



Appeal Decision

Site visit made on 3 October 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/A2335/W/23/3319528

Middleton Way Street Works, Middleton Way, Lancaster LA3 2RT

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Lancaster City Council.
 - The application Ref 22/01509/PAM, dated 7 December 2022, was refused by notice dated 31 January 2023.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, 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. As such, I have had regard to the policies in the development plan and the National Planning Policy Framework (the Framework) only insofar 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 proposal on the character and appearance of the area, with particular regard to the setting of a Grade II* listed building "The Old Hall Inn" (Ref 1207212); 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 is part of the footway that encloses an area of grassed amenity greenspace bounded by Heysham Road, Middleton Way and a bus-only road. Except for a largely glazed bus shelter, a lamppost and modest scattered street signage, the greenspace is open. The opposite sides of the roads that bound the greenspace and appeal site are characterised by wide grassed verges with

scattered trees and other open land including Douglas Park to the east, a retail store car park to the south and the large frontage of the listed building (the LB) to the north.

6. Although currently a public house, the LB was formerly a high status, Tudor dwelling dating from 1598 with later additions. It is a substantial two storey building, with an attic, in sandstone facing, a stone slate roof, mullion windows and distinctive projecting chimney stacks to either side elevation. The building is detached and set back from the road in a large plot comprising predominantly hardstanding to the front and rear. The more recent flanking development is modest in scale. I find that the large plot size and open views around the building, which comprise its setting, contribute to its special interest as a fine example of a prominent, high status dwelling which remains clearly legible despite the changes to its wider setting that have occurred over time.
7. The proposal would be a 15m monopole with a wraparound cabinet at its base and 3 closely spaced equipment cabinets ranging between about 600-1900mm wide and between roughly 950-1752 mm tall. These would be aligned at the rear of the footway close to the junction of Heysham Road and Middleton Way between the existing speed limit sign and the low level road name sign which would be relocated 4m south of its existing position. The monopole would be nearly twice the height of the nearby streetlighting columns and it, and the associated cabinets, would be noticeably more bulky than the existing street furniture. The equipment would be prominently sited in an open location widely separated from buildings and trees. Consequently, it would not be screened by built development or landscape planting and it would not be assimilated into its surroundings by the scattered modest street furniture. The proposal would be a visually dominant and discordant feature.
8. The open frontage of the LB is separated from the footway by a low boundary wall. As a result of the expansive open land to its front, which includes the appeal site, there are both close and distant views towards the LB. From more distant locations close to the NHS Primary Care Centre and the nearby retail store, views of the LB are intermittently interrupted by the free-standing retail signage, clothing bank and bus shelter. However, these are relatively modest features that are themselves relatively distant from the LB.
9. In contrast, the proposal would be a bulky and visually obtrusive feature in relatively close proximity to the LB. The monopole would tower above the LB and it would be an incongruent modern feature in stark visual contrast to the traditional form and fabric of the LB. It would form a highly distracting visual feature within the setting of the building which would erode its prominence and thus its special interest. From locations around Heysham Road, the monopole and equipment cabinets would obscure views of the LB. Even where it was not seen directly to the front of the heritage asset, including from locations to the rear of the LB, by virtue of its looming height and dominance over the low level townscape, the monopole would be a conspicuous feature that would detract from the LB as a visual focal point of the local area.
10. Consequently, the proposal would fail to make a positive contribution to local distinctiveness and sense of place. The design and materials of the contemporary communications equipment would be profoundly at odds with the LB. The proposal would contribute to street clutter, diminish the openness of the setting of the LB and intrude into significant views of the LB. Therefore, by

virtue of the harm to its setting, I find that the proposal would fail to preserve the special interest of the LB. Taking into account the scale and nature of the proposal, I find the harm to be less than substantial but nevertheless of considerable importance and weight.

11. In such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal. In this case, the proposal would provide 5G network coverage to the area, which the appellant advises would aid in facilitating increased robust, reliable and efficient digital communications. The Framework acknowledges that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. On this basis, the proposal would be a substantiated public benefit. Nevertheless, the benefit would not outweigh the harm to the LB, taking into account that the Framework advises that great weight should be given to the asset's conservation and that the more important the asset, the greater the weight should be.
12. Therefore, I conclude that the siting and appearance of the proposal would harm the character and appearance of the area and it would fail to preserve the special interest of the LB. Insofar as they are a material consideration, the proposal would conflict with Policies DM26, DM29, DM37, DM39 and DM59 of A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD Adopted July 2020 and Policy SP7 of the Local Plan 2011-2031 Part One: Strategic Policies and Land Allocations DPD Adopted July 2020. These require, among other things, that proposals respond positively to their surroundings, having regard to local character and distinctiveness, conserving and enhancing elements that contribute to the significance of listed buildings including their settings, and minimising and avoiding detrimental effects on the character and appearance of buildings and local amenity. There would also be conflict with the policies in the Framework that relate to good design, place-making and the protection of heritage assets.

Alternative sites

13. While the Framework supports communications infrastructure, it nevertheless requires that the number of masts and sites should be kept to a minimum and it encourages use of existing masts, buildings and other structures where possible. The appellant's Site Specific Survey Information relates to a search area of approximately 100m radius centred on Middleton Way. This indicates that while the sequential approach to site selection as set out in the Framework was followed, the appellant quickly decided that a ground mounted pole and cabinets was the most appropriate solution.
14. I acknowledge that the proposed location would not be close to residential properties. However, the summary list and map of discounted sites relate only to ground-mounted locations and there is little explanation as to why the nearby 3 storey Primary Care Centre or other existing buildings in the area were discounted. There is also little information in relation to local constraints such as would preclude other locations except for footways and verges in the immediate locality of the appeal site, including for example car parks, private land or sites just outside the search area.
15. Consequently, while the need for the communications equipment is established and it weighs in favour of the proposal, there is little compelling evidence that

there are no potentially less harmful alternative sites, including existing buildings or land.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR