



Appeal Decision

Site visit made on 30 March 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 April 2022

Appeal Ref: APP/B1415/W/21/3280683

Battle Road, Hollington, Hastings, TN38 9DR

- 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 Hastings Borough Council.
 - The application Ref HS/TL/21/00521, dated 15 May 2021, was refused by notice dated 7 July 2021.
 - The development proposed is 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Because this is an application for prior approval, the provisions of the 2015 Order 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. This appeal will be determined on the same terms.
3. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, policies in the Hastings Local Plan Planning Strategy (PS) and the Development Management Plan (DMP) are material considerations insofar as they relate to issues of siting and appearance. In particular, they refer to design principles, amenity, green infrastructure and open space. DMP Policy DM2 is specifically concerned with telecommunications technology and expects the impact of apparatus and structures to be minimised. Similarly, the National Planning Policy Framework is also a material consideration and this includes a section on supporting high quality communications.

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 on the use of an open space. Furthermore, if any harm would occur, whether this is outweighed by the need for the monopole and equipment to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The proposal would be sited at the back edge of pavement roughly mid-way along a narrow grassed area of open space which is about 89m in length. To the rear, where the ground falls away, is a line of poplar trees. Otherwise the surroundings are a mix of residential, commercial and community uses. Battle Road is well-used traffic route.
6. The Framework confirms that good design is a key aspect of sustainable development. The design of the mast is dictated by technical considerations. In particular, it needs to be a minimum of 15m in height in order to achieve sufficient clearance and to ensure that the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) are met. According to the appellant lowering the pole would mean that the cell could not effectively communicate with others and with the wider network. In turn, this would compromise the level of service.
7. The mast would nevertheless be taller than the streetlamps that line the road. However, in my estimation, it would be similar in height to the poplar trees. It is stated that these are re-pollarded around every three years, so their current stature might be reduced in future. They are considered to be in average condition but there is no immediate threat to their health such that they are likely to be removed in the near future. It is therefore reasonable to assess the proposal on the basis that these trees would remain for some time to come.
8. That said, the poplars would not screen the mast in the main public views from Battle Road. Rather they would form a backdrop to it and would mitigate the impact by providing a similar vertical element against which the mast would be viewed. This would especially be the case when they are in leaf and therefore have a bulkier form. Conversely the prominence of the mast would be magnified when the branches were bare. Furthermore, the mast and trees would not be seen together in angled views from along the road. Indeed, compared to the conventional scale of the nearest buildings, the proposal would stand out in the immediate locality because of its height and position.
9. Although part of a busy urban scene the chunkiness of the pole and the fussiness of the antennas would not be easy on the eye. These are determined by functional requirements and with the on-going roll-out of 5G services such installations are not wholly remarkable. Nevertheless the appearance of the mast would be a jarring and unsettling feature in the locality.
10. It is maintained that the cabinets to serve the installation are permitted development but they have been included in the application. Whilst these would add some visual clutter, they are low and unobtrusive and would not intrude unduly into the openness of the green area.
11. According to the Framework equipment on new sites should be sympathetically designed and camouflaged where appropriate. In this case the proposal would be obtrusive in short-range and close oblique views but would have a lesser impact when seen from a distance and in conjunction with the trees to the rear. Therefore the harm to the character and appearance of the area would be limited and localised.
12. Policies in the PS underline the importance of open spaces and green infrastructure. However, the strip of land where the mast would be located is

not identified as part of the green spaces network which is to be protected. In any event, only a very small part of the wider area would be directly affected by the proposed installation.

13. Nevertheless, the Council has witnessed that this area is used by all age groups for sitting out, picnics and lunch breaks. Local residents comment that it is used by children and others and it is indicated that this type of space is scarce. The National Design Guide recognises the importance of public spaces to combat social isolation and loneliness. However, it has no seating or facilities and on the grey, chill morning when I visited it was hard to imagine that the land would be used in this way. Furthermore, the mast would not preclude any informal recreational use continuing as the majority of the land would remain available for that purpose.
14. First-hand evidence from those familiar with the area should not be set aside lightly. However, this is anecdotal and it is by no means certain that the presence of the mast would discourage usage to the extent that the interests of the community would be prejudiced.

Suitable alternatives

15. Paragraph 117 c) of the Framework expects evidence to be submitted that the possibility of erecting antennas on an existing building, mast or other structure has been explored. The appellant has investigated these options in a sequential manner and maintains that there is no scope to move the proposed site to an alternative one.
16. The Site Specific Supplementary Information (SSSI) confirms that the Ofcom Site Finder mast register has been examined. The Council maintains that this is out of date and refers to the last update being made in 2012. This has not been refuted. Therefore, it is not apparent that the potential for mast sharing has been considered on the basis of the latest information.
17. The search area for a new mast is constrained geographically within a densely packed residential area. The appeal statement refers to eight options that have been discounted for a variety of reasons including proximity to residential properties, insufficient space and tree canopies. None of these findings are disputed by the Council.
18. However, option D3 in the SSSI is a rooftop site that has been discounted as it would be further from the nominal location than the options that have been put forward. That is not the same as confirming that coverage would be deficient. Indeed, the site is within the area of search and adjacent to D2 which is not excluded on the basis that it would not be a viable technical solution. The Council accepts that this site has been considered but the rationale for rejecting it is not clear. Locating equipment on top of existing buildings is sequentially preferable to a new mast but there is insufficient evidence that this possibility has been adequately explored.
19. It might be that if no other sites were available then the appeal site would be the only way to deliver 5G services in Hollington and St Leonards. However, based on the information provided, that is not the case.

Other Matters

20. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.
21. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by ICNIRP. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine and there is no reason to depart from national policy in this respect.

Conclusions

22. The proposal would cause limited harm to the character and appearance of the area. Furthermore, it has not been adequately demonstrated that there are no suitable alternatives to serve this area, especially having regard to a possible rooftop site and whether mast sharing has been fully investigated.
23. Therefore, for the reasons given, the proposal is unacceptable and prior approval should not be granted.

David Smith

INSPECTOR