



Appeal Decision

Site visit made on 7 November 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2023

Appeal Ref: APP/P4415/W/23/3323208

Area of Grass Verge, Highcliffe Drive, Rotherham S64 8LX

- 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) Ltd against the decision of Rotherham Metropolitan Borough Council.
- The application Ref RB2022/1597, dated 20 October 2022, was refused by notice dated 27 January 2023.
- The development proposed is described as 'Proposed 5G telecoms installation: H3G 20m 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 Proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets at Area of Grass Verge, Highcliffe Drive, Rotherham S64 8LX, in accordance with the terms of the application, Ref RB2022/1597, dated 20 October 2022, and the plans submitted with it: 002 Rev A Site Location Plan, 215 Rev A Proposed Site Plan, 265 Rev A Proposed Site Elevation.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, requires 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

3. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. However, I have had regard to the policies of the Rotherham Local Plan, Adopted June 2018, (LP) and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. The Framework was amended on 19 December 2023. However, it has not been necessary for me to seek comments from the main parties about the implications of the updated Framework. This is because those chapters most

relevant to the proposal and its siting and appearance, supporting high quality communications and conserving and enhancing the historic environment, are unchanged, and whilst the chapter 12 heading has altered, the requirement to create high quality, beautiful and sustainable buildings and places is also unchanged.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, which includes the Swinton Conservation Area.

Reasons

6. The appeal site consists of a grass verge separating the footpath from the carriageway of Highcliffe Drive, near to its junction with Station Street. An area of landscaped grounds adjoining the public library lies beyond the appeal site to the west, which contains mature trees. Housing is located to the north, east and south, which varies in style and age. The appeal site lies within the Swinton Conservation Area (CA) at its easternmost extent.
7. The CA extends west from the appeal site, along Station Street, where it incorporates a range of buildings, both commercial and residential, of varying age, styles and materials. Commercial properties incorporate an array of modern shopfronts and signage. The number of commercial and public buildings gives the CA a bustling character. Mature trees are a notable feature within parts of the CA, where they provide a leafy character, positively contributing to the significance of the CA. The use of local stone for buildings and frontage boundary walls is a further notable feature. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
8. The proposed 20m street pole and 3 cabinets would introduce a new ground based utilitarian installation to the area. A small number of such structures are already positioned nearby and so some additional cabinets at this location would not appear out of place. These additional cabinets would not result in clutter, given their limited number and size.
9. Existing tall structures mainly comprise of streetlights and telegraph poles, which are also utilitarian appearance. The proposed street pole would be notably taller and would have a greater girth than these existing structures. However, the street pole design is slimline and relatively simple in overall appearance. Mature trees are positioned nearby and whilst they would not screen the proposed street pole, these trees are substantial and they would provide a backdrop to the appeal scheme in some views, softening its appearance, so as to ensure that it would not appear overly prominent in this location. On approach, the proposed street pole would be seen alongside these large trees, as well as some taller buildings such as the Masonic Hall, and so the height of the street pole would not be overly out of scale with surrounding buildings and features.
10. There are additional mature trees extending along Station Street to the east. Given the setback position of the proposed installation from the junction, these

trees would provide some screening of the proposed installation in views towards the CA when approaching from the east.

11. For these reasons, the proposed installation would not appear overly prominent or incongruous at this location, assimilating satisfactorily into the street scene. Nor would it detract from any key viewpoints into or out of the CA. As such, the character and appearance of the CA would be preserved, and the visual appearance of the area generally would not be materially harmed.
12. To conclude, the siting and appearance of the proposed installation would be acceptable with regards to character and appearance of the area, which includes the CA. LP Policy SP41 requires new development to ensure the preservation or enhancement of the special character and appearance of Rotherham's Conservation Areas including through the safeguarding of contributing features. The Framework requires such equipment to be sympathetically designed, whilst heritage assets should be conserved in a manner appropriate to their significance. As the siting and appearance of the proposal would not harm the character and appearance of the area, thereby preserving the CA, it would not conflict with the LP or the Framework.
13. Whilst regeneration plans for the town centre have been referred to in public representations, no details of this are before me and no reference is made to them by the Council. No substantive evidence has been provided as to how the appeal scheme would detract from any regeneration plans for the wider area.

Other Matters

14. I have had regard to the advice at paragraph 121 of the Framework and LP Policy SP61 which state, amongst other matters, that the evidence to justify telecommunications development should include consideration of sharing facilities or utilising existing buildings or structures.
15. Alternative locations for new ground-based mast site options are submitted by the appellant and are discounted for varying reasons, whilst a number of additional sites suggested by the Council have been considered and discounted also. However, the Council remains concerned by a lack of consideration of existing buildings as a suitable alternative.
16. For the reasons outlined above, I have concluded that the proposal would adequately assimilate into its surroundings, whilst the character and appearance of the CA would be preserved. As such, I have no reason to conclude that any harm would arise from the siting and appearance of the proposal. Given this lack of harm, even if alternative siting and design options do exist, this is not a determinative factor in my decision.
17. A number of local residents have expressed other concerns including, visibility at the junction and living conditions, particularly outlook. However, I note that these matters did not form part of the Council's reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, having considered the submitted information and plans and having made my own observations on site, there is no compelling evidence before me that would lead me to a different conclusion to that of the Council on these matters. Concerns relating to property values are a private interest.

Conditions

18. The GPDO 2015 does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

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

S Brook

INSPECTOR