



Appeal Decision

Site visit carried out on 7 June 2022

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2022

Appeal Ref: APP/P0240/W/21/3284845

Stanbridge Road, Tilsworth LU7 9PL

- 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) Limited against the decision of Central Bedfordshire Council.
 - The application, No CB/21/03004/TD, dated 19 June 2021, was refused by a notice dated 14 September 2021.
 - The development proposed is the erection of a 15.0m Phase 8 Monopole complete with wraparound cabinet at base and associated ancillary works.
-

Decision

1. For the reasons that follow, 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 Order. The provisions of the Order do not require regard to be had to the development plan. I have, therefore, only had regard to the policies of the development plan and the National Planning Policy Framework (the 'Framework') insofar as they are material considerations relevant to matters of siting and appearance.
4. The appeal scheme comprises a 15 metre monopole with a wraparound cabinet at its base, plus three associated equipment cabinets to one side. Although the appellant highlights that the associated ancillary equipment cabinets are within the size limits such as to be classified as permitted development without prior approval, the proposal before me relates to the installation as a whole. I have dealt with the appeal on that basis.

Main Issues

5. The main issues in this case relate to the effect of the siting and appearance of the proposed installation on the character and appearance of the area, its effect on the significance of nearby heritage assets and, if any harm would

occur in these regards, whether it is outweighed by the need for the installation proposed, taking into account any suitable alternative sites.

Reasons for the Decision

Character and Appearance

6. The appeal site comprises a grassed verge to the rear of the footway on the northern side of Stanbridge Road. The verge here backs onto a car park with playing fields/recreation ground beyond, which are on gently rising ground. Opposite, on the southern side of Stanbridge Road are open fields.
7. There are occasional trees within the verge, which range in height from around 6-9 metres in height. Slim lighting columns associated with the car park are around 5 metres in height. On the opposite (southern) side of the road is a run of telegraph poles and a bus stop. Notwithstanding the presence of the community hall to the northeast of the car park, a cluster of farm buildings to the southeast on the southern side of the main road, and a couple of pairs of semi-detached dwellings to the south west, I consider this part of Stanbridge Road to have a very pleasant open and spacious rural character.
8. At some 15 metres in height the proposed mast, including the bulky assembly of antennae in its upper part would, in its context, be seen as a conspicuously tall, uncompromising feature in an open location, being significantly higher than the trees and existing street furniture here, with the trees and buildings doing little to screen the installation. As such, it would not be integrated or assimilated into its surroundings. Rather, it would appear as an unduly prominent and intrusive feature, including in views out from the playing fields towards Totternhoe Knolls and Dunstable Downs, as well as in views along Stanbridge Road. There would be conflict, in this regard, with policies HQ1 and HQ5 of the Central Bedfordshire Local Plan¹ insofar as they are relevant to matters of siting and appearance. Together and among other things, they seek to ensure that development is complementary to the natural environment, enhancing or reinforcing local distinctiveness. Telecommunications development is to be sited so as to minimise visual intrusion and not be overly prominent or visually dominating in a street scene. There would be conflict too with the National Planning Policy Framework (the Framework) which also seeks to protect such interests.

Heritage

9. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply in prior approval applications, since they are not an application for planning permission, or permission in principle, to which S66(1) does apply. Neither does it come within the ambit of S66(2). However, the relevant paragraphs of the Framework regarding conserving and enhancing the historic environment are applicable to any development that would affect the significance of a heritage asset, including any contribution made to that significance by their setting.
10. The grade I listed All Saints Church lies some 136 metres away to the northeast, on elevated ground. Both the Council and Historic England consider that the proposal would cause harm to its setting. However, setting is not a heritage asset of itself. It is harm to the significance of the asset as a

¹ Central Bedfordshire Local Plan 2015-2035 (adopted July 2021)

consequence of development within its setting that is to be assessed, where any significance is derived from that setting.

11. The Church dates from the C13th with later alterations and additions. Its significance derives not only from its age, history, form, architecture and appearance, but also its communal value as a place of worship and its role as a focal point for the community over the years. In terms of setting, clearly the churchyard within which it sits contributes to its heritage significance. Whilst the churchyard is largely enclosed by well-established vegetation, the elevated position of the Church itself means that it is clearly seen from Stanbridge Road when immediately opposite to it. In slightly longer range views, including from the appeal site, views were generally obscured by mature trees and vegetation at the time of my site visit. I recognise however, that in winter months, there may well be views of the church from the appeal site. Given that intervisibility, the site can be considered as lying within the setting of the church. That said, any views would be filtered and the site is not part of any designed or otherwise important views of or from the church that have been brought to my attention. Moreover, that the site may be visible from the top of the church tower, as asserted by Historic England, does not mean that it contributes necessarily to the significance of the church. I do recognise though, that in winter months, views across the appeal site may well facilitate an appreciation of the significance of the church in its wider setting. In this regard, the development proposed would, to some extent, compete visually with and detract from one's experience and appreciation of the heritage significance of the listed Church, particularly in views from the west, resulting in harm. In the terms of the Framework, I consider that harm to be less than substantial, at the lower end of that range.
12. Although not referenced in the reason for refusal, Historic England refers to two scheduled monuments in the vicinity – Warren Knoll some 150 metres to the northeast of the appeal site (a motte castle re-used as a warren), and Tilsworth Manor moated site, some 150 metres to the southeast. Historic England suggests that any impact on the setting of those assets would be minimal, but that misses the point. There is nothing in the evidence before me to indicate that any of their heritage significance derives from the appeal site. Neither is there any evidence that the appeal site is integral to any appreciation of those assets. On that basis, even were I to proceed on the basis that the appeal site does lie within their setting, there would be no harm to the heritage interest of those assets.
13. To conclude on this issue, I find some harm to the heritage significance of the listed Church as a consequence of the development proposed. There would be conflict in this regard with policy HE3 (insofar as it is relevant to these proceedings) which, among other things, requires that any harm to significance be assessed against the relevant criteria in the Framework.

Other Matters

14. The appeal site lies within the Green Belt. However, permitted development rights for Part 16 development apply in the Green Belt. As such, in prior approval appeals such as this, the principle of development is not a consideration and the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise. Effect on the character and appearance of the area is addressed above.

15. Local residents refer to the mast being close to a play area and use of the adjacent recreation ground and community hall by children's groups. It would seem that the site is also close to a nursing home. However, a certificate has been provided confirming that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with, or that a departure from national policy would be justified in this regard.
16. Local residents also make reference to highway and pedestrian safety issues, including parking on the main road during events at the adjacent sports ground and community hall. However, the proposed installation is wholly within the existing grass verge and is not within the footway. Accordingly, there would be no obstruction to pedestrian or vehicular movements. I am also mindful that the Highway Authority raises no objection on this basis.

Alternative Sites

17. In light of the impacts that I have identified, it is necessary to consider whether there are any preferable sites for the installation within the technical constraints of the cellular network. Although the expansion of electronic communications networks, including the next generation of mobile technology such as 5G, is clearly supported in the Framework, it sets out at paragraph 117 that applications such as this should be supported by the necessary evidence to justify the development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
18. The Site Specific Supplementary Information (SSSI) indicates that the mast needs to be installed within, or close to, the red line boundary shown on the satellite image at Figure 4 and suggests that a new mast on the appeal site is the only option available in what is described as a highly constrained cell search area.
19. In coming to a view on this matter, I note that the search area around the nominal site shown on Figure 4 has been extended, allowing some alternative sites, including the appeal site, to be considered. Figure 5 of the SSSI shows the locations of a number of discounted location options outwith the red line area. Whilst some of the locations on corresponding Figure 5 in the appellant's Statement of Case are the same as those in the SSSI, some are different. One such possible alternative location is shown to the west of the appeal site,² further away from the listed church. Although that site is preferred by the Council on that basis, a mast in that location would be directly opposite two pairs of semi-detached dwellings which would, in my view, make it less desirable as an alternative to the appeal site.
20. Importantly however, there is no indication as to the geographic extent of the search area. I note, in this regard, that the Parish Council suggests that land on Dunstable Road³ may be suitable, subject to the owner's consent. It also

² Shown as location D5 on Fig 5 in the SSSI. There is no corresponding location in the appellant's Statement of Case.

³ Opposite to site D6 on Fig 5 in the SSSI (opposite site D5 as shown in the appellant's Statement of Case).

suggests that a location adjacent to the bypass (A505) could be more suitable and may provide an opportunity for mast sharing. In addition, local residents suggest a number of alternative locations, including a solar farm to the rear of Granary Farm, higher land behind the community field, a nearby industrial area in Tilsworth, a golf club, a rugby ground and Leighton United football club. The appellant has provided no assessment of any of those suggested alternatives. Moreover, although Figure 4 shows numerous 5G sites in the immediate area, there is no meaningful analysis as to the potential capacity of any of those sites for upgrading/sharing.

21. Taken as a whole, there is insufficient evidence in this case to demonstrate that there are no alternative sites available which would be less harmful than the proposed appeal scheme.

Overall Planning Balance and Conclusion

22. As a consequence of its siting and appearance, I have found that the proposal would harm the character and appearance of the area and would cause harm to the heritage significance of the grade I listed Church. In the terms of the Framework, I consider that heritage harm to be less than substantial, at the lower end of that range. Such harm is to be weighed against public benefits.
23. I recognise that the Government places a high priority on the provision of high quality communications. As such, the local expansion of 5G network coverage and capacity by the appellant would be a public benefit in accordance with the Framework's planning objectives.
24. However, heritage assets, such as listed buildings, are an irreplaceable resource and should be conserved so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Whilst the appellant suggests a lack of alternative available sites, I am not persuaded that there may not be an alternative site amongst those suggested by others that might provide sufficient coverage and not cause the identified harm to the heritage significance of the listed church.
25. Having regard to all of the above, the weight that I attach to the public benefits and other factors in favour of the proposal would not be sufficient in this case to outweigh harm to the character and appearance of the area and the less than substantial harm that would be caused to the heritage asset as a result of the siting and appearance of the development. On balance, therefore, I conclude that the appeal should not succeed.

Jennifer V Vyse
INSPECTOR