proposed siting would cause harm to the character and appearance of the area and harm the living conditions of No 132, it is necessary to consider whether other, less harmful, options may be available.
20. The appellant has outlined their sequential approach to site selection. I acknowledge the designated search area would be constrained in this urban densely populated area. Paragraph 117 of the Framework sets out that applications for prior approval should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
21. Six alternative locations in the area have been ruled out for reasons relating to the residential character of the area and highway considerations. However, I have limited information on the nature or extent of the issues identified or how these conclusions were reached. I also do not have detailed plans of these other sites. Furthermore, although the appellant's sequential approach to site selection did not identify existing buildings or structures, there are higher 3 storey non-residential buildings close to discounted Site D1 and the search area also has pockets of greater tree coverage, taller buildings, nearby car parks and commercial buildings along Sholebroke Mount.
22. I am unpersuaded from the available evidence that the location chosen is necessarily the least harmful in terms of its visual effects on the outlook from neighbouring residential properties or that a robust search was undertaken. Therefore, it has not been demonstrated that the discounted schemes would be more harmful than the appeal scheme and this attracts limited weight.

Planning Balance

23. I consider that the appellant's evidence demonstrates a need for enhanced capacity and expansion in the area. The government is committed to supporting the deployment of next-generation mobile infrastructure. This is generally reflected in both the Framework, the Core Strategy and the UDP. In this regard, whilst I recognise the general social and economic benefits, those benefits have effectively been recognised by the grant of permitted development rights in the GPDO.
24. 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.

25. I appreciate that the proposed development has been amended to try to overcome the issues raised in the previously refused application through introducing a slimmer head, that pre-application advice may have been sought and ward members consulted. I also note that no highways safety matters, including for pedestrians or those who are less mobile, have been identified. However, irrespective of the colour of the monopole, and surrounding street furniture, the harm to the character and appearance of the area and intrusive scale of the proposal upon the occupants of No 132 is not outweighed by these aspects.
26. Consequently, on the information before me, having regard to paragraphs 115 and 117 of the Framework the evidence does not convincingly demonstrate that a thorough review of possible options within the cell search area has been carried out or that the appellant has adequately explored whether there may be less harmful alternative sites. As such, the harm I have identified above is not outweighed by the need for the installation to be sited as proposed.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR