



Appeal Decision

Site visit made on 21 December 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/C1950/W/21/3288698

Howlands, The Ryde, Hatfield Hyde, Welwyn Garden City AL7 4EJ

Grid Ref Easting: 523955 Grid Ref Northing: 211214

- 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 Welwyn Hatfield Borough Council.
 - The application Ref 6/2021/2764/PN15, dated 19 September 2021, was refused by notice dated 4 November 2021. The development is proposed 18.0m Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the planning application form submitted with the appeal appears to suggest the proposed mast would be 16m, the plans and supporting documents considered by the Council relate to an 18m mast. Revised drawings submitted with the appeal relating to a 16m mast would fundamentally change the proposal, and would be a different scheme to the one considered by the Council and interested parties. I have therefore considered the appeal on the basis of the original plans for an 18m mast and associated development as submitted with the application.
3. Although the site address on the application form included reference to Boundary Lane, that reference was omitted on the appeal form and was not used by the Council in its decision notice. As the development is located on Howlands, not Boundary Lane, I have also proceeded on that basis.
4. Because this is an application for prior approval, the provisions of the 2015 Order 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 the appeal has been made on this basis.

Planning Policy

5. Part 16 of the Order establishes that the proposal is permitted development and is therefore accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for development requiring planning permission.

6. Nevertheless, Policies D1, D2 and R21 of the Welwyn Hatfield District Plan 2005 are material considerations as they relate to issues of siting and appearance. In particular, they require a high standard of design which respects the character and context of the area, which is not visually intrusive, does not harm the appearance of the street scene, nor appear visually intrusive. For new free-standing masts, the applicant must be able to demonstrate that there are technical reasons which prevent the installation of the apparatus on existing masts, buildings or other structures, and they must have sufficient spare capacity to allow mast sharing, subject to any technical or environmental constraints. The National Planning Policy Framework (the Framework) is also a material consideration, including the sections on supporting high quality communications and achieving well-designed places.

Main Issues

7. The main issues are: (i) the effect of the siting and appearance of the proposed installation on highway safety; (ii) the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and (iii) 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

Highway safety

8. The appeal site is part of the grass verge on Howlands, opposite its junction with Merrifield Court. The installation would stand on the grass verge adjacent to the exiting carriageway of the roundabout, within the zigzags of a 'Toucan' (traffic light controlled) pedestrian crossing.
9. The Highway Authority consider the proposal would have a potentially severe risk to highway safety. Four cabinets are proposed in line, each of which would exceed the height of the railings associated with the crossing. Although the cabinets would not be high enough to obscure the traffic lights, the proposed monopole would be substantially broader than other street furniture, and would obscure the lights, even if only momentarily, for drivers leaving the roundabout and approaching the crossing. In addition, the curvature of the road, as it leaves the roundabout, means the line of cabinets would reduce driver visibility of pedestrians and cyclists preparing to use the crossing.
10. The appellant advises that the cabinets could be erected in any case as permitted development, without the need for prior approval. However, even if that is the case, the cabinets are required as part of the proposed development of a telecommunications mast, as described in the description of development. I have not seen any evidence that they would be required in any case, even without the proposed mast, and have therefore considered the development as a whole.
11. In conclusion, the siting and appearance of the proposed installation would therefore have a harmful effect on highway safety, and the harm should be weighed against the need for the installation to be sited in this location.

Character and appearance

12. The installation would be sited on a narrow grass verge. Two and three storey houses and flats are located south and east on Howlands. Immediately adjacent to the north, the land falls to form a cutting providing pedestrian and cycle path access to an underpass below the roundabout. Beyond the cutting is an area of open amenity land, and behind it a belt of trees enclosing a larger open area containing a playground. The Council considers the grass verges and open areas are a key characteristic of the garden city, which play a role in softening the built environment.
13. The cutting would increase the effect of the height and scale of the proposals on pedestrians and cyclists, and its appearance in the locality. Although street lighting is present it has a limited effect on the character and appearance, with green coloured 4.5m high lighting poles in the cutting and slim 8m lighting poles adjacent to the road. In contrast, the monopole mast would be more than double that height close to the highway, and would be prominent on this corner of open land near the roundabout junction. The mast would be substantially broader than the street lighting and traffic signs in the area, and the mast and cabinets would appear particularly large from the lower ground in the cutting. From Howlands it would be seen as the tallest feature on the skyline, against a backdrop of relatively low-rise buildings and trees. The trees to the north are located too far back to soften its effects from most perspectives.
14. In conclusion, the siting and appearance of the proposal would therefore harm the character and appearance of the area, and this harm should be weighed against the need for the installation to be sited in this location.

Need and alternatives

15. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communications infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places.
16. The proposal would improve mobile digital coverage and provide 5G for the wider area. The appellant advises that the height of the proposed mast is the minimum required to do so, and that the mast width is required to support a shared structure. The proposed location is designed to site the installation away from residential properties, and the appellant considers it to be the most suitable site in this largely residential area, albeit there are significant areas of green space.
17. With regard to alternative locations/solutions, the appellant has considered eight other potential locations, all of which it has discounted. However, the reasons for discounting them are very brief, and in some cases unconvincing. The nominal site location is discounted due to proximity to residential properties, but the proposed installation would appear to be closer. Obstructing tree canopies are frequently claimed, but without further explanation with reference to height or proximity. The trees behind the proposed location did not appear to be particularly lower in height than others in the locality. Power

lines are also mentioned by the appellant in their appeal statement, but not in relation to any particular site, despite their proximity to options D7 and D8. I have also not seen any explanation of why the eight locations were considered in preference to others, or whether slight adjustments to their siting, or other locations within the search area would be more suitable.

18. I therefore consider it has not been demonstrated that this specific site is the only location for installation within the area in question, and that the harm found would not be equivalent or less on a site elsewhere.

Other Matters

19. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). 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.
20. 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.

Conclusion

21. The siting and appearance of the proposed installation would harm the character and appearance of the area and highway safety, and with the information before me this harm would not be outweighed by the need for the installation to be sited as proposed.
22. Furthermore, despite the support for high quality communications in the Framework, this is not at the expense of other Framework requirements such as achieving well designed places.
23. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Peter White

INSPECTOR