



Appeal Decision

Site visit made on 5 December 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2024

Appeal Ref: APP/W2465/W/23/3323214

Braunstone Lane Street Works, Braunstone Lane, Leicester LE3 3DF

- 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 Leicester City Council.
 - The application Ref 20222336, dated 6 December 2022, was refused by notice dated 31 January 2023.
 - The development proposed is a 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

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, 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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and
 - whether any harm caused is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

5. The appeal site comprises a grass verge adjacent to a layby on Braunstone Lane near to its junction with Meadwell Road. An additional grass verge is also on the opposite side of the junction. The area is predominantly residential, with the closest properties to the appeal site single storey in height. These properties are set back from the road by the grass verge and modest, verdant front gardens. There are two storey residential properties on the opposite side of the road with small shops on both corners of the junction between Braunstone Lane and Beech Drive.
6. There are several tall and mature trees near the junction with Meadwell Road which have a high amenity value due to their public visibility and prominent position. The verges break up the built mass through the introduction of open green space and add positively to the character and appearance of the area in this built-up environment. Other vertical features nearby include streetlights and telegraph poles.
7. At 20m high the proposed monopole would be appreciably taller than the existing street furniture, dwellings and trees and would appear unduly prominent, particularly when viewed from the northwest of Braunstone Lane. Whilst the nearest tree would somewhat obscure the monopole in views from the southeast, it would be more readily visible during the winter months when the tree would not be in full leaf. Although the monopole would not be directly in front of any residential properties, it would have a functional appearance in the skyline, in stark contrast with the domestic scale and appearance of residential development in the area and at odds with the open verdant character of the grass verge.
8. The slimline design would not have the 'top heavy' appearance that sometimes characterises telecommunications monopoles. However, its height and width would nevertheless set it apart from the adjacent vertical street furniture. The monopole would be seen widely and would appear as a dominant and incongruous feature which would diminish the contribution that the verge makes to the character and appearance of the area. Although the appeal site is not located within a conservation area nor subject to any environmental designations, the proposal would harm the character and appearance of the area, to which I attach significant weight.
9. Insofar as it is a material consideration, the proposal would conflict with Policy CS03 of the Leicester City Local Development Framework Core Strategy (July 2014) (LCCS) where it seeks to ensure that development is well designed and responds positively to its surroundings. There would also be conflict with paragraphs 119 and 135 of the Framework which require developments to respect the character of the area and equipment to be sympathetically designed.

Alternative sites

10. The proposed equipment would provide 5G coverage. The supporting Cell Search Area Map shows that the appeal site lies within an area of coverage deficiency which the proposal seeks to infill. Paragraph 122 of the Framework

makes clear that the need for an electronic communications system should not be questioned.

11. However, I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area. Therefore, the potential availability of suitable alternative sites is an important consideration. In addition, paragraph 121 of the Framework identifies that, for a new monopole, evidence should be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
12. The supporting information indicates six discounted alternative options for the proposed development, numbered D1-D6. D1 and D2 have been discounted due to overhead cables with the remaining sites discounted for reasons including impacts on residential dwellings and insufficient pavements. However, the reasons provided are brief and unsupported by any further evidence to suggest why they would be more harmful than the appeal scheme or are not viable.
13. Further, it has not been demonstrated whether the options explored included the use of existing buildings, masts or structures, as required by the Framework. The appellant states that opportunities for sharing facilities have been investigated, and that mast sharing would entail a more bulky structure and multiple levels of headframes. However, I have no evidence of these investigations before me.
14. The appellant states that the cell search area is extremely constrained and that the only viable option has been put forward. However, the map shows that the search area covers a wide area encompassing a variety of spaces. Further, there are existing antennas mounted to the building adjacent D2 and the Council has highlighted two additional sites which they consider to be more suitable. Notwithstanding this, the appellant has not provided any commentary on these alternative sites.
15. In the absence of clear and persuasive evidence as to why alternative sites, put forward by both the appellant and the Council, have been discounted, I am unable to establish that the appeal scheme is the most suitable in its siting and appearance.
16. Consequently, on the information before me, having regard to the development plan and the Framework, the evidence does not convincingly demonstrate that a thorough review of possible suitable alternative options within the cell search area has been carried out or that the appellant has adequately explored whether there may be less harmful alternative sites. As such, the harm set out above is not outweighed by the need for the installation to be located within the vicinity of the area identified.

Other Matters

17. While I recognise that there are wider social and economic benefits that would arise from the proposal, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. Therefore, these considerations neither weigh in favour of or against the proposed installation.
18. 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. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine and there is no reason to depart from national policy in this respect.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

K Allen

INSPECTOR