



Appeal Decision

Site visit made on 16 August 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/Z4718/W/22/3294966

**New Mill Road / Heys Road, Wooldale, Kirklees HD9 7RU
(415240, 409384)**

- 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) Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/93245, dated 8 August 2021, was refused by notice dated 4 October 2021. The development proposed is a 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and prior approval is granted for a 15.0m Phase 8 Monopole complete with wrapround cabinet at base and associated ancillary works at New Mill Road/Heys Road, Wooldale, Kirklees HD9 7RU, in accordance with the terms of application Ref 2021/93245, dated 9 August 2021, and the plans submitted with it.

Procedural Matters

2. The appeal follows a decision by the Council not to grant prior approval for the siting or appearance of a development that would otherwise be permitted under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The principle of the development is therefore established and the scope of this appeal is limited to the effects of its siting and appearance.
3. For telecommunications development, the provisions of the GPDO do not require regard be had to the development plan. I have only had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) insofar as they are a material consideration relevant to the matters of siting and appearance and telecommunications development.
4. According to the Council, the site lies some 140m from Wooldale Conservation Area (the CA) and 65m from a Grade II Listed terrace on Heys Road. There is no dispute between the main parties that the character and appearance of the CA, or the setting of the listed terrace, would not be preserved. Pursuant to the duties under s66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site, I concur with that view. This is due to the intervening distance to the CA and restricted intervisibility between the CA and the location of the proposed mast. In respect of the terrace, the change in topography, location on a separate frontage and the extent of intervening development would ensure its

setting would be unaffected. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage assets and I shall make no further reference to this matter.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the locality and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. New Mill Road is a main road linking the Holme valley with a tributary valley to the east. In the locality, the road is gently inclined and has a straight alignment either side of the proposed mast location. The site is part of a grassed verge area within the New Mill Road corridor, close to its junctions with Heys Road and Rosegarth Avenue. The hillside area is bordered by mainly 2-storey housing development, with some commercial properties and public open spaces located nearby.
7. The proposal for a 15m high monopole with an open headframe and integral base cabinet would be located alongside a bus stop within the landscaped area. Additional cabinets and paving would extend to the south-east.
8. The principal views of the site would arise from those travelling along the main road corridor and along Rosegarth Avenue. Although there are a considerable number of vertical elements within the local streetscene, including lighting columns and telegraph poles, these and the nearby buildings would be considerably lower than the proposed height of the mast. Taken with its larger diameter in comparison to the slender nature of the existing columns and poles, the significant height and utilitarian appearance would make it a prominent and incongruous element in the existing streetscene. Furthermore, the use of the landscaped area would reduce the extent of the grassed area and its contribution to the local streetscape.
9. In the vicinity there is a scattering of individual and clustered trees. Whilst these are largely sited at some distance from the proposed position of the mast, those located about development on Ridings Lane to the northern side of New Mill Road would offer some filtering of views from the lower valley areas to the north. However, on the main approaches the pole would otherwise be an imposing visual element benefitting from limited screening.
10. Sited opposite Rosegarth Avenue, the location of the mast would limit direct views from the main windows of most surrounding residential properties. Although offset views would arise, including from a ground-floor window in the gable of 13 New Mill Road, the nearest properties would benefit from some screening of much of the lower section of the mast. The presence of the roadside wall and vegetation would limit views from No13. Higher vegetation bordering those houses about the junction opposite would provide some moderation to its visual impact such that it would not overbear on nearby residents.
11. For the reasons above, I find that the height and large diameter of the pole and headset would be a prominent and discordant feature that would cause a moderate adverse impact on the local street scene.

12. Paragraph 117 of the Framework requires that applications for electronic communications equipment (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 includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
13. The planning application was accompanied by evidence detailing the requirement for a denser network of masts arising from the technical constraints of providing 5G coverage. This is not contested by the Council. It outlined 8 other sites considered by the appellant in a constrained cell search area. These were discounted for various reasons in favour of the proposed siting. Although I have no reason to dispute the appellant's justification, I find the level of detail provided is scant at best. However, in the absence of contrary evidence, or detailed alternative site availability, I accept that the justification aligns with the approach required by the Framework.

Other Matters

14. In support of the proposal the appellant refers me to the general support for advanced, high quality and reliable communications infrastructure set out in the Framework. Paragraph 114 of the Framework states that this is essential for economic growth and social well-being and decisions should support the expansion of electronic communications networks, including next generation mobile technology.
15. The proposal would provide social and economic benefits at the micro and macro scale through the improvement of mobile connectivity and the delivery of next generation coverage. This could enable significant enhancements for private and business users, including those travelling or in a business or homeworking environment. It would facilitate innovation, efficiency and user security and support smart devices. It could also support smarter infrastructure and public services. These are matters that weigh significantly in favour of the development.
16. The Council received objections concerning the potential effects of the development on highway safety. A plan showing achievable visibility at the nearby junction with Heys Road and Ridings Lane indicates that adequate visibility would remain at those junctions. This is a view shared by the Council's highway advisors and I find no reason to disagree with that stance.
17. I note the concerns of some third parties in relation to the health effects of electromagnetic radiation used in telecoms apparatus. The appellant has certified that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The Framework confirms that in such circumstances, health safeguards are not a relevant planning consideration for a decision maker to determine. Furthermore, concerns in relation to biological effects on the immediate environment are not substantiated in evidence. I am therefore unable to attribute significant weight to those arguments.
18. I acknowledge the concerns raised by third parties in respect of discrepancies in the appellant's submissions between the appeal and a previous application for a taller mast. However, as I am required to do, I have considered the proposal on the basis of its own merits and the evidence before me.

Planning Balance

19. For the reasons set out above, I find that the height and appearance of the mast would cause harm to the character and appearance of the locality. It would conflict with Policy LP24 of the Kirklees Local Plan as it requires good design by ensuring that, amongst other things, the form, scale, layout and details of all development respects and enhances the character of the townscape.
20. However, when weighed against the significant public benefits arising from the proposed improvement to network coverage and performance, and the associated social and economic benefits as presented by the appellant, I conclude that the harm identified would be outweighed in the particular circumstances of the case.

Conditions

21. Any planning permission granted for a mast and works under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and, must 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

22. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to the standard conditions set out in Paragraph A.2 to Part 16 of the GPDO.

R Hitchcock

INSPECTOR