



Appeal Decision

Site visit made on 18 January 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Appeal Ref: APP/J1915/W/21/3281067

Elizabeth Rd SF, Elizabeth Rd, Bishops Stortford CM23 3RL

- 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 Hutchison 3G UK Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0496/TEL, dated 26 February 2021, was refused by notice dated 21 April 2021.
 - The development proposed is described as Mast 15m monopole – grey, cabinets – grey.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) requires an assessment of the proposed development on the basis of its siting and appearance, taking into account any representations received. My determination has been made on the same basis.

Planning Policy

3. 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. I have nevertheless had regard to the policies of the East Herts District Plan (2018) (the EHDP) and the National Planning Policy Framework (2021) 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 siting and appearance of the proposed development upon the character and appearance of the area; 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

5. The appeal site forms part of grassed area divided and lined with pedestrian paths, planted with a few medium sized trees, and amongst other things accommodates an existing cabinet, bin, and signage close to its curving Elizabeth Road frontage. It is lined by a parade of shops to its rear, a gable and boundary of a residential dwelling on one side, and the other by an access and parking area. On the opposite of Elizabeth Road is another grassed area with larger trees between the junctions Havers Lane and Norfolk Way. Due to its open and verdant nature and its prominent visibility the appeal site and surrounding green space makes a positive contribution to the character and appearance of the area.
6. The surrounds include mostly 2 and 2.5 storey buildings, limited trees, street furniture such as cabinets/kiosks, street signage, thin profile streetlamps, a CCTV pole, a post box, and bus stops. Therefore, vertical features are clearly visible nearby. However, based upon the plans before me and from what I saw, the monopole would be approximately 10m higher than the nearest streetlamps and approximately 6m higher than the closest two storey buildings. It would also be considerably higher than the CCTV pole and 2.5 storey buildings to its south. At up to approximately 0.8m, the monopole would be considerably greater in diameter than nearby lamps and poles. Consequently, the monopole would be a considerably taller more substantial structure highly visible above nearby dwellings and vertical features.
7. A small number of trees on the opposite side of the road might be of a similar height, although they are some approximately 35m away and significantly different in appearance. Therefore, the monopole would not relate well to or be in keeping with the small collection of attractive street trees. Given its surroundings, its substantial height, shape, upper diameter, and siting on open land elevated above some of its surrounds, the monopole would be a highly imposing, dominant, and discordant presence in the street scene and townscape in the vicinity of the appeal site.
8. Screening from surrounding features such as trees and buildings would be rather limited. The monopole would be significantly visible from a number of nearby properties, gardens, and be visible for some distance along the highway, particularly to the north and west of the appeal site. While the colour of the monopole might be secured by a suitably worded condition, this would not overcome the harm. Furthermore, in combination with existing streetlamps and the signage, kiosks/cabinets, and other furniture nearby, the new monopole and four new cabinets would result in a somewhat cluttered public realm around the appeal site and this section of Elizabeth Road.
9. Therefore, for the reasons set out above, the siting and appearance of the monopole would be highly prominent, at odds with and result in significant harm to the character and appearance of the area.

Alternative sites

10. The need for a mast is not questioned. However, as the siting and appearance of the mast is significantly harmful, consideration needs to be given to whether other alternative less harmful sites exist. I am informed this new site is primarily required to upgrade the appellant's network to provide new 5G

technology, but it would also provide improved 3G and 4G network coverage and capacity.

11. The need for new sites with separation from certain other equipment, suggests that some other existing sites could not be re-used or upgraded for 5G use. I viewed a number of the alternative locations advanced at my visit. Of the four initial alternatives (numbered 1-4 in the further search), I have no reason to disagree with the reasons they are unsuitable. The further search accompanying the appeal provides a coverage plan of a much smaller area. It shows 4G coverage only, not 5G which would occupy the upper 3 antennas and which I am informed provides the primary requirement for the new monopole.
12. The coverage plan shows the appeal site is within an area requiring 4G uplift, close to extensive areas with good coverage to its west and northeast. The most extensive areas with no 4G are shown further to the southeast (including sites 7 and 8), which I am informed are within a different cell area, although whether this is in relation to 4G, 5G or both is not clear. The proximity of sites 5, 6 and 9 to heritage assets, suggests they would not be suitable. However, given the appeal site area already receives 4G coverage, the information does not explain why any existing 4G sites cannot be upgraded, to provide for the current deficiency in 4G coverage.
13. Given the coverage plan is based upon 4G the evidence does not clearly define the area of search for 5G, so there is insufficient information to understand the full defined area of search. Furthermore, on the plan there also appears to be significant areas that are not entirely residential, and it is not clear why much of these are ruled out for 5G. For the above reasons there is ambiguity and I do not consider the site evaluation and associated evidence to be sufficiently robust. Therefore, I cannot conclude with reasonable certainty that other less harmful locations do not exist, and the only way to meet the appellant's need is through this appeal proposal, which weighs against the scheme.

Other Matters

14. The appeal site lies approximately 110m from a southwestern boundary of the Bishop's Stortford Conservation Area (BSCA), of which the closest part of it to the appeal site comprises the maturely landscaped Apton Road cemetery. The significance of this part of the asset derives from its maturely landscaped burial grounds that contain a considerable number of sizeable trees and shrubs within historic boundary walls. The topography, intervening buildings and mature vegetation mean there would be little intervisibility with the appeal proposal, including from within the cemetery. Therefore, it would not result in a harmful effect upon the significance of the BSCA.
15. Approximately 75m south of the appeal site is 77 Norfolk Way which is a Grade II listed building. It derives its significance from its C16th architectural features. Given the topography and the height and proximity of surrounding residential buildings, the setting of the listed building is very limited. It is well screened from the appeal site with little if any intervisibility between the development and the listed building. Therefore, based upon what I saw and the evidence before me, there would be no harm to the setting and significance of the designated heritage asset.

Planning Balance & Conclusion

16. Paragraph 114 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). There is need to provide increased network capacity as data use grows, including as a result of the effects of the Covid-19 pandemic. Improving mobile connectivity and digital inclusion would have economic, social, health, educational, well-being, and sustainability benefits.
17. Based upon the limited extract of appeal Ref APP/L1765/W/18/3197522, the Inspector concluded the harm to be limited in finding it was outweighed by the benefits of that development. This is different to my conclusion in respect of the harm from this appeal proposal, and so is not directly comparable to this proposal. While I have been provided with three other full decision letters, the full details, circumstances, and evidence before those Inspectors are not before me, so a fully reasoned and justified comparison is not possible.
18. Appeal Ref APP/P4065/W/19/3241791 was for the upgrade of a pre-existing mast, which was an accepted part of the street scene, and the wording of that decision suggests those surrounding vertical features were of a greater height than those surrounding this appeal site. Ref APP/G5180/W/19/3231491 was located close to an existing 10m high mast and that Inspector was satisfied that evidence in respect of alternative sites was sufficiently robust. In decision Ref APP/Z4310/W/21/3269643 the Inspector found the monopole would not be highly noticeable in the context of other similar structures. This is not the case for this appeal proposal in relation to the surrounding vertical structures. Therefore, none of the examples are directly comparable to this appeal proposal.
19. There would be tangible benefits arising from the development outlined above. However, the siting and appearance of the monopole would result in significant harm to the character and appearance of the area. While options for siting the development will be limited by technical and operational constraints, the evidence does not demonstrate that there are no alternative sites available which would be less obtrusive and harmful. Therefore, prior approval should be refused.
20. For the reasons given above, the appeal should not succeed.

Dan Szymanski

INSPECTOR