



Appeal Decision

Site visit made on 3 October 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/N4720/W/23/3322812

Oldfield Lane street works, Oldfield Lane, Leeds, LS12 4DX

- 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 Gallivan CK Hutchison Networks (UK) Ltd against the decision of Leeds City Council.
- The application Ref 22/07407/DTM, dated 4 November 2022, was refused by notice dated 12 December 2022.
- The development proposed is described as '5G telecoms installation: H3G 20m street pole and additional equipment cabinets'.

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.
5. Nevertheless, Policy P10 of the Core Strategy 2019 (the Core Strategy) and Saved Policy GP5 of the Leeds Unitary Development Plan 2006 (the UDP) referred to in the Council's decision notice are a material consideration as it relates to issues of siting and appearance. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on supporting high quality communications. As such, I have had regard to the policies of the development plan and the Framework only in so far as they are factors relevant to matters of siting and appearance.

Main Issues

6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, 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

Character and appearance

7. The appeal site is located within a small area of grassed open space/verge, on Oldfield Lane towards the junction with Highfield Crescent. The immediate area comprises residential properties. Like the dwellings surrounding it, the appeal site is set on higher and rising land than Oldfield Lane. There are also several tall and mature trees within the open space which have a high amenity value due to their public visibility and prominent corner position. The area of open space therefore adds positively to the character and appearance of the area in this built up environment. Other vertical features nearby include streetlights, telegraph poles, wires and a more modest telecommunications mast further down Oldfield Lane.
8. At 20m high the proposed monopole would rise above the adjacent trees, dwellings and lower street infrastructure. Its thicker and bulkier proportions would also add to its prominence. Set prominently in front of the trees, and coloured grey, when viewed from short and medium range views along Oldfield Lane, the proposal would be a highly visible urban feature which would contrast with the verdant setting provided by the open space/verge and trees. It would have a looming presence over the road and dwellings opposite which are at a lower level.
9. From longer range views along Oldfield Lane, and Highfield Crescent the proposed mast would be broken up to a degree by the adjacent trees and dwellings behind. However the prominence of the mast height would increase in visibility over wintertime due to leaf fall and it would continue to appear as a dominating feature with its bulky and discordant antenna breaking the treeline. As such the proposal would not integrate well with its surroundings.
10. The submitted plans show that the proposed monopole would also be very close to the canopies of the adjacent trees. I have not been presented with an arboriculture report that provides any specific details of the health, life expectancy or extent of root protection areas. In the absence of a tree survey or similar, I have no evidence that the equipment could be installed without causing significant harm to root systems.
11. The effect of the groundworks on the root system along with any additional pruning, could erode the significant visual contribution the trees make to the area. This would result in more of the monopole and cabinets being exposed and increased prominence in both long and short distance views accentuating its discordance in the street.
12. The absence of any statutory designations, such as Tree Preservation Orders or Conservation Areas does not mitigate the harm. Although the street pole would be a relatively slender appearance and it is appreciated at 20m this is the lowest possible height, the installation would be a highly visible addition to the

locality that would have an incongruous and dominating presence on its surroundings.

13. Consequently the proposal would harm the character and appearance of the area, to which I attach significant weight.
14. 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 Locations

15. 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.
16. The appellant contends they have followed the sequential approach, advocated by the Framework in identifying site options. 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. However what has been evidenced is a very brief summary.
17. Reasons for discounting other site options predominantly refer to whether areas of land are adopted, and the proximity of overhead lines. Only limited information on the nature or extent of the issues identified or how these conclusions were reached has been provided. Nor do I have any detailed plans of these other sites.
18. The evidence before me also indicates that existing buildings or masts within the locality have been investigated, but this is also brief. The immediately surrounding buildings are residential. Although a supermarket and an industrial site containing a number of taller buildings and utilitarian structures are located close to discounted sites, and it has not been explained why these would not be suitable.
19. I therefore do not consider from the available evidence that the location chosen is necessarily the least harmful in terms of its visual effects or effects on landscape features, that all the options presented are unviable or that a comprehensive search was undertaken. Therefore, it has not been demonstrated that the discounted schemes would be more harmful than the appeal scheme, and therefore I can only attribute limited weight to this.

Other Matters

20. The appellant refers to pre-application consultation with the Council and Ward Councillors. However I do not have any information regarding the outcome of

these discussions. I also note there are no highway objections. However, this weighs neither for nor against the development. The appellant has also referred to an appeal decision in Walworth, however I have no other details before me regarding this, and there is no evidence that the issues or the character of the appeal site are similar to this appeal.

21. In order to meet health safeguards, 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 decision makers should not seek to set different health safeguards. 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.

Planning Balance

22. 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, and the Core Strategy. 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.
23. 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

24. For the reasons given above, and having regard to all relevant matters raised, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR