



Appeal Decision

Site visit made on 22 January 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/W4223/W/23/3322998

Croft Street Street Works, Croft Street, Oldham M35 9FB

- 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 Gallivan on behalf of CK Hutchison Networks (UK) Ltd against the decision of Oldham Metropolitan Borough Council.
 - The application Ref TEL/350195/22, dated 22 November 2022, was refused by notice dated 13 January 2023.
 - The development proposed is 5G telecoms installation: H3G 18m street pole and additional equipment cabinets.
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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) (the GPDO) for the siting and appearance of 5G telecoms installation: H3G 18m street pole and additional equipment cabinets at Croft Street Street Works, Croft Street, Oldham M35 9FB in accordance with the terms of the application Ref TEL/350295/22, dated 22 November 2022, and the plans submitted with it including - 002 SITE LOCATION PLAN Issue A; 215 PROPOSED SITE PLAN Issue A; and 265 PROPOSED SITE ELEVATION Issue A.

Procedural Matters

2. The provisions of the 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. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal.

Planning Policy

4. 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 had regard to the policies of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (2011) (Local Plan)

and the Framework only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting of the proposed installation on highway and pedestrian safety, having regard to the potential future implementation of a highway safety improvement scheme.

Reasons

6. The appeal site relates to part of the pavement running along the northeastern side of Croft Street, close to its junction with Oldham Road (A62), a busy classified road. This section of Croft Street is one way for traffic turning off Oldham Road. The carriageway is narrow and runs alongside a wide pavement where the mast and equipment are proposed to be sited.
7. The Council's reason for refusal asserts that the proposed siting of the mast and associated equipment would restrict the introduction of a future highway safety improvement scheme in this area. The Council's Officer Report and internal correspondence from the Highway Authority refers to the proposal restricting these possible future improvement works, which would result in Croft Street becoming the main access to Wickentree Lane. It has also been suggested that, if the planned safety improvement works were to take place, it would not be possible to close Croft Street for installation or maintenance works associated with the appeal proposal due to it serving as the main access to Wickentree Lane.
8. I have however been provided with no further details, explanation or evidence of: the exact nature of these proposed future highway safety improvement works; the resulting implications for access to Croft Street and Wickentree Lane; where and when these works are scheduled to take place; nor the exact implications the appeal proposal, which involves installations set to the back of a wide pavement, would have upon their implementation. Additionally, I observed on site the existence of various alternative routes from Oldham Road to Wickentree Lane.
9. Consequently, I have been provided with no substantive evidence to clearly demonstrate that the appeal proposal would prevent the potential future implementation of a highway safety improvement scheme, nor that it would not be possible, in future, to close Croft Street on occasion for installation or maintenance purposes without unacceptable prejudice to highway safety.
10. Moreover, the submitted plans demonstrate that the width of the pavement in this location provides for a sizeable gap to be retained between the proposed equipment and the highway kerb. On this basis the proposal would not affect pedestrian movements to an extent that would result in highway/pedestrian safety issues.
11. In view of the above, I have been provided with no substantive evidence to demonstrate that the appeal proposal would have an unacceptable impact upon highway or pedestrian safety in this area, either at present or in the future. The proposal therefore complies with Local Plan Policy 9 which seeks to ensure, amongst other things, that new development does not harm the safety of road users, as well as the Framework's policies for promoting sustainable transport, supporting high quality communications, and achieving well-designed places.

Consequently, I consider that the siting and appearance of the proposal would be acceptable.

Other Matters

12. An interested party has commented that the submission has failed to provide satisfactory evidence in respect of alternative locations for the proposed mast, and has suggested that the proposal would be better sited in a less prominent location.
13. The appellant's submission details how existing mast sites are not capable of supporting additional equipment to extend the coverage reach across the target area. The appellant has also submitted a list of alternative sites within the target area and having visited all these sites during my site visit, I have no reason to doubt the legitimacy of the reasons provided as to why they were discounted in favour of the appeal site.
14. Furthermore, I observed that the surrounding area consists of a variety of uses and there is existing street furniture, including lampposts and large advertisements, in the immediate vicinity of the appeal site. Whilst acknowledging that the proposed mast would be taller than the existing street furniture, it would not, in my judgement, be harmful to the character and appearance of the surrounding area.

Conditions

15. The GPDO 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

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

R Major

INSPECTOR