



Appeal Decision

Site visit made on 12 December 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2024

Appeal Ref: APP/B4215/W/23/3323205

Land opposite 1 Mainway, Middleton, Manchester M24 1PP

- 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 CK Hutchison Networks (UK) Ltd against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 22/01522/TELE, dated 2 December 2022, was refused by notice dated 26 January 2023.
 - The development proposed is a 5G telecoms installation: H3G 16m 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) for the siting and appearance of a 5G telecoms installation: H3G 16m street pole and additional equipment cabinets on land opposite 1 Mainway, Middleton, Manchester M24 1PP in accordance with the application ref: 22/01522/TELE, dated 2 December 2022, and the plans submitted with it including: MAN21918_MAN651_TBC_M1370_GA_Rev_A Issue A (002 Site Location Plan); MAN21918_MAN651_TBC_M1370_GA_Rev_A Issue A (215 Proposed Site Plan); and MAN21918_MAN651_TBC_M1370_GA_Rev_A Issue A (265 Proposed Site Elevation).

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. The appellant refers to the height of the proposed street pole 15m and 16m in height throughout the submitted statement of case. However, the application form refers to a 16m street pole and the plans clearly show the proposed street pole as being 16m in height. The Council dealt with the proposal on that basis and so shall I.

5. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan only insofar as they are factors relevant to matters of siting and appearance.
6. 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. In addition, I have amended the description of development to omit 'proposed' as this word does not refer to an act of development.
7. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023, replacing the last version. However, as the parts of the Framework most relevant to this appeal have not significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issue

8. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

9. The appeal site is located within a footpath that adjoins a large green space within an otherwise residential streetscape consisting of buildings that are predominantly 2 storeys in height. The green space is partially enclosed by several tall trees which, in combination with the wide grassed and tree lined central reservation to Mainway, create a verdant character that provides a break from the built-up surroundings. Street furniture within the nearby area includes traffic and road signs, and lampposts which are regularly spaced along the highway creating a rhythm and verticality within the street scene which is emphasised by the straight alignment of Mainway.
10. The proposed equipment cabinets would be of modest size and extent. As such, they would not result in an undue proliferation of street furniture or a visually cluttered street scene.
11. The upper section of the proposed street pole would protrude above the trees and surrounding buildings and would be seen against the sky. During the months when the trees are in leaf, views of the lower section of the monopole would largely be obscured by, or seen within views of, the trees. Whilst the street pole would be more visible when the branches are denuded, the trees would, nonetheless, provide a transition between the height of the surrounding buildings and street furniture, and the proposed street pole. Furthermore, the tree canopies would soften its presence and effect upon approach in all directions, including from within the green space. Given its relatively simple linear and compact design, the proposed street pole would not stand out as an isolated or unduly exposed structure even though it would be significantly taller than the nearby buildings, lampposts and many of the adjoining trees.
12. I acknowledge the expressed concerns that the proposed installation would be unsightly, but such equipment is an increasingly common feature along roadsides and would not be particularly unexpected on this site. In addition, whilst it has been suggested that the proposed installation would be less detrimental if a dark green colour or signal grey, I find that the muted light

grey colour as proposed to be acceptable in the context of similarly coloured lampposts.

13. For the above reasons, I conclude that the siting and appearance of the proposal would not harm the character or appearance of the area. Insofar as they are relevant to siting and appearance, the proposal would accord with Policies P1, P3, and DM1 of the Rochdale Adopted Core Strategy which require, amongst other things, a high standard of design. It would also accord with the Framework in terms of its objectives of achieving well designed places and that communication equipment on new sites is sympathetically designed.

Other Matters

14. As I have found the siting and appearance of the proposals to be acceptable, it is not necessary for me to consider the alternative sites that have been assessed by the appellant.
15. Concern has been expressed about the potential effects of the proposed installation on health. The appellant, however, has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should 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. For this reason, the potential effects on health is not a determining issue in this case.
16. I also acknowledge the concern that has been expressed regarding the implications of the proposal to pedestrians. However, the unimpeded width of the footpath that would remain would be sufficient for all pedestrians to safely pass, including those with buggies, and users of wheelchairs or other mobility aids. Accordingly, in the absence of any firm evidence to the contrary, I have no reason to conclude that the proposal would result in pedestrians being forced to stray onto the adjoining road at risk to their safety.
17. Although concerns have been raised about the impact of the proposal on property values, energy consumption, and graffiti, such matters fall beyond the scope of the prior approval process to which this appeal relates.

Conditions

18. Any planning permission granted for the development 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. I have not repeated these conditions in my formal decision.
19. The Council have suggested the imposition of a condition that specifies that the mast is a signal grey colour. However, the GPDO does not provide any specific

authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. In any event, as set out above, I find the light grey colour to be acceptable.

20. In addition, the Council have suggested that a condition be imposed stating the development must be begun not later than 3 years beginning with the date of this permission. However, the GPDO does not provide any specific authority to amend the 5-year time limit set out at Paragraph A.3 (11). Consequently, I have not imposed the suggested condition.

Conclusion

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

Elaine Moulton

INSPECTOR