



Appeal Decision

Site visit made on 7 November 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 DECEMBER 2023

Appeal Ref: APP/J0540/W/23/3322895

Bretton Way Street Works, Peterborough PE3 8LD

- 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) Limited against the decision of Peterborough City Council.
- The application Ref 22/01114/PRIOR, dated 3 August 2022, was refused by notice dated 21 December 2022.
- The development proposed is described as proposed 5G telecoms installation: H3G 0m street pole with additional equipment cabinets.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed 5G telecoms installation: H3G 20m street pole with additional equipment cabinets at Bretton Way Street Works, Peterborough PE3 8LD, in accordance with the terms of the application Ref 22/01114/PRIOR, dated 3 August 2022, and the plans submitted with it.

Preliminary Matters

2. There is no dispute between the parties that the proposal satisfies the limits to permitted development set at Paragraph A.1 to Class A of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). Paragraph A.3 requires that before development can commence a determination be made as to whether prior approval will be required as to the siting and appearance of the development.
3. As the appeal relates to a prior approval for a telecommunications development, there is no requirement to have regard to the development plan as there would be for any development requiring an application for planning permission. Nevertheless, Policy LP13 and LP16 of the Peterborough Local Plan 2019 (LP) are a material consideration as they relate to issues of siting and appearance. In particular, they seek, among other things, to ensure development responds to the local area context and is sited and designed in order to minimise impact on the visual and residential amenity, character and appearance of the surrounding area and highway safety. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.
4. At the time of my visit, I observed a mast and associated cabinets within close proximity to the appeal site. Both parties have had the opportunity to comment. The appellant has advised that the mast has been installed by

another operator. The Council has made no comment. As a result, I have determined the appeal on the basis of the plans submitted and reasons for refusal cited on the Decision Notice.

5. Since the determination of this application, the Government published a revised the Framework in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

6. The main issue is the effect of the siting and appearance of the proposed development on highway safety.

Reasons

Highway safety

7. The appeal site is a section of grass verge on the western side of Bretton Way, north of the roundabout junction with Hyholmes and Essendyke. Lampposts and telegraph poles are located at regular intervals within the grass verges at the side of the carriageway. Mature and semi-mature trees lie to the west of the appeal site, beyond which there are residential properties. Bretton Way is a main highway running through Bretton. There is no footway on the western side of the carriageway. The dense tree cover on both sides of the road, gives the area a pleasant, verdant character.
8. I have not been provided with substantive evidence regarding a history of accidents in the vicinity of the site. I have no good reason to believe there are any existing significant highway safety issues in the vicinity of the site.
9. In the vicinity of the appeal site, I observed a 40mph sign. I also noted the road has a relatively straight alignment such that users of the highway would be likely to have good visibility. The proposed development would be positioned towards the front edge of the grass verge, on a similar alignment to existing street furniture. Given the limited footprint and height of the proposed cabinets and the diameter of the proposed mast, any obstruction of views of signage would be extremely limited. As such, all highway users would be able to see the signage if the proposed apparatus were in place, and highway safety would be maintained. Furthermore, taking into consideration the absence of a public footpath on the western side of the carriageway, the appeal site's distance from the junctions of nearby roads, and its position within the grass verge, the proposed development would not impede driver visibility to the extent that harm to highway safety would result.
10. Whilst I am unsure of the status of the mast I observed near to the appeal site, having regard to the above, I do not consider that that there would be any cumulative impact on highway safety.
11. For these reasons, the siting and appearance of the proposal would not have an unacceptably harmful effect on highway safety. Insofar as they are a material consideration, the proposal would accord with the aims of policies LP13 and LP16 of the LP and Paragraph 111 of the Framework.

Other Matters

12. As I have found that the siting and appearance of the proposal to be acceptable, it is not necessary for me to consider the alternative sites that have been suggested.

Conditions

13. Development permitted under Class A, Part 16 is subject to standard conditions, including a time limit for implementation, a requirement that development is carried out in accordance with the submitted details, and that it is removed when it is no longer required for electronic communications purposes. The Council suggests additional conditions. However, the GPDO does not provide for the imposition of additional conditions beyond the deemed conditions for development by electronic communications code operators, including in relation to the colour of the monopole and equipment. I have therefore not imposed any additional conditions.

Conclusion

14. For these reasons, I conclude that the appeal should be allowed and prior approval be granted.

R. Gee

INSPECTOR