



Appeal Decision

Site visit made on 21 November 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2023

Appeal Ref: APP/Z4310/W/23/3322903

Junction of Richard Kelly Drive and Abingdon Grove Liverpool, L4 9UZ

- 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 Liverpool City Council.
 - The application Ref 22PT/3014, dated 7 November 2022, was refused by notice dated 21 December 2022.
 - The development proposed is a proposed 5G telecoms installation: H3G 16m street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and planning permission is granted for 5G telecoms installation: H3G 16m street pole and additional equipment cabinets at junction of Richard Kelly Drive and Abingdon Grove, Liverpool, L4 9UZ in accordance with the terms of the application, Ref 22PT/3014, dated 7 November 2022, and the plans submitted with it including;
LPL21841_LPL436_TBC_L0888_GA_Rev_A Issue A (002 Site Location Plan);
LPL21841_LPL436_TBC_L0888_GA_Rev_A Issue A (215 Proposed Site Plan);
and LPL21841_LPL436_TBC_L0888_GA_Rev_A Issue A (265 Proposed Site Elevation).

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 authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. 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. Therefore, I have had regard to the policies of the development plan only insofar as they are factors relevant to matters of siting and appearance.
5. I have taken the address of the appeal site from the Council's decision notice rather than the application form as it is a more accurate description of the

location. In addition, I have amended the description of development to omit 'proposed' as this word does not refer to an act of development.

6. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023, replacing the last version. However, as the parts of the Framework most relevant to this appeal have not significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

7. The main issue is the effect of the siting and appearance of the proposals on the character and appearance of the area, with particular regard to the living conditions of nearby occupants.

Reasons

8. The appeal site is located towards the back of a wide paved area on Abingdon Grove, close to its junction with Richard Kelly Drive, within a predominantly residential area. A single storey local store is located at the rear of the site. The carriageway, car park and playing fields that are opposite the site create separation between the nearest dwellings.
9. The street furniture within the stretch of footpath containing the appeal site includes lampposts and telegraph poles. There are several trees and two stretches of tall mesh fencing on Abingdon Grove along the edge of the playing fields. In addition, Richard Kelly Drive is lined on one side by regularly spaced trees. The existing street furniture and trees provide a vertical emphasis to the street scape.
10. As a result of its siting, the proposal would be seen from a significant number of dwellings. The proposed street pole would be a tall installation and the antennas at the top would add some bulk, it would, however, appear as a narrow, slimline feature. It would be seen in part against open skies, with views around and beyond the street pole maintained. Given such factors, and the extent of the separation from the residential properties, the visibility of the proposal would not unacceptably harm outlook, and appropriate living conditions of the occupants would be retained.
11. The street pole would be seen in the context of the numerous existing vertical structures on Abingdon Grove and Richard Kelly Drive, and the local store would provide a backdrop to the installation which would reduce its prominence. Furthermore, such equipment is an increasingly common feature in the streetscape, even within primarily residential areas. Consequently, it would not be particularly unexpected on this site or lead to unacceptable visual clutter. Accordingly, I find that the proposed installation would not appear as a prominent or visually intrusive feature in the street scene.
12. For the above reasons, I conclude that the siting and appearance of the proposal would not harm the character and appearance of the area, with particular regard to the living conditions of nearby occupants. Insofar as they are relevant to siting and appearance, the proposal would accord with Policies STP4, UD1 and UD2 of the Liverpool Local Plan 2013-2033 (LP). Such policies support new infrastructure where their contribution outweighs the potential for adverse impacts, seek to ensure that new development respects local

character, and is appropriately located. The proposal would also accord with guidance within the Framework, including the requirement that equipment on new sites is sympathetically designed.

Other Matters

13. Concerns have been raised about potential effects on health and wellbeing. However, 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 health safeguards are not something which a decision-maker should determine. 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.
14. I acknowledge the concern that has been expressed regarding the implications of the proposal on highway safety. However, no objections have been received from the Local Highways Authority and in the absence of any firm evidence to the contrary I have no reason to conclude that the proposal will cause such harm.
15. Concerns are raised about anti-social and criminal behaviour in the area. However, there is no evidence to suggest that the proposed development would increase any such problems. In any event such matters fall beyond the scope of the prior approval process to which this appeal relates, as does matters relating to the extraction, processing, usage and disposals of materials.

Conditions

16. Any planning 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), 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 5 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. I have not repeated these conditions in my formal decision.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Elaine Moulton

INSPECTOR