



Appeal Decision

Site visit made on 2 July 2024

by **N Kempton BAHons PGDip MA IHBC MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/Z4718/W/23/3335841

Castle Hall Academy, Richard Thorpe Avenue, Mirfield WF14 9PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 (UK) Ltd and Hutchison UK Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2023/91933.
 - The development proposed is rooftop installation at Castle Hall Academy to be removed and replaced with base station installation at Castle Hall Academy. Proposed installation of a 25m high monopole, including 6 no. antennas, 4 no. 600Ø dishes, 5 no. cabinets and associated ancillary works. Proposed installation of a 2.4m high mesh panel fence topped with razor wire coil.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above Order permits the installation of the proposed mast, subject to the condition that, before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development. The decision notice does not explicitly state that prior approval is required but this is implicit in the Council's decision to refuse prior approval.
3. The Council has referred to a number of development plan policies in its decision notice. However, the principle of development is established by the General Permitted Development (England) Order 2015 (as amended) (GPDO) and the provisions of Schedule 2, Part 16, Class A of the GPDO. There is no statutory requirement to determine applications for prior approval in accordance with the development plan, so the primary basis for my assessment is the Order itself. I have, however, had regard to the policies of the development plan 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 proposed installation on the character and appearance of the area, with particular regard to its siting and appearance; and whether any harm identified is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

5. The proposed installation would replace an existing rooftop installation at Castle Hall Academy. The appeal site is in an area of Urban Green Space and within grass playing fields to the rear of Castle Hall Academy. The mast would be installed approximately 11.5m in from the field edge. The installation would occupy land which currently provides valuable open space, sport and recreational facilities for the local community. This land positively contributes to the character of the area and the public realm.
6. The design of the proposed installation is dictated by operational functionality, and I note that the height of the mast is the lowest operational height that can be achieved without compromising the operational effectiveness of the base station, or its International Commission on Non-Ionising Radiation (ICNIRP) compliance. However, the size, scale and overall bulk of the proposed installation would detract from the open character of the area. The monopole would be a sizeable structure. At 25 metres in height, it would be substantially taller than surrounding residential buildings. The height and thickness of the monopole would make it dominant in comparison with slender and shorter street lighting columns nearby.
7. Furthermore, the cumulative effect of the associated antennas, dishes, cabinets and fencing, would result in the base station appearing as a visually intrusive installation, which would be unduly prominent in views from the surrounding residential properties.
8. The existing built and natural environment should be utilised to help integrate the proposed installation into the surrounding area and to reduce its prominence. Notwithstanding the backdrop of trees and the proximity to the Castle Hall Academy buildings, the mast would be seen widely. Viewed across the open playing fields, the proposed monopole and multiple equipment cabinets would appear as a dominant and incongruous feature in the context of the site, to the detriment of the otherwise open character. The presence of existing street furniture and trees would not adequately mitigate the adverse visual impacts or otherwise justify the proposed installation. It would be at odds with the predominantly domestic scale of surrounding buildings, and materially harmful to the spacious character of the area.
9. Paragraph 120 of the National Planning Policy Framework (the Framework) states that where new sites are required, equipment should be sympathetically designed and camouflaged, where appropriate. The appellant suggests that the paint colour of the equipment could be changed to reduce its effect. However, this would not prevent the proposed mast from appearing as an intrusive and prominent feature that would harmfully detract from the character and appearance of the area.
10. I have found that the proposed installation, through its siting and appearance, would cause harm to the character and appearance of the area. Therefore, alternative sites are an important consideration.
11. I have taken account of the evidence presented on 8 alternative potential locations for the installation, which have been identified within the locality. These sites have been discounted for various reasons, including visibility splay issues, overly residential location, overhead power cables, unsuitable pavement, equipment not tall enough to clear buildings in the vicinity, impact

on listed buildings. However, the information is limited and does not constitute robust evidence to demonstrate an overriding need for the appeal site to be used. In any case, the visual harm arising from the proposal is significant.

12. It is not for me, in the context of this s78 appeal, to suggest alternative locations for the proposed installation as these would need to be considered by the Council through an application. Nonetheless, the reasons given for discounting the aforementioned sites are inadequate and further explanation is needed.

Other Matters

13. The appellant cites 5 appeals relating to the installation of ground-based telecommunications apparatus, which were allowed on the grounds that the public benefit of each proposal outweighed the limited harm. The appellant asserts that these decisions are comparable with the current appeal.
14. I note some of the decision extracts of the appeals, to which the appellant refers, states that they relate to street-based installations. However, in the absence of detailed information related to these appeals and the context of the individual proposals, and given the assessed level of harm identified, I am unable to draw any direct comparison. For these reasons, these appeal decisions are not determinative and I therefore, attribute limited weight to any such comparisons.
15. While I recognise that there are wider social and economic benefits that would arise from this proposal, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. The public benefits of such development are recognised in the in-principle permission granted in the Order. Therefore, these considerations neither weigh in favour of or against the proposed installation.
16. The proposed siting of the installation would result in the loss, in part, of an existing Sports Pitch. I note the objection from Sport England based on the permanent loss of a playing field for the construction of the base station. This loss of provision would be contrary to chapter 8 of NPPF and LP50 of the Kirklees Local Plan.
17. The proximity of the proposed installation to trees protected by Tree Preservation Orders (TPOs) has raised concerns with particular regard to the potential impact of the installation upon the root protection area of these trees. As I am dismissing the appeal on other grounds, I have not considered this matter further.
18. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the ICNIRP. In these circumstances, the Framework advises that health safeguards are not for the decision-maker to determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
19. I note that the appellant sought pre-application feedback from the Council to which they claim to have received no response. In any case, this matter does not lead me to an alternative conclusion.

Planning Balance and Conclusion

20. Although such installations are becoming more commonplace, the height of the proposed monopole and its prominent siting would not assist its assimilation into the site context. Rather, it would result in harm to the character and appearance of the area.
21. The proposal would be materially harmful to the character of the area. The evidence before me does not robustly demonstrate that such harm is justified by an absence of suitable alternative sites.
22. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

N Kempton

INSPECTOR