



Appeal Decision

Site visit made on 23 March 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

Appeal Ref: APP/B0230/W/21/3281114

Croft Road, Stopsley, Luton LU2 8AQ

- 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 Hutchinson Networks (UK) Ltd against the decision of Luton Borough Council.
 - The application Ref 21/00757/TEL, dated 23 May 2021, was refused by notice dated 21 July 2021.
 - The development proposed is 18.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural 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 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 proposed development upon the living conditions of nearby occupants including the occupants of 77 and 79 Hallwicks Road and 86 Wigmore Lane with regard to outlook; and
 - The effect of the proposed development upon the pedestrian environment.

Reasons

Living conditions of existing occupiers

5. The appeal site relates to an area of pavement on Croft Road which is a short side road between Wigmore Lane and Hallwicks Road. These roads comprise low rise housing and there are a number of properties that have habitable room windows in the rear elevations that provide an outlook along Croft Road.
6. It would be seen by nearby residents including from the rears of 77 and 79 Hallwicks Road and 86 Wigmore Lane. There is no doubt that the proposed installation, due to its position, height and the absence of screening, would result in visual change, but the mast would largely be a slim structure and views of it would be offset. Furthermore, the siting of it would be such that it would be a reasonable distance from the nearest residential properties. As such, the proposed mast would not be visually intrusive or result in an unduly overbearing effect so as to unacceptably harm the living conditions of nearby occupiers.
7. I conclude that, due to its siting and appearance the proposed development would not have an adverse effect upon the living conditions of nearby occupants with regard to outlook and so, insofar as they are a material consideration, would accord with Policies LLP1, LLP25 and LLP35 of the Luton Local Plan (2017) (LP) which seek high quality design and for installations to be designed, sited and appropriately landscaped to minimise their impact on amenity.

Pedestrian environment

8. The mast and cabinets would be positioned next to existing bollards positioned close to the edge of the pavement. At the time of the site visit I noted that the pavement is very wide in this location. However, the Council's Highway Engineer has commented that the extent of the public highway is much narrower, limited to approximately 2.5m from the edge of the kerb. The remainder of the pavement appears to be a private forecourt.
9. Despite the situation on the ground there is no certainty that the forecourt would remain open and usable for pedestrians for the life of the development. Taking into consideration the extent of the public highway the proposed development would lead to a section of uncharacteristically narrow pavement compounded by the presence of the bollards along Croft Road. This would adversely affect the movement of pedestrians along the pavement.
10. As such, I find that the proposed development would adversely affect pedestrian movement contrary to LP Policies LLP1, LL25 and LLP35 which seek high quality design and installations to be appropriately designed and sited.

Other Matters

11. The National Planning Policy Framework (the Framework) advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.

12. The mast is required to upgrade the coverage capacity of the network in relation to 5G services and to improve mobile connectivity. I acknowledge the height proposed is required to provide sufficient coverage, that the cell search area is constrained due to its urban setting and site sharing is not a viable option therefore the proposed site is the only realistic option. I also acknowledge the economic and social benefits associated with such development as set out in Paragraph 114 of the Framework.
13. However, I must balance this against the requirement for equipment to be sympathetically designed, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
14. For the reasons set out above I find that the proposal would adversely affect pedestrian movement and do not consider that harm to be outweighed by the general support in the Framework for high quality communications.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR