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# Appeal Decision

Site visit made on 10 January 2023

**by A J Sutton BA (Hons) DipTP MRTPI**

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

**Decision date: 24 January 2023**

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**Appeal Ref: APP/P0240/W/22/3304548**

**Chapel End Road, Houghton Conquest, Central Bedfordshire MK45 3LN**

- 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 Central Bedfordshire Council.
  - The application Ref CB/22/01665/TD, dated 15 April 2022, was refused by notice dated 15 June 2022.
  - The development proposed is 'Proposed telecommunications installation: Proposed 15.0m Phase 9 super slimline Monopole 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 Council has referenced development plan policies in its decision notice. 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 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 siting and appearance.

## Main Issues

4. The main issues are:
  - the impact of the siting and appearance of the proposed installation on the character and appearance of the area, including the setting of a nearby listed building; 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 appeal site is on a grass verge adjacent to a public open space. Street furniture on the verge is limited to occasional well-spaced streetlamps, road signs and waste bins. The verge has trees that are spaced intermittently along the boundary of the open space. There are also low railings at this boundary which contain a play park and recreational ground which comprises the public space. This public open space combined with the verge and street trees strongly contribute to the green and spacious character that defines this prominent location.
6. The gaps between the trees on the verge allow views from the public open space of the farmstead on the opposite side of Chapel End Road. This farmstead includes Village Farmhouse, a Grade II listed building, which is a late 18<sup>th</sup>/early 19<sup>th</sup> Century brick-built dwelling, thought to encase an earlier structure.
7. Buildings on Chapel End Road partially screen the designated heritage asset. Some of these appear to be converted farm buildings with other neighbouring dwellings seeming of a similar historic period to the Village Farmhouse. Moreover, these converted buildings are significantly lower than the listed building, and there is a gap at the access to these buildings to the corner of Chapel End Road. These factors allow the historic significance and architectural interest of the asset to be appreciated from near the appeal site, the public open space and from the surrounding footways. In turn the green and open features in this part of the street, which include the appeal site, contribute positively to the setting of this listed building.
8. I note the slimline nature of the pole which include the base and antennae. However, the proposed pole would be substantially taller than the surrounding streetlamps and built form in the area. It would also be substantially taller than the trees that line this verge. Towering above these, it would contrast starkly with these verdant features that currently dominate the street scene.
9. Sections of the pole would be screened in longer views along Chapel End Road, by the trees. However, given the significant height difference, a sizeable section of the pole would still be visible above the trees. Moreover, in its immediate vicinity, the pole would be largely unscreened, and located in a gap between the trees, the incongruous structure would disrupt views of the setting of the listed building when looking from the public open space.
10. The pole would also stand alongside three cabinets. This ancillary equipment may be allowed under permitted development rights. However, these structures form part of the scheme before me, and it is unlikely that they would be constructed without the pole. It is therefore reasonable to consider the visual impact of the scheme as a whole.
11. The three cabinets would be sizeable and would be significantly higher than the railings bounding the open space. Set next to the pole, the equipment would significantly fill the existing gap between the trees. This would introduce a form of development with a distinct commercial quality, that would not harmonise with the domestic scale of the existing street furniture in the area. Nor would it blend with the verdant, semi-rural character that positively defines this part of

the settlement. In turn, these largely unscreened discordant additions would harmfully encroach into views of the listed building, and this would significantly alter how this designated asset is experienced and appreciated.

12. The pole and cabinets would be painted green, but this would not minimise their size or their incongruous appearance. The appellant suggests conditions in respect to this matter. Even if I concluded that this would address the harm identified, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it.
13. The Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. For the reasons outlined above, the harmful visual impact of the proposal would harm the setting of the listed building. This impact would be localised, and the harm caused to the setting of the designated heritage asset is less than substantial. However, in accordance with the Framework this harm needs to be weighed against the public benefits of the proposal.
14. The Framework states that advanced, high quality and reliable communication is essential for economic growth and social well-being. The proposal could also facilitate innovations to assist peoples work and leisure, improve the provision of public services, and communications for local business and to emergency services. I am mindful of the Government's Future Telecoms Infrastructure Review, its letter to chief planning officers, and the importance of delivering the next generation of electronic communication network in boosting the UK's productivity, as well as levelling up digital connectivity. The proposal would in small part help address these objectives and the national and local need for this infrastructure, and this would be a positive factor that weighs in favour of the proposal.
15. The appellant states that the equipment would be capable of being shared with other providers. Although conflicting evidence has been presented on this matter, if this was the case this would be of public benefit in respect to minimising the number of structures required.
16. The proposal would not impact on the Chiltern's Area of Outstanding Natural Beauty, identified important landscapes or a site of specific scientific interest. Although the proposal would not harm those sensitive areas and I have not been presented with comments from Landscape specialists in this case, harm has been identified in respect to the proposal's visual impact in this sensitive area subject of this appeal. Also, although the proposed design of the pole has evolved following the refusal of two previous proposals at the site, even with the design changes I have found that the proposal would harm the setting of a designated heritage asset. These matters do not weigh in favour of the proposal for this reason.
17. The appellant also contends that the proposal would be of benefit to the occupants of the heritage asset. I have already acknowledged that improved wireless connectivity would benefit the local community and this would include occupants of this property. However, the evidence does not demonstrate that the proposal would conserve and enhance this asset.

18. The public benefits outlined above would be limited. As such, given the great weight to be attached to the conservation of the setting of the listed building, the benefits would not outweigh the less than substantial harm to its significance. Therefore, the harm to the designated heritage asset would not have a clear and convincing justification in this case, as required by paragraph 200 of the Framework.
19. Accordingly, I find that the siting and appearance of the proposed installation would harm the character and appearance of the area, including the setting of a nearby listed building. In regard to this matter, the proposal would conflict with Policies HQ1, HE3 and HQ5 of the Central Bedfordshire Local Plan. Together, these policies seek developments of the highest possible quality, and to preserve the setting and historic significance of heritage assets. The proposal would also, be inconsistent with the Framework in respect to seeking well-designed places and protecting the historic environment.

### *Alternatives*

20. Although limited evidence is presented, I have no doubt that consideration was given to using existing equipment or site sharing. I also appreciate that new structures are required given the constraints associated with this new technology. Moreover, I see nothing that would lead me to question whether the proposed height of the pole is necessary. However, I find little information exploring the possibility of siting antennae on existing buildings or other structures. This approach could help camouflage and diminish its towering presence in this semi-rural, residential area. Based on the evidence before me, it has not been possible to rule out this option.
21. The small search area comprises mostly residential properties, with narrow pavements in some areas, and surrounded by countryside. Therefore, this search area is particularly constrained. I also note that the evidence submitted in this appeal does not indicate alternative sites identified by the Council or other parties.
22. That said, out of the eleven alternative sites considered by the appellant, five were discounted due to proximity to residential properties and/or exposure. The appeal site is close to an open space, and visually exposed in this respect. It is also surrounded by dwellings, some of which are single storey. While proximity to residential properties is likely to be a constraint for most sites in this search area, the discounted options plan shows that D1, D2, D7, D9 and D10, unlike the appeal site, are not adjacent to a public open space and play areas. Nor does the limited information before me clarify whether these discounted sites are close to heritage assets which is the case in this appeal.
23. As this reasoning is not expanded on in the submitted evidence, I am unable to consider how the issues identified in respect to the alternative sites D1, D2, D7, D9 and D10, would weigh against the harmful issue identified at the appeal site. As such, the evidence before me does not demonstrate that locating the installation at the alternative sites would be more harmful in respect to siting and appearance, than the harm that would arise at the appeal site.
24. For these reasons, I have insufficient information to conclude that the appeal site would be the least harmful location in the search area and would be the only viable option. I am unable to conclude that the appeal site would be the least harmful option for this visually harmful development, and that there are

no more suitable alternatives reasonably available in this constrained search area.

### **Other Matters**

25. The Council has not raised concerns about landscape effects. The proposal would not unacceptably impede pedestrians. Nor has the Council cited in its reasons for refusal harm in respect of highways safety or residents' living conditions. The proposal would also not interfere with new buildings or other structures. Although all this should be expected with new development, these are matters of siting and appearance and therefore within the provisions of the GPDO. However, the minimal evidence submitted in respect of the alternative sites does not allow me to consider the extent to which these matters weigh in favour of this proposal at the appeal site.
26. The appellant has drawn my attention to the South Bedfordshire Local Plan which is not relevant in this case. My attention is also drawn to the findings of the Inspector in the Dunkinfield appeal<sup>1</sup>. Consistent with that decision, I have identified social and economic benefits in this appeal and this matter is not in dispute in this case. My findings have not been altered by these issues for these reasons.

### **Conclusion**

27. The proposal would contribute to the new 5G network. Weighed against this I find that the proposal would result in harm to the character and appearance of this area and the setting of a designated heritage asset. Moreover, the lack of clear evidence demonstrating that there are no other suitable alternatives available is an important factor in this case. I therefore conclude that the limited public benefits identified above would not outweigh the harm identified in this case and, in terms of siting and appearance, the appeal site is not acceptable. Therefore, the appeal is dismissed.

*A J Sutton*

INSPECTOR

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<sup>1</sup> Appeal Ref: APP/G4240/W/20/3263529