



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: 24 October 2023

Appeal Ref: APP/N4720/W/23/3322873

Chatsworth Road street works, Chatsworth Road, Leeds LS28 8JX

- 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) Limited against the decision of Leeds City Council.
 - The application Ref 22/07173/DTM, dated 24 October 2022, was refused by notice dated 13 December 2022.
 - 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. 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 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.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area 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

6. The appeal site comprises the part of the pavement at the corner of Chatsworth Road and Galloway Lane. Galloway Lane is the primary thoroughfare (B6154) and Chatsworth Road slopes down from this. The area is predominantly residential comprising modest 2-storey hipped roof semi-detached properties of similar age, appearance and height, but there is a small row of shops nearby. The appeal proposal would be positioned in front of the boundary hedge of No.54 Galloway Lane, which is a corner semi-detached property with No.1 Chatsworth Road, both are set down at a lower height than Galloway Lane.
7. Galloway Lane is reasonably straight and flat. Beyond the appeal site are higher buildings, which comprise a row of businesses and their parking areas. There are street lights, telegraph poles and road signs. These are well spaced out and regular in height or comparable in scale with the surrounding built development. Vegetation coverage in the immediate area of the appeal site is sporadic, predominantly comprising front boundary hedgerows or individual trees within the front of residential gardens. Overall there is a gentle rhythm and pattern of development providing a sense of space and openness which contributes to the character and appearance of the area.
8. The base units are not unusual features or excessive in scale. However, although the mast at 15m would appear to be the minimum height for operational reasons, it would be significantly higher and wider than street lights, telephone masts and road signs. The top of the monopole would have antennae, which appear wider than its base. Appearing higher and bulkier it is not comparable in scale or appearance to existing street furniture and would stand starkly in contrast to surrounding vertical features.
9. Although the proposed mast would be sited to the rear of the footway, as buildings and vegetation are set back, the mast would appear very prominent in views in both directions along Galloway Lane. It would be sited in a particularly prominent corner location where it would also be visible from Chatsworth Road, being particularly prominent due to the rising land.
10. The vegetation in front of No.54 and No.1 is relatively dense but it is not of a height that would screen the upper sections of the mast. As No.54 and No.1 are set lower than Galloway Lane, the proposal would not be seen against the backdrop of these. The upper part of the mast would be seen against the skyline and loom over the homes it is sited in front of.
11. The proposal would therefore stand out as a particularly unusual and incongruous feature in this setting. The colour of the mast as grey would not reduce the prominence. The siting of the monopole would result in harm to the character and appearance of the area. The absence of any statutory designations, such as Tree Preservation Orders or Conservation Areas does not mitigate the harm.
12. Consequently the proposal would harm the character and appearance of the area, to which I attach significant weight. Whilst not determinative, the proposal 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.

Alternative sites

13. Paragraph 114 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, planning decisions should support the expansion of electronic communications networks. Paragraph 117 of the Framework expects evidence to be submitted to justify all applications. 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.
14. The appellant contends they have followed the sequential approach, advocated by the Framework, in identifying site options and including undertaking Pre-application advice and notifying ward members. The appellants have set out this is a densely populated area. It is stated that there are no realistic options for mast sharing or utilising existing structures and a number of alternative locations for the siting of the proposal have been identified within a cell search area that I acknowledge is constrained in size.
15. However, whilst six alternative sites were considered and discounted as part of the appellant's site selection process, detailed supporting information to fully corroborate that an exhaustive search of all possible sites was undertaken and that potential alternatives were discounted on reasonable grounds is not before me. Although reasons for discounting other site options such as proximity to residential properties, insufficient space, visibility splays, proximity to communications equipment and a substation have been stated, these have not been substantiated through supporting documentation. Limited information on the nature or extent of the issues identified or how these conclusions were reached has not been provided nor do I have any detailed plans of these other sites.
16. Furthermore discounted site D3 is at a busy junction with significantly more vertical structures and higher buildings. There are also traffic lights and road islands directing and channelling traffic here, and the pavement is wide. It is noted equipment is designed to fit alongside street furniture, and although it is stated that discounted site D4 would block access to the commercial units there is also a bus shelter, several bollards and lengths of pavement without a dropped kerb which also prevent vehicle access to these businesses.
17. I do not consider from the available evidence that the location chosen is necessarily the least harmful in terms of its visual effects, that all the options presented are unviable or that comprehensive search was undertaken. Therefore, it has not been demonstrated that the discounted schemes would be more harmful than the appeal scheme. The limited alternative schemes attract limited weight.

Planning Balance

18. 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.

19. 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). I also note there are no highway objections or representations from neighbouring residents. However, these weigh neither for nor against the development.
20. The proposal would cause significant harm to the character and appearance of the area. It has also not been proven that less harmful alternative sites are not available. Accordingly, the harm is not outweighed by the need for the installation to be sited as proposed, taking into account my reasoning above with respect to the suggested alternatives.

Conclusion

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

K Williams

INSPECTOR