



Appeal Decision

Site visit made on 15 November 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th December 2022

Appeal Ref: APP/K0425/W/22/3300263

Daws Hill Lane, Daws Hill, High Wycombe HP11 1PU

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Buckinghamshire Council.
 - The application Ref 21/08623/PNP16A, dated 6 December 2021, was refused by notice dated 2 February 2022.
 - The development is proposed 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. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Local Planning Authority to assess the proposal 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 given 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) 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 proposal on the character and appearance of the area, with regard to an existing protected tree;
 - The effect of the proposal on the living conditions of the occupiers of 74 Daws Hill Lane (No 74), with regard to outlook, 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 area is predominantly residential, consisting of detached houses set back from the road amongst large trees and vegetation, which give the area a heavily treed, green and sylvan appearance. The appeal site consists of an area of grassed verge, and has a backdrop of large, mature trees. I understand that one of these trees, a Beech, is the subject of a Tree Preservation Order.
6. There are a number of lampposts and other items of street furniture close to the appeal site, including a streetlight pole located on the verge. These provide an extent of vertical emphasis, as do the existing trees. Although slim, the monopole would be much taller than many, if not all, of the nearby trees and structures. The protected tree is deciduous, and so is less prominent in winter without its leaves. Even so, it is important in contributing to the character and appearance of the area, and in providing a vertical backdrop to the proposal, to help mitigate its height.
7. The proposal has been sited away from the trees and closer to the edge of the verge with the carriageway. However, I have very few arboricultural details to demonstrate the effect of the monopole and its associated development on the long-term health and future of the tree. The details necessary would include the impact of the proposal on the tree, above and below ground, both during construction works and subsequently.
8. In the absence of arboricultural details, I cannot be sure that the proposal would allow retention of the tree in its current form over the long-term. The potential effects of the proposal may result from construction works, for example excavation affecting the roots of the tree. The close proximity of the tree to the proposal may also require the tree to be pruned or to have other work undertaken to it, potentially further detrimentally affecting its long-term future.
9. The monopole would be dark green in colour and there are other trees in the surrounding area which would provide a degree of screening over longer distances. However, if the Beech tree were to require significant pruning, or even felling, the effect of this would be likely to harm the sylvan and green character of the area and may well diminish its biodiversity.
10. In the event of the reduction or loss of the tree, the backdrop it provides to the character of the area would be diminished. This means that the proposal would stand out in this location, appearing dominant and incongruous in the street scene. 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 because of its potential effect on the protected tree.
11. Whilst not determinative, I have had regard to the policies of the Wycombe District Local Plan (WDLP), adopted August 2019. To the extent that they are a relevant consideration within the terms of the GPDO, the proposal would conflict with these policies. Specifically, it would conflict with the requirement of WDLP Policy CP9 that the natural environment is conserved and with WDLP Policy DM35 which states that development should improve the character of an area.

12. WDLP Policy DM20 states that telecoms development should be determined in accordance with the Framework. Paragraph 130 of the Framework requires that development is sympathetic to local character. For the reasons given above, the proposal would conflict with this aim, and so also with WDLP Policy DM20. It would similarly also conflict with policies 2 and 6 of the Daws Hill Neighbourhood Plan (DHNP), adopted December 2019, to which I have also had regard. These require that development must preserve and enhance the special character of the area and not put at risk the future retention of existing trees.

Living Conditions

13. No 74 is located behind the appeal site and the grass verge. It is a detached dwelling, set at a lower level to that of the appeal site and the lane itself. I saw that the property has several large windows that face towards the site of the proposal. These windows appear to serve habitable rooms. The trees to which I refer above are located between the site of the proposal and No 74. These trees are a substantial natural feature on the boundary between the sites and so already have some effect on outlook from the windows of the dwelling, albeit less so in winter.
14. Even so, I have already found that the proposal would have a tall height. Furthermore, it would be sited in front of and relatively close to the windows of No 74. As a result of its height and positioning, the proposal would have a dominating and imposing effect on the outlook from these windows and therefore to the living conditions of occupiers of No 74. The dominating, harmful effects would be significant, and exacerbated by the higher level at which the proposal would sit compared to the dwelling.
15. In light of my findings with regard to the first issue, it is quite possible that the existing tree features would not be maintained following construction of the proposal. While such effects might provide a degree of openness to the outlook of No 74, they would also diminish the beneficial screening effects caused by the trees, further adding to the dominating effects of the proposal.
16. I therefore find that the siting and appearance of the proposed installation would have an unacceptable and significantly harmful effect on the living conditions of the occupiers of No 74, with regard to outlook. I find no particular conflict with the DHNP in this respect.
17. However, to the extent that it is a relevant consideration, the proposal would conflict with WDLP Policy DM35 and its requirement that development prevents significant adverse impacts on the amenities of neighbouring properties. It would also not comply with the requirement of the Framework for a high standard of amenity for existing and future occupiers, and so would also conflict with WDLP Policy DM20.

Alternative Sites

18. Paragraph 117 of the Framework provides that, amongst other things, applications for electronic communications development (including for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposal. 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.

19. I have no reason to doubt that the erection of a new ground-based mast is necessary. The appellant has 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 constrained, and that the designated search area is intended to cover a densely packed residential area.
20. Details of discounted options have been provided by the appellant in the Site-Specific Supplementary Information document and within the appellant's Statement of Case. These sites have been discounted for reasons including in some cases their effect on the amenities of residential properties or because of the close proximity of trees. However, very limited information or detail has been provided to demonstrate the justification for the discounting of these sites, or to show that these effects would be worse than at the appeal site.
21. On this basis, the evidence does not convincingly demonstrate that all the potentially available alternative options have been fully explored. Consequently, on the evidence before me, I find that it has not been proven that less harmful alternative sites are not available.

Other Matters

22. Local residents have raised additional concerns. In terms of highway safety, the proposal would be within the verge. However, the Highway Authority has raised no objection to the proposal, and I see no reason to disagree. Concerns have also been raised about potential effects of the proposal on health. However, the appellant has provided a certificate to confirm that it has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).
23. 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 respect.

Planning Balance and Conclusion

24. Whilst reference has been made to various social and economic benefits, 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). Considering this and the constrained nature of the cell search area, I do not doubt the need for a mast within the designated search area.
25. However, the proposal would cause significant harm to the character and appearance of the area, and to the living conditions of No 74. It has not been proven that less harmful alternative sites are available. Accordingly, the harm would not be outweighed by the need for the installation to be sited as proposed, taking into account my reasoning above. I therefore conclude that the appeal should be dismissed.

O Marigold INSPECTOR