



Appeal Decision

Site visit made on 27 October 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/U2750/W/23/3327179

Mill Lane Street Works, Mill Lane, Scarborough, YO11 3NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 North Yorkshire Council.
 - The application Ref 23/00249/TD, dated 11 February 2023, was refused by notice dated 21 April 2023.
 - The development proposed is a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 April 2023 Scarborough Borough Council merged with a number of other Councils to form a new Unitary Authority of North Yorkshire Council. This appeal decision, however, refers to the name of the Council shown on the decision notice which is the subject of the appeal, that being North Yorkshire Council. Development plans for the merged Councils remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced.
3. The provisions of the Order 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.

Planning Policy

4. The principle of development is established by the Order, and the provisions therein do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (2023) (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed development 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 having regard to the potential availability of alternative sites.

Reasons

6. The appeal site is an area of grassed highway verge on Mill Lane which runs between Cayton and Cayton Bay. The site is on the edge of the settlement which is made up of residential properties in a predominantly linear form. There are also holiday parks in the wider area. The immediate area has a distinct rural feel. The appeal site being located on the edge of the settlement is in an open countryside location.
7. The residential properties within the settlement are a mix of single-storey and two-storey properties set back from the roadside. In terms of street-based installations there are some low-level street lighting columns and telegraph poles.
8. Due to its height, the proposed installation would significantly exceed the height of the existing street installations. It would appear highly prominent and incongruous in this semi-rural and open setting. It would be clearly visible from longer range views along Mill Lane on the approach to Cayton Bay, where it would appear significantly at odds with the lower rise, open and rural character of the surrounding area. Whilst there are high hedge rows on either side of Mill Lane, these would provide only minimal screening of the very lower part of the installation and the cabinets.
9. In comparison to other telecommunications installations that I have experience of, I acknowledge that the installation is of a relatively slim design, and I do not find specific harm would be caused by reason of its diameter or thickness. Nevertheless, due to its overall height and siting, it would appear isolated and out of place, resulting in the visual clutter of the area.
10. For the reasons set out above, the proposed installation would cause significant harm to the character and appearance of the area. The proposal would be contrary to Chapter 10 of the Framework, which requires, amongst other things, that equipment on new sites to be sympathetically designed and camouflaged where appropriate.
11. Having regard to those policies of the development plan that are relevant to the matters of siting and appearance, the proposal would conflict with Policies DEC 1, ENV 7 and INF 6 of the Scarborough Borough Local Plan (2017). Collectively, these policies seek to achieve a high standard of design and not harm important views, vistas, including by protecting landscapes; and that the siting and appearance of proposed telecommunications apparatus and associated structures should seek to minimise the impact on the visual amenity, character and appearance of the surrounding area.

Other Matters

12. The Framework outlines the significance of high-quality telecommunications infrastructure including in relation to being essential for economic growth and social well-being. The appellant has highlighted how they consider the proposal complies with the Framework and have also submitted copies of joint correspondences from DCMS and MHCLG, Collaborating for digital connectivity (7 March 2019) and further correspondence dated 27 August 2020. These

correspondences echo the content of the Framework as set out above. Such factors weigh strongly in favour of the proposed development.

13. I also acknowledge the appellant's sequential approach to site selection that has been undertaken as required by the Framework. This has discounted a number of alternative sites and has informed the appellants decision to pursue the site subject to the appeal. This approach similarly weighs in favour of the proposed development.
14. I note that as the appellant highlights, the site is not within a conservation area or any other specific constraint. The lack of harm to such a protected area is however a neutral factor in the balance.

Planning Balance and Conclusion

15. I do not consider that the public benefits of the installation in terms of an enhanced telecommunications network, its contribution to economic growth, or the operational and locational needs of the operator, outweigh the significant harm that I have identified would be caused to the character and appearance of the area.
16. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR