



Appeal Decision

Site visit made on 15 March 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/J1860/W/21/3283617

School Lane, Holt Heath, Malvern Hills, Worcestershire WR6 6NF

- 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, A.3(4) 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 Malvern Hills District Council.
 - The application Ref 21/01286/TC, dated 2 July 2021, was refused by notice dated 27 August 2021.
 - The development proposed is described as, "Proposed 5G telecoms installation: 15m high 'slim line' Phase 8 H3G street pole c/w wrap around cabinet and 3 no. cabinets with ancillary works – coloured green".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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) require 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.
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 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 Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on 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

Character and Appearance

5. The appeal site comprises a grass verge located on School Lane. Holt Heath is a small and attractive village in a rural setting, which is surrounded by open fields. The local area predominantly consists of 2-storey residential properties.
6. The proposed approximately 15 metres high monopole would be seen against the gable end of a 2-storey dwelling, and directly opposite an open field. In its proposed location on a fairly wide area of grass verge, set-back from the footway, it would have a functional appearance which would not be intrinsically objectionable considering the typical presence of street light columns and other structures with a vertical emphasis commonly found in and around residential areas.
7. Nevertheless, due to its significant height, the proposed monopole would tower over the nearby trees and many elements of street furniture in the vicinity, including street lights and road traffic signs. Although the proposed monopole would be positioned approximately in line with the nearby trees, the trees are not particularly large and so would offer little meaningful screening of the proposed monopole.
8. Similarly, the locations of telegraph poles in the vicinity are such that they would also provide little screening. Considering the differing design of the proposed monopole it would be a far more visually striking structure in the street scene than those telegraph poles. The proposed monopole would also extend noticeably past the highest point of the roof of 12 Woodbury Park (No 12), meaning that the existing gable end of No 12 would do little to assist in the structure adequately assimilating into the street scene.
9. Consequently, the proposed monopole would appear as a visually prominent structure which would unduly dominate the street scene. Its visually obtrusive nature would be particularly evident when viewed from the nearby roundabout. Moreover, I observed that it would appear as a dominant and intrusive feature in views from the garden of No 12. All these factors would combine to harm the character and appearance of the area.
10. The proposed monopole and cabinets would be coloured Fir Green. However, although this would assist somewhat in their assimilation into the street scene, the considerable height of the proposed monopole would be such that this factor would not be sufficient to off-set the harm already identified. The appellant has suggested that the apparatus could be painted differently, but the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions found within Class A of Part 16. On this basis, it would not be reasonable to impose a condition relating to this matter.
11. Reference has been made to an appeal decision¹. However, as minimal details have been provided regarding the context surrounding that proposal, it has not been demonstrated that this example is sufficiently comparable with the appeal proposal. Accordingly, it does not change my findings.
12. I therefore find that the siting and appearance of the proposed installation would have an unacceptable and significantly harmful effect on the character and appearance of the area. Whilst not determinative, I have had regard to Policy SWDP 21 of the South Worcestershire Development Plan (adopted

¹ APP/A5840/W/20/3254830

2016). To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with its aims that, amongst other things, all development will need to integrate effectively with its surroundings, in terms of form and function, and reinforce local distinctiveness.

Alternative Sites

13. Paragraph 117 of the Framework provides that, amongst other things, applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development, and that this should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
14. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. It is noted that, as with all 5G cells, the relevant cell search area is extremely constrained, and that the designated search area is intended to cover a densely-populated residential area.
15. However, although 5 discounted options have been considered, 2 of these are situated outside of the intended target/search area. Taking account of the appellant's contention that to achieve the operational requirements of 5G, the selected site should be within or as close to the intended target/search area as possible, and that only 5 options have been considered overall, the inclusion of these 2 sites reduces the likelihood that the selection process has identified a sufficient range of potentially available alternative options.
16. Furthermore, this small village is surrounded by agricultural land, some of which is composed of wide open spaces. A considerable proportion of the intended target/search area includes such land. Despite this, although it is noted that the proposed equipment is intended to be installed upon grass verges and pavements, minimal analysis has been provided to demonstrate that alternative sites are not reasonably available in or around those large areas of green space.
17. On this basis, in my view the evidence does not convincingly demonstrate that the appellant has properly explored all the potentially available alternative options. Consequently, on the evidence before me, I find that it has not been proven that less harmful alternative sites are not available.

Balance

18. Whilst reference has been made to various social and economic benefits, these have not been taken into account, as the prior approval considerations are limited only to matters of siting and appearance. Notwithstanding this, paragraph 114 of the Framework provides that, amongst other things, planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).
19. The letter of 27 August 2020 from the Department for Digital, Culture, Media & Sport and the (then) Ministry of Housing, Communities & Local Government similarly mentions that the UK Government is committed to supporting the deployment of gigabit broadband across the country, ensuring that every home and business in the UK can access gigabit broadband services as soon as possible.

20. In light of this, and considering the extremely constrained nature of the cell search area, the need for a mast within the designated search area has been demonstrated. In particular, I note that the proposal would bring 5G network coverage to the residential area on the eastern side of Holt Heath and would have the effect of the offloading 4G traffic from an existing base station within the wider area.
21. Nevertheless, the proposal would cause significant harm to the character and appearance of the area. It has also not been proven that less harmful alternative sites are not available. Accordingly, the harm is not outweighed by the need for the installation to be sited as proposed, taking into account my reasoning above with respect to the suggested alternatives.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR