



Appeal Decision

Site visit made on 17 January 2023

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/W1525/W/22/3302901

Princes Road, Widford, Chelmsford CM2 9DF

- 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) Ltd against the decision of Chelmsford City Council.
 - The application Ref 22/00610/TEL56, dated 22 March 2022, was refused by notice dated 10 June 2022.
 - The development proposed is a 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 2015), 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 appellant has indicated that prior approval is sought for the proposed mast only and that any associated ancillary equipment cabinets could be implemented under permitted development rights, without the need for prior approval. No evidence has been provided to demonstrate this. Nevertheless, cabinets are shown on the submitted plans and the appellant's statement makes numerous references to the installation of cabinets as part of the proposed development. Therefore, it is evident that the proposal includes the installation of associated ancillary equipment cabinets as well as the mast and I have considered the appeal on this basis.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on safe pedestrian movement 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

5. The appeal site forms part of a pedestrian footway between Princes Road and a landscaped verge. It is located in close proximity to the entrance to a supermarket and is separated from the road by a metal barrier. The adjacent road is a relatively busy throughfare and I saw during my site visit that the footway was well used by pedestrians to gain access to the supermarket from nearby residential properties and schools.
6. The proposed mast and associated cabinets would be located on this footway in a single line adjacent to the verge. Although abutting the verge, the proposed installation, as a whole, would take up a considerable amount of the pavement which would reduce its overall width and the space accessible to pedestrians. The resultant passageway would be narrow and would restrict the free flow of pedestrians, particularly in this busy location. Although this would affect all users of the footway, the reduction in space would be particularly detrimental to those with limited mobility who require the use of a wheelchair or those with pushchairs, who may be unable to negotiate the footway safely during busy periods due to the volume of people and lack of necessary space.
7. The existing metal rail would prevent pedestrians from dangerously stepping out onto this busy stretch of road. However, it also further restricts the amount of space available to pedestrians. Therefore, as the resultant footway would be impeded by both the proposed mast and the associated cabinets, it would significantly harm safe pedestrian movement to the detriment of highway safety.
8. Paragraph 117 of the National Planning Policy Framework (the Framework) states that applications for electronic communications development (including applications for prior approval under the GPDO 2015) should be supported by the necessary evidence to justify the proposed development. The appellant has identified a requirement to provide 5G network coverage in the area and has stated that the erection of a new ground-based mast in the street environment would be the only viable route to ensure the delivery of the necessary service, as opposed to site sharing or use of an existing building or tall structure. However, although the Council do not contest this matter, no explicit evidence has been provided by the appellant to demonstrate this as required by paragraph 117(c) of the Framework.
9. As well as the appeal site, several alternative sites have been considered to accommodate the proposed development. These were discounted for various reasons, including the proximity to tall buildings, insufficient space, visibility issues and the presence of underground services. The Council do not contest this and I can see that there is evidence for discounting these alternative sites. Therefore, although limited evidence has been provided in relation to site sharing or the use of an existing building or tall structure, I accept that it is unlikely that a more suitable site is available to fulfil the identified operational needs of the appellant, which are supported by Chapter 10 of the Framework. The need for improving the telecommunication network /mobile broadband services in the area is therefore given moderate weight in my overall decision.
10. However, on balance, I do not find that the advantages of allowing the appeal scheme would outweigh the significant harm to safe pedestrian movement and highway safety arising from the siting of the development.

Other Matters

11. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.
12. Both parties agree that the proposed development would not result in harm to the character and appearance of the area and would be sufficiently distanced from any nearby residential properties. However, these are neutral factors in my consideration of the appeal which would not weigh in favour of the proposal.
13. The appellant has indicated that pre-application advice was sought from the Council and third parties, however no response was received. The Council have stated that a request for pre-application advice was submitted after the application for prior approval. Nevertheless, this would not alter my overall findings.

Conclusion

14. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR