



Appeal Decision

Site visit made on 8 August 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2024

Appeal Ref: APP/J4423/W/24/3345100

Land At Corner Of Rotherham Road And Retford Road, Handsworth, Sheffield S13 9LJ

- 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 EE Ltd and Hutchison 3G UK Ltd against the decision of Sheffield City Council.
 - The application Ref is 24/00565/TEL.
 - The development proposed is telecommunications NTQ installation; Proposed Valmont 20m High Phase 7 Mk2 Streetworks Pole and associated ancillary works.
-

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 the siting and appearance of a proposed telecommunications NTQ installation; Proposed Valmont 20m High Phase 7 Mk2 Streetworks Pole and associated ancillary works at Land At Corner Of Rotherham Road And Retford Road, Handsworth, Sheffield S13 9LJ, in accordance with the terms of the application Ref 24/00565/TEL, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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 the appeal has been made on the same basis.
3. 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.

Planning Policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance, 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.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on highway safety, with particular regard to future highway works and pedestrian accessibility.

Reasons

6. The appeal site is a large, grassed highway verge with pedestrian footways, located on the corner of Rotherham Road and Retford Road. The grassed verge is designated as an open space area.
7. The topography of the area slopes upwards from the east, in a westerly direction and there is a large, mature tree located on the verge with other trees and vegetation adjacent to the appeal site also.
8. The area is primarily residential, but the adjacent site has been cleared for redevelopment and there is an industrial estate beyond. The Council highlight that the adjacent site is subject to an extant planning permission (references 20/03919/FUL and 24/00842/FUL) for a large food retail store (redevelopment proposal). The Council identify that the Highways Authority have advised that highway improvement works, as part of the adjacent redevelopment proposal, would require works within the verge in order to signalise the junction at Rotherham Road and Retford Road.
9. I have however been provided with no further details, explanation, or evidence of the exact nature of these proposed highway works. I am also mindful that there is no guarantee that the highways works will be implemented in the future. Consequently, I have been provided with no substantive evidence which clearly demonstrates that the siting of the appeal proposal would prevent the potential future implementation of highway works, which would, as a result lead to highway safety implications.
10. The proposal includes a large number of ground-based equipment cabinets, which would be located on the footway at the base of the telecommunications pole. Given that users of the footpath who may be affected could be disabled, or they would have a protected characteristic for the purposes of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010 (PSED), I have had due regard to the needs of the individuals as required by the PSED.
11. The footway is wide, and the cabinets would be sited so that a reasonably wide unobstructed pavement would remain. In addition, the cabinet doors would open into the grassed area so that, during periods of maintenance, the footway would not be obstructed. Therefore, without any substantiated evidence to the contrary, I am satisfied that the proposals would not harm the pedestrian environment for users of the footway, including those with push chairs or in wheelchairs.
12. The proposed installation is a replacement site for telecommunications apparatus previously located on the rooftop of an adjacent building that has since been demolished. To find a new site, the appellant has undertaken an exercise to assess alternative sites, including the possibility of erecting antennas on existing buildings, masts, or other structures in the area. A list of alternative sites has been submitted and having visited many of 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.

13. In view of the above, I have been provided with no substantiated evidence to demonstrate that the proposed installation would have an unacceptable impact upon highway safety, with particular regard to future highway works and pedestrian accessibility. Insofar as they are relevant to highway safety and pedestrian accessibility, the proposal would not conflict with Policy BE14 of the Sheffield Unitary Development Plan (1998), as well as the provisions of the Framework in so far as it seeks to support high quality, reliable communications infrastructure, as well as prevent unacceptable highway safety impact, give priority to pedestrians, and achieve well designed places. Consequently, I consider that the siting and appearance of the proposal would be acceptable.

Other Matters

14. The Council suggest that the redevelopment proposal includes a mast site on the approved proposed site plan. I have not been provided with any further details, including the approved site plan for the redevelopment proposal. Nevertheless, whilst the Council raise concerns about the effect of interference between the proposed mast and a future mast, they advise that a mast on that site would need prior notification approval. Indeed, my attention has been drawn to a previous application for a mast on that site which was subsequently refused. As such, the Council would continue to have the ability to consider whether prior approval should be granted or not, should a further application be submitted. Therefore, I am not persuaded that this is a reason for withholding prior approval for the appeal scheme.

Conditions

15. 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

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

N Bromley

INSPECTOR