



Appeal Decision

Site visit made on 7 April 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2022

Appeal Ref: APP/W1525/W/21/3281020

Princes Road, Widford, Chelmsford Town CM2 9DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Chelmsford City Council.
 - The application Ref 21/01110/TEL56, dated 16 May 2021, was refused by notice dated 20 July 2021.
 - The development proposed is described as a “proposed 20.0m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Amendments to Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) came into force on 4 April 2022. In light of this I sought the views of the main parties in writing and I have taken any subsequent responses into account in reaching my decision.

Main Issue

3. The appeal concerns a proposed telecommunications development that was refused prior approval by the Council under the terms of Schedule 2, Part 16, Class A of the GPDO. Within certain limits the GPDO grants permission for the development of telecommunications equipment subject to a prior approval procedure. The GPDO makes it clear that the relevant issues to consider when assessing applications of this type are the siting and appearance of the proposed development, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The principle of the development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard 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 appearance and siting. However, the Council has only refused prior approval on the grounds of siting and from the information that has been presented, I find no reason to disagree with that assessment.

5. Therefore, the main issue is the effect of the siting of the proposal on pedestrian movement.

Reasons

6. The appeal site forms part of a pavement that lies close to an access that serves an existing superstore and petrol filling station. The pavement follows the alignment of Princes Road and curves round to the south and is bound to the road side by a metal fence and an area of low landscaping on the other side. The fence acts as a safety barrier between road users and pedestrians accessing the superstore, also directing pedestrians to a dropped kerb where one can cross the access road.
7. The proposal seeks to erect a 20m monopole telecommunications mast where the pavement curves round to the south. Two further ancillary equipment cabins would also be positioned to the east of, and adjacent to, the monopole. Whilst the diameter of the mast monopole is narrow, it is seated upon an equipment cabin, with the two other detached cabins to be positioned alongside. These would be sited to the landscaped edge of the pavement a gap of some 1.8m left between the proposed installation and the safety barrier for pedestrians to pass one another.
8. During my visit, I witnessed several pedestrians accessing the superstore via the pavement, the majority of which were groups of two or more people, some of which were pushing children in a buggy or had small children walking with them. It is evident that this particular stretch of Princes Road is frequently used by pedestrians seeking to access the superstore. Where pedestrian traffic was moving in opposite directions, one party was required to yield or move into single file to allow others to pass one another.
9. The safety barrier creates an area of containment, directing pedestrians around the corner where one can cross the access road via the dropped kerbs provided, or carry on into the grounds and parking areas of the superstore. Given the existing width of the pavement it has clearly been designed to accommodate most eventualities with regards to mobility and flow of its users. This is evident from existing street furniture being positioned close to the landscaping that exists adjacent to the pavement.
10. I am concerned the reduction in width as a result of the development would cause an unacceptable and increased conflict between pedestrians and/or cyclists when passing one another. This would be particularly evident for wheelchair users and people with pushchairs for example, and would be exacerbated during periods of maintenance when the cabinet doors would be open, thereby further reducing the available footpath width. I am concerned this could hinder the free flow of pedestrian and cycle traffic. Given the barrier's positioning, pedestrians would have to squeeze past one another, or take refuge in the landscaped areas. I am not satisfied that this would be an acceptable solution for able bodied users of the pavement, and certainly not one that those with low mobility should have to countenance.
11. I recognise the importance of good, fast, reliable, and cost-effective communications. Moreover, there is no question that the equipment is required to achieve the necessary standard of 5G coverage within a high density residential area, or that the mast's dimensions are the minimum possible. Weight has been attached to all these matters. I have also balanced the

proposal against the public benefits that would ensue, the lost coverage within the area, technical constraints, and furthermore I fully appreciate the significance of the telecommunication industry in its role to grow the economy. The discounted sites, the acceptable appearance of the development within the street scene, as well as the other evidence presented together with the justifications put forward by the appellant, have all been given due regard in my assessment. However, despite the evidence presented, bringing all these factors together, the harm I have found does not weigh in favour of the proposal for prior approval.

12. Should this appeal fail, there is nothing to suggest that the ancillary cabinets proposed as part of the proposal would still be erected at the site. As such, any element that may be considered as permitted development does not represent an appropriate reason to find in favour of the proposal before me.
13. Thus, the siting of the development would result in harm to the free flow of pedestrian movements. It would be contrary to the aims of Policy DM23 of the Chelmsford Local Plan 2020 which seek, amongst other things, to ensure that developments are high quality, inclusive and must be compatible with its surroundings, having regard to siting.

Conclusion

14. The overall harm caused in respect of the main issue is considerable and the moderate benefits of the proposal and other considerations do not outweigh this harm. As such, the appeal is dismissed.

Graham Wyatt

INSPECTOR