
Appeal Decision

Site visit made on 17 November 2022

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2022

Appeal Ref: APP/A1530/W/21/3288047

London Road, Stanway, Colchester CO3 8RF

- 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 Colchester Borough Council.
 - The application Ref 212638, dated 19 September 2021, was refused by notice dated 3 November 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.

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 Colchester Local Plan 2017-2033 Section 2 (Local Plan Section 2) was adopted in July 2022. The Council has confirmed that Policy DP1 of the Colchester Borough Council Adopted Local Plan Development Policies document, referred to in their decision notice, is now superseded by Policy DM15 of the Local Plan Section 2. I have therefore disregarded the superseded policy. Both parties have had an opportunity to comment on this change.
4. The principle of development is established by the GPDO, which does not require regard be had to the development plan. I have had regard to the policies of the Colchester Borough Council Local Plan 2013-2033 Section 1 (Local Plan Section 1), adopted February 2021, the Local Plan Section 2, and the National Planning Policy Framework 2021 (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including the setting of the Grade II listed building at Cherrytree Farmhouse (LB), 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

6. The appeal site sits in an area of grass verge located adjacent to London Road and the Tollgate roundabout, bounded by the footpath and carriageway. The surrounding area is primarily urban and contemporary in character, including a mix of retail units, a restaurant, a large supermarket and suburban housing. However, buildings are typically low in height. In the immediate vicinity of the site, grass verges and tree planting within the roundabout and on adjacent land soften the built development. There is a large vacant plot of land to the south.
7. The LB is a 17th century two storey timber framed house. It sits on the opposite side of London Road to the appeal site. In views from London Road, the roundabout and the footpath along Essex Yeomanry Way, it is considerably screened by trees and other vegetation. Occasional gaps reveal its presence, however, and in autumn months it can be more clearly observed from the roundabout and intersecting routes through the trees. As an historic building it sits isolated in its contemporary surroundings, however its setting is enhanced by the greenery, and the space and openness provided by the verges of the roundabout. The adjacent restaurant is of a sympathetic scale and design.
8. The proposal would be considerably taller than neighbouring buildings and trees. It would have a somewhat industrial appearance, reinforced by the proposed Armco barrier and associated cabinets. While there are streetlights within the central reservation and verges along London Road, these have a very slim profile, are shorter than the appeal proposal and are a ubiquitous feature of the highway. There is also a wider CCTV monopole on the opposite side of Tollgate Road adjacent to the roundabout. This appears to be closer in height to the appeal proposal albeit is less top heavy. It does not however contribute positively to the character and appearance of the area.
9. The roundabout creates a kink in the otherwise long and straight London Road, which the proposal would step forward into. Given its size it would therefore be very prominent in east-west views directly along London Road, and in the setting of the LB. In views from other directions, it would be partially obscured by trees within the area. However, in many views it would still project above them and in winter months would not benefit from some of this screening. The proposal would therefore appear as an incongruous feature in a prominent position with limited screening. While the colour of the proposal could be altered, this would not overcome the identified harm resulting from the siting, scale and form of the mast. It would therefore detract from the prevailing character and appearance of the area, and the setting of the LB.
10. Paragraph 115 of the Framework indicates that communication mast numbers should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. It encourages the use of existing masts. Paragraph 117 states evidence should be provided demonstrating alternatives have been considered.
11. The appellant advises the cell search area is extremely constrained and the only viable site option has been put forward. However, the outer limits of the cell search area are not clearly defined. The supporting Site Specific Supplementary Information (SSSI) indicates the equipment has to be located

in or very close to the location of the 'nominal' site. However, this is some distance away from the appeal site at the southern end of Tollgate Road. The extent to which the mast would be sited away from this marker, yet remains viable, suggests the equipment could be located within a much wider area.

12. The SSSI sets out a list of discounted options, all of which are considerably closer to the 'nominal' point. Another list of discounted options has been provided with the appeal, which the Council has had an opportunity to comment on. I recognise many of the alternative sites would be close to residential areas and the reasons for discounting these alternatives, based on the limited information provided, would in most cases appear to be reasonable. However, the lack of clarity on the extent of the search area does not lead me to conclude that less harmful alternatives have been thoroughly considered, or that the appeal site is the only viable site option.
13. While considerable weight can be given to the benefits of the appeal proposal, including direct improvements in connectivity, these do not outweigh the identified harm to the character and appearance of the area or the setting of the listed building in this instance.
14. I conclude that the proposal would harm the character and appearance of the area, including the setting of the LB. The proposal would therefore conflict with Policies SP7 of the Local Plan Section 1 and DM15 of the Local Plan Section 2. These policies, amongst other things, seek to ensure new development is of a high standard of design, responds positively to local character and context and protects and enhances assets of historical value.
15. With respect to paragraph 202 of the Framework, less than substantial harm would be caused to the significance of the listed building through harm to its setting. The proposal would support the expansion of electronic communications networks as advocated in the Framework. However, the evidence does not adequately demonstrate that there is a need for the installation to be sited as proposed. Paragraph 199 of the Framework indicates that great weight should be given to the listed building's conservation, as a designated heritage asset. I do not consider the benefits of locating the mast on this site would outweigh the identified harm.

Other Matters

16. The appellant considers that the associated ancillary equipment cabinets would otherwise be classified as permitted development without prior approval. This would not alter my findings on the identified harm caused by the mast.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR