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## Appeal Decision

Site visit made on 28 February 2022

**by B Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 March 2022**

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**Appeal Ref: APP/W2465/W/21/3283358**

**Aikman Avenue, New Parks Way, Leicester LE3 9PY**

- 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 Leicester City Council.
  - The application Ref 20211690, dated 26 June 2021, was refused by notice dated 27 August 2021.
  - The development proposed is a 20 metre Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.
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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 20 metre Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at Aikman Avenue, New Parks, Leicester LE3 9PY in accordance with the terms of the application, Ref 20211690, dated 26 June 2021, and the plans submitted with it including 002 site location plan, 210 proposed site plan and 260 proposed elevation.

### Preliminary Matters

2. This appeal relates to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4). This requires 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 this appeal has been made on the same basis.

### Planning policy

3. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan 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**

4. The main issue is the effect of the siting and appearance of the proposed mast on the character and appearance of the surrounding street scene, 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 is on the corner of Aikman Avenue and New Parks Boulevard. New Parks Boulevard is adjacent to New Parks Way which is a wide highway with deep grass verges that include mature trees and tall streetlights. The appeal site is adjacent to a fire station which is largely two-storey in character. A GP surgery is opposite this, and these community uses are mostly surrounded by residential development. The appeal site is within a wide and open part of the footway, adjacent to the demise of hardstanding around the fire station. As a result, the site is relatively exposed. Nonetheless, the site is largely unremarkable and accordingly makes a neutral contribution to the character and appearance of the area.
6. The proposed mast would be taller than the fire station and surrounding built form. It would also be comparatively close to the Aikman Avenue Council Housing Blocks, 277-311 Aikman Avenue and 2-36 Elgin Avenue. These are all identified by the Council as non-designated heritage assets. Nevertheless, these are some distance from the proposal and would not be directly affected by the proposal. Furthermore, the proposed mast would have a monopole design that would be sympathetically designed and comparatively slim. It would also not significantly contribute to street clutter being located within a spacious section of the footway and or impede pedestrian flow. It would also be outside of direct views of nearby residential properties and in most views would be seen within a backdrop of existing built form. Consequently, the proposal would integrate well with views of the adjacent surgery and the wider area.
7. Furthermore, wider views of the site from New Parks Way include the surrounding built form and vertical features such as local streetlights, traffic lights and roadside signage. Accordingly, whilst the proposed mast would be seen from views along the Boulevard, it would be successfully assimilated into the existing urban context and identified features. Consequently, the proposal would not appear strident or stark within this urban context. Moreover, the proposal would be set away from New Parks Way, maintaining its existing sense of spaciousness and the positive characteristics of the wider area.
8. Accordingly, the surrounding context would largely integrate the mast with the local pattern of built development. Nevertheless, due to an absence of local screening and its overall height, the mast would result in moderate harm to the character and appearance of the area.
9. The Framework places importance on decisions that support the expansion of electronic communication networks. It states that new masts should be sympathetically designed. Such equipment should be consistent with the needs of consumers, the efficient operation of the network and provide reasonable capacity for future expansion.
10. The coverage map illustrates that the nearest mast is carrying a heavy data load and the cell is congested. This has resulted in a need to enhance the

coverage in the New Parks area. Although the need for a mast is not required to be proven by the Framework, an absence of coverage can be a material consideration.

11. The Framework also encourages the reuse and adaption of existing base stations. Furthermore, it states that proposals for new masts should evidence the possibility of erecting antennas on an existing building, masts or other structures. This therefore establishes a sequential approach first favouring the reuse of existing sites.
12. The Appellant identifies that the upgrading of existing sites is not available. It is also asserted that the search area for a new site is extremely constrained due to the close-knit residential character of the area. In consideration of six alternative base station locations, all within the immediate area, the appellant has suggested that no suitable alternative site exists. These alternative sites are mostly in more visually obtrusive locations. Furthermore, these have been discounted for reasonable reasons. It is therefore unlikely that a more suitable site would be more reasonably available than that proposed. Furthermore, given the surrounding features, I accept that the column's intended height is the minimum for effective operation.
13. Insofar as it is a material consideration, I have also had regard to policy CS03 of the Core Strategy (2014). This policy, among other matters, seeks development to contribute positively to an area's character and appearance. As I have found that the proposal would result in moderate harm to the local streetscene it would not fully accord with the requirements of this policy.

### **Conclusion and Conditions**

14. The proposed mast would be prominent in the street and be taller than the adjacent streetlights. The absence of screening would emphasise views of the proposed mast. Nonetheless, it would be assimilated into views of the local street furniture and would convey only moderate harm to the local street-scene. The absence of suitable alternative sites, the constrained nature of the area and the compelling need for local coverage are of great importance to the assessment of the case. In this case, the Framework is of over-riding importance identifying that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.
15. Proposals which are permitted development under Class A, Part 16 are subject to standard conditions. These relate to the development's implementation within 5 years, development being carried out in accordance with the details submitted with the application and the removal of the structure/apparatus when it is no longer required for electronic telecommunications purposes.
16. For the reasons given above, and having taken all other matters into account, I conclude that the appeal should be allowed and prior approval granted.

*B Plenty*

INSPECTOR