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## Appeal Decision

Site visit made on 13 December 2022

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 January 2023**

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**Appeal Ref: APP/N1540/W/22/3299307**

**Church Langley, Harlow, Essex CM17 9QP**

- 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 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Harlow District Council.
  - The application Ref HW/PRAP/21/00669, dated 23 December 2021, was refused by notice dated 14 February 2022.
  - The development proposed is a 5G telecoms installation: H3G Phase 8 20m high street pole c/w wrap-around cabinet and three further additional equipment cabinets.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a 5G telecoms installation: H3G Phase 8 20m high street pole c/w wrap-around cabinet and three further additional equipment cabinets at Church Langley, Harlow, Essex CM17 9QP in accordance with the terms of application Ref: 6/2021/2527/PN15, dated 23 December 2021, and the plans submitted with it.

### Procedural Matters

2. The application was submitted pursuant to Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The principle of development is established by the GPDO. The development is, however, subject to the developer firstly applying to the local planning authority as to whether prior approval will be required for the siting and appearance of the development. Therefore, I have limited my considerations to matters pertaining to the siting and appearance of the development.
3. 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 material considerations relevant to matters of siting and appearance.
4. Some of the appeal documents make reference to the London Plan. However, given that the appeal site is not located in London, these policies do not apply to the appeal site. I am therefore unable to give this document weight in my assessments.

## **Main Issue**

5. The main issue is the effect of the development upon the character and appearance of the surrounding area.

## **Reasons**

6. The appeal site consists of a grass verge adjacent to the highway. The road is relatively straight and level in nature. The grass verge is wide, with a thin line of trees being located between the verge and the nearest dwellings. The majority of buildings in the vicinity are typically of two storeys in height. The appeal site is located near to an area of public open space. These factors give the appeal site a more open, suburban character.
7. The proposed development would result in an increase in the overall level of built form in the vicinity of the appeal site. Whilst the proposed development would have a relatively small footprint and the monopole would have a limited width, the proposed development would have a significant height.
8. This height would therefore be greater than the surrounding buildings. In consequence, the proposed development would erode the predominantly open character of the vicinity.
9. The adverse effects arising from the development would be readily apparent in the surrounding area. This is due to the relatively level topography of the surrounding area. Therefore, views of the proposed development would be readily perceptible for significant portions of Church Langley Way.
10. In addition, the height of the development would be perceptible from the nearby areas of public open space. For these reasons, the proposed development would be readily experienced by many people. In consequence, the incongruous form of development would be a strident addition to the vicinity. Owing to the pattern of development in the surrounding area, the proposal would also not be screened by other buildings in the wider area.
11. In reaching this view, I have had regard to the presence of trees in the surrounding area. However, the proposed development, at least in part, would be viewable from the nearby dwellings. Furthermore, the trees would not screen views from points in Church Langley Way. In addition, the screening effect of these trees is likely to vary depending on health. Therefore, it cannot be guaranteed that these trees would offer a good level of screening throughout the life of the proposed development.
12. The surrounding area features some street furniture in the form of items including lighting, signage and bus shelters. Whilst these features would serve to reduce the effects of the development as they contribute to the creation of a more urban character, they would not overcome the previously described adverse effects given that the proposed development would be notably taller than these existing installations. Therefore, the proposed development would not be concealed, or camouflaged.
13. In assessing the effects of the proposed development, I have had regard to the design of the proposed monopole in that it has a relatively narrow width and that the views from a notable number of nearby dwellings would typically be made at oblique angles, thereby reducing the prominence of the proposed

developments. Whilst these matters serve to reduce the harm arising from the proposed development, they would not completely mitigate or overcome it.

14. I therefore conclude that the proposed development would have a limited adverse effect on the character and appearance of the surrounding area. The siting and design of the development would therefore conflict with the requirements of the Framework.

### **Other Matters**

15. The appeal documentation contains an International Commission on Non-Ionizing Radiation Protection declaration. Therefore, in line with the requirements of the Framework, I have no reason to believe that the proposed development would lead to an adverse effect upon the health of individuals.
16. By reason of the scale and siting of the development, the evidence before me indicates that the proposal would not have an adverse effect on wildlife, the highway system, or generate excessive amounts of noise.

### **Planning Balance**

17. Although the proposed development would result in some harm to the character and appearance of the surrounding area, it is necessary to balance these adverse effects against any benefits that may exist.
18. It has been highlighted that there is a particular need for proposed telecommunications equipment in the surrounding area in order to address existing shortfalls in network coverage. Therefore, the proposed development would generate benefits to residents and businesses in the form of increased availability and reliability of electronic communications. This approach is supported by the Framework, which at Paragraph 114 states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.
19. In addition, the Framework also states that planning decisions should support the expansion of electronic communications networks. This includes next generation mobile technology.
20. Given the nature of the proposed development, the development would support the delivery of improved telecommunications infrastructure. This is a matter to which I ascribe a significant amount of weight.
21. Furthermore, it has also been demonstrated that there is a limited number of locations in the surrounding area that could accommodate the proposed development in a less harmful manner. Therefore, if the development will not come forward in this location, there is a reasonable likelihood that the aforementioned benefits would not be realised owing to the lack of reasonable alternatives. This would mean that such benefits would be lost.
22. In consequence, the proposed development would be in conformity with Policy IN5 of the Harlow Local Development Plan (2020). Amongst other matters, this seeks to ensure that appropriate evidence has been provided to show that opportunities have been explored to share existing masts or sites with other providers.
23. In reaching this view, I have had regard to the concerns raised by the Council in that plans illustrating the alternative locations have not been provided.

However, in the absence of evidence which indicates that the alternative sites could accommodate the proposed development, I therefore conclude that the appeal site is the only realistic location for the siting of the appeal scheme.

24. I have concluded that the proposed development would generate a limited level of harm to the character and appearance of the surrounding area arising from its siting and design. However, I conclude that this limited harm would be outweighed by the economic and social benefits that would stem from the proposed upgrade. These would not be realised if the development were not to proceed in this location.

### **Conditions**

25. The Council has suggested that in the event that I am minded to allow this appeal, I impose a condition covering the timescales for the implementation of the development. However, such timescales are prescribed in the GPDO. Therefore, such a condition would be unnecessary.

### **Conclusion**

26. For the preceding reasons, I conclude that the appeal should succeed, and prior approval be given.

*Benjamin Clarke*

INSPECTOR