



Appeal Decision

Site visit made on 12 December 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2023

Appeal Ref: APP/Z4718/W/23/3319641

New Hey Road Street Works, New Hey Road, Kirklees HD3 4AH

- 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 Kirklees Council.
- The application Ref 2022/94091, dated 21 December 2022, was refused by notice dated 14 February 2023.
- The development proposed is a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Decision

1. The appeal is allowed and 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 the siting and appearance of a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at New Hey Road Street Works, New Hey Road, Kirklees HD3 4AH in accordance with the terms of the application Ref 2022/94091, dated 21 December 2022, and the plans submitted with it including plan numbers KKS25750_KKS288_TBC_HD0293_GA_REV_B - 002 site location plan; KKS25750_KKS288_TBC_HD0293_GA_REV_B - 215 proposed site plan; KKS25750_KKS288_TBC_HD0293_GA_REV_B - 265 proposed site elevation.

Preliminary Matters

2. The principle of development is established by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of the GPDO require the local planning authority to assess the proposal solely based on its siting and appearance, taking account of any representations received. I have determined the appeal on the same basis. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have nevertheless had regard to the policies of the 2019 adopted Kirklees Local Plan Strategy and Policies (the Local Plan) and the 2023 National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

3. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

4. The Framework recognises the importance of high quality and reliable communications infrastructure, such as 5G, as being essential to economic growth and social wellbeing. Where new equipment is needed, the Framework requires that it is sympathetically designed and camouflaged where appropriate. The appellant states that the proposed development is required to facilitate the roll out of the 5G network. I also note that a limited range of alternative sites have been investigated by the appellant.
5. The appeal site is an area of pavement in front of a Tesco Express store on the north side of New Hey Road (the A640). The immediate vicinity is mainly residential comprising predominantly two storey dwellings. This changes just to the east of the site to a mix of commercial and residential uses fronting the A640. The proposal would be located in between the junctions of the A640 with Cleveland Road and Thornhill Road and in front of the small parking area associated with the supermarket. At this point, the pavement and road are relatively wide, which, together with the junctions and the car park, result in a relatively open and spacious streetscape. The area has street furniture paraphernalia commonly found in such urban locations including streetlights, bus stops, commercial signage, traffic lights, and bollards and garden trees.
6. The proposed pole would be taller and thicker than the existing vertical structures in the area. However, the pole would not be a bulky structure due to its relatively slimline features which would not protrude significantly from the main pole structure. It would have a relatively simple form and would assimilate reasonably well with the existing tall structures in the area when viewed against the surrounding skyline.
7. The pole would be visible for quite a distance when travelling east along the A640, although from most vantage points it would be viewed in conjunction with other vertical components and so would not be seen as an isolated vertical structure. When travelling west, views would mainly be restricted to the upper part of the pole until near to the site. In such views, its upper part would be seen against the sky but in this regard, it would be similar to the streetlights in the area which also protrude above the skyline. The grey colour proposed would help to reduce its contrast with the sky.
8. The pole would be apparent from some vantage points along Thornhill Road and other nearby streets, although views would mainly be of the top section against the sky given the screening effect of the nearby buildings. This would lessen its prominence in such views. The full extent of the installation would be more apparent at the junction of Cleveland Road with the A640, where it would be viewed against the backdrop of the two storey dwellings opposite. However, the pole would not appear as a dominant or incongruous feature given the other vertical structures in this location and its relatively slimline, simple form.
9. The full extent of the proposed installation would also be visible at the junctions of Smiths Avenue and Luck Lane with the A640. Nevertheless, it would only be clearly visible from a short length of both roads due to the screening effect of the properties.
10. Overall, although there would be a height differential between the pole and the existing vertical structures in the area, it would not result in an unacceptably obtrusive or dominant addition within the street scene.

11. A metal barrier would be positioned to the rear of the cabinets and pole to address concerns raised by the Council's Streetworks Team about the risk of collision from cars reversing into the parking spaces. This would be of a modest height and length and would not appear as an alien feature in this location. The scale and design of the cabinets are relatively modest. The cabinets would be seen against the backdrop of the barrier and commercial building to the rear. The siting and appearance of the equipment cabinets would not therefore have a detrimental effect on the character or appearance of the street scene.
12. Accordingly, I conclude that the effect of the siting and appearance of the proposal on the character and appearance of the area would be acceptable. Therefore, insofar as they are a material consideration, the proposal would accord with the design objectives of chapter 12 of the Framework and Policy LP24 of the Local Plan.

Conditions

13. The permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2) of the GPDO, which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application; must begin not later than the expiration of five years beginning with the date on which the local planning authority received the application; and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

14. For the above reasons, having had regard to all matters raised, I conclude that the appeal should be allowed, and prior approval should be granted.

F Wilkinson

INSPECTOR