



Appeal Decision

Site visit made on 13 February 2024

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal Ref: APP/Z4718/W/23/3326928

New Street, Huddersfield HD3 4LD

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Kirklees Council.
 - The application Ref 2023/90081, dated 10 January 2023, was refused by notice dated 27 February 2023.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G 17m street pole and additional equipment cabinets.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the GPDO 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 Council has referred to development plan policies in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. As such I have had regard to the policies of the development plan and The National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to the matters of siting and appearance.
4. A revised version of the Framework was published on 19 December 2023. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issues

5. The main issues are:
 - Whether or not the siting and appearance of the proposed development would preserve or enhance the character or appearance of the Milnsbridge Conservation Area (MCA); and
 - In the event of any harm to the significance of the designated heritage asset being found, whether or not this would be outweighed by the need

for the installation in the proposed location, the lack of less harmful alternative sites, and the proposal's public benefits.

Reasons

Conservation Area

6. The appeal site comprises a wide area of pavement situated on a prominent corner location adjacent to the junction of New Street and Manchester Road, and within the MCA. Although the surrounding area is predominantly residential in character, the appeal site is situated adjacent to a roughly triangular shaped area of public open space and a bus stop.
7. The topography of the area is also such that Manchester Road and New Street both rise up to the appeal site and beyond. The site thereby appears raised when viewed from the eastern direction. Whilst there are streetlights nearby, the lack of built form on this stretch of New Street results in the appeal site sitting in a relatively open and exposed position.
8. The terms of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. I have been provided with limited information on the MCA as a whole and its significance as I do not have the conservation area appraisal for this heritage asset before me. However, based on my site observations, I consider its significance, insofar as this appeal is concerned, to derive from its buildings of architectural and historical interest and the topography of the surrounding area. In my view, these factors, along with the relationship of this valley settlement with the River Colne and the Huddersfield Narrow Canal, all serve to act as reminders of its industrial past.
9. The proposed elevation plan shows the slimline monopole, which would be approximately 17 metres high, and associated equipment cabinets to be positioned in the middle of the footpath, in between 2 streetlights. I am informed that the siting and height of the proposed mast is required to prevent any obstruction to the flow of pedestrians and to satisfy the technical and operational requirements of the appellant.
10. I also appreciate that the pole and cabinets are designed to be installed alongside public roads and are often found in urban locations. However, the proposed mast would be appreciably taller, bulkier and more prominent than the nearby street lighting columns and would clearly project above the height of the nearest buildings, some of which are at a lower level than the appeal site. Furthermore, both New Street and Manchester Road are long, and relatively straight roads, and the proposal would be readily visible from long distances in the approach from either direction of these highways. The trees on the adjacent area of open space would also not be sufficiently close to the monopole or be of a maturity and stature to provide any obvious screening benefit. As such, it would be prominent in views through the area including from nearby residential streets and properties.
11. An element of perceived visual clutter at low level would also be introduced through the siting and amount of ancillary equipment cabinets on the pavement. Irrespective of its grey colour, the proposal would thereby result in the introduction of a dominant and visually obtrusive feature in the street

scene. This dominance would be further emphasised by the topography of the area. As a consequence, the proposed monopole and ancillary equipment would visually distract from views into the MCA, and therefore have a materially harmful effect on its significance.

12. I consider the harm that would occur to the significance of the MCA would be 'less than substantial' within the meaning of the Framework. Paragraphs 205 and 206 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and that any harm requires clear and convincing justification. In paragraph 208 it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that this harm should be weighed against the proposal's public benefits, and I will turn to these below.
13. In light of the above, I therefore find that the siting and appearance of the proposed development would not preserve or enhance the character or appearance of the MCA. In so far as it is a material consideration, the proposal would thereby conflict with Policy LP24 and LP35 of the Kirklees Local Plan 2019. Amongst other matters, these seek to preserve or enhance the significance of a designated heritage asset and promote good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape.

Need, Alternatives and Public Benefits

14. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G. As such, I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure and 'levelling up' digital connectivity.
15. I also note that in this case, there is no dispute that the equipment is needed to provide a 5G network and to improve coverage to this area. Nor is there any contention of the benefits to mobile connectivity and the network (access and speed) to a multitude of users, devices, services and sectors. This is reinforced by OFCOM and a number of other documents put forward by the appellant¹. These public benefits, whilst only relating to customers of the operator, weigh in favour of the proposal.
16. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
17. Furthermore, paragraph 117 of the Framework advises that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts, or other structures.

¹ Communication from DDCMS & MHLG 2020, Mobile UK Briefing Note: 5G and Health, and DDCMS & MHLG joint statement 'Collaborating for digital connectivity' 2019.

18. The Council has not disputed that when adopting the sequential approach there are no suitable existing telecommunication installations for the operator to share, or buildings that the operator could utilise for their equipment. It is also noted that, as with all 5G cells, the relevant cell search area is constrained.
19. The appellant has submitted a list of 6 alternative sites that have been investigated and discounted. However, many of the reasons given for dismissing the alternative sites are vague, referring to 'unsuitable pavements to build installation and visibility splay issues', such that they cannot be fully scrutinised. The Council's Officer report also indicates that there are a number of alternative locations that may be suitable but have not been considered. Whilst these have not been listed, I am mindful that the map provided by the appellant shows the search area to extend over industrial land away from residential properties including at Blakes Business Park. Little explanation has been given as to why this area has not been considered.
20. Based on the available evidence and having regard to the sensitivity of the proposed location and identified harm, I am not convinced that alternative sites where the proposal may be more appropriately located are unavailable. As a result, it has not been demonstrated that the public benefits outlined above could not be achieved elsewhere, which would be preferable in respect of siting and appearance. In this instance the public benefits associated with the proposal therefore carry limited weight.

Other Matters

21. I have been made aware that pre-consultation was undertaken with the Council and that relevant Ward Councillors were also notified of the proposed development. It has also been put forward that the siting of the proposal would not result in a loss to local residents' outlook or have a detrimental effect on residential amenity. However, these matters did not appear to be contentious in the appeal and the absence of harm in these respects does not weigh in favour of the proposal.

Planning Balance and Conclusion

22. Although the harm caused by the proposal would be less than substantial in Framework terms, any harm caused to a designated heritage asset is a matter that attracts considerable weight and importance. With that in mind, neither the public benefits of the scheme, nor any other material consideration, including national planning policy, and the operational and locational needs of the operators, outweigh the harm that would be caused to the significance of the heritage asset.
23. For the reasons given above the appeal is therefore dismissed.

Mark Caine

INSPECTOR