



Appeal Decision

Site visit made on 14 February 2023

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 22 February 2023

Appeal Ref: APP/N1920/W/22/3307149

Land at Baker Street, Potters Bar, Herts

- 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.
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Hertsmere Borough Council.
 - The application Ref 22/1192/PD560 was dated 2 July 2022. The Council's refusal notice is undated.
 - The development proposed is a 16.0m phase 8 monopole, with a wraparound cabinet at base, and associated ancillary works..
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Decision

1. The appeal is allowed and approval is granted, under the provisions of Article 3(1) and Schedule 2, Part 16, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015, for the siting and appearance of a 16.0m phase 8 monopole with a wraparound cabinet at base and associated ancillary works, on land at Baker Street, Potters Bar, Herts, in accordance with the application Ref 22/1192/PD560, dated 2 July 2022, and the plans submitted with it.

Clarification

2. The site of the proposed development is within the highway verge, on the west side of Baker Street, immediately to the south of its junction with SanTERS Lane.

Main issue

3. Under the provisions of Article 3(1) and Schedule 2, Part 16, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the GPDO'), the proposed development constitutes 'permitted development', subject to a requirement for prior approval of matters relating to siting and appearance only.
4. Having regard to the above, and the Council's reason for refusal, the main issue in the appeal is the effect of the proposed development's siting and appearance on the character and appearance of the area.

Reasons for decision

5. On my visit, I saw that the appeal site lies on the edge of Potters Bar's built up area. Although the site lies just outside the settlement boundary, as defined for planning policy purposes, the area nevertheless has many of the

characteristics of an urban area. These include kerbs, yellow lines and other road markings, plus lighting columns, telegraph poles, overhead wires and signage. To the north of SanTERS Lane, there is continuous housing and other built development, including the Pope Paul Primary School. To the south of the junction, residential development continues for some distance, albeit sporadic, including a group of new and converted buildings at Rydal Mount, set within wooded grounds. Opposite the appeal site, to the east of Baker Street, there is open farmland. Overall, the area's character is a mixture of urban and semi-rural. Having regard to these characteristics, there seems no apparent reason in principle why a telecommunications mast and cabinets would appear out of place, or should not be capable of being accommodated, in this type of environment.

6. In the development now proposed, the new mast would be slim in profile, and the top-mounted, 5G antennae would be close-fitting and neat. The overall appearance of the mast and antennae would thus be streamlined and unobtrusive. The four proposed equipment cabinets would all be relatively small and simple in their design, amounting to little more than a series of plain rectangular boxes, arranged close together in a single straight line. None of these aspects of the proposed design and layout have been objected to; indeed, to my mind they are unobjectionable.
7. Whilst the height of the mast, at 16m, would be taller than the nearby lighting columns and other street furniture, it would nevertheless be similar to the trees on the boundary between the appeal site and Rydal Mount. These existing trees form a substantial green backdrop to the site when seen from the north, and they provide a significant amount of screening against views from the south and west. As a result, any visual impact arising from the proposed development would be considerably softened. Although the trees are not currently protected, there seems no reason to doubt that they are likely to remain in place for the foreseeable future; and in any event, the Council has powers that would enable them to be protected in the future, if necessary. In the context of the existing trees, I am satisfied that the proposed mast, despite its height, would not appear unduly dominant.
8. The application specifies that the material for the proposed development would be steel, finished in grey. Whilst the Council's statement indicates some uncertainty about the appropriateness of the chosen colour, this is seemingly contradicted by their suggested condition, which seeks to prevent any variation from the type and colour of the materials proposed in the application; the stated reason being to ensure that the development would enhance the area's character and visual amenities. In the light of this apparent ambiguity, I see no compelling objection to either the colour or the material proposed. Nor do I see any particular need for the Council's suggested condition.
9. I note the Council's suggestion that, on a cumulative basis, the proposed development would contribute to the creation of visual clutter. It is true that on the same area of highway verge there is already one small telecommunications cabinet, together with a lighting column, a telegraph pole, a road name sign, a directional sign to the Dame Alice Owen Secondary School, and an advance warning sign for the traffic signals further north. But this merely reinforces my view that the appeal site is one where street furniture is a common feature of the local environment. Alongside these, the mast and cabinets now proposed would in my view have only a limited additional impact

in terms of overall street clutter. In this case, such a limited effect does not justify refusal.

10. I conclude that, in terms of its siting and appearance, the proposed development would have no significant adverse effects on the character and appearance of the area. In this regard, I find no conflict with Policy SADM30¹ which requires developments to complement the character of the area, or Policy CS22² which seeks to secure a high quality and accessible environment.

Other matters

11. The appeal site is within an area defined as green belt. In the present case however, in the proposed development already has planning permission, by virtue of the GPDO, and the application is only for the prior approval of the specified matters. With regard to green belt policy therefore, the issue of 'inappropriateness' does not arise. For the reasons set out above, I have found that the development's impact on the character and appearance of the area would be insignificant, and this includes any such impact on the green belt. In addition, given the nature of the development itself, and the site's relationship to the urban area, the effect on the green belt's openness would be so minor as to be immaterial. In the absence of any harm to the green belt, there is no need for very special circumstances to be demonstrated.
12. Some properties in Baker Street and adjoining streets are included in The Royds Conservation Area (CA). The mast now proposed would potentially be visible, albeit distantly, from some points within the CA. The development could therefore be considered to fall within the CA's setting. However, from my observations, the significance of the CA in this case appears to lie in its role as an example of inter-war speculative estate development. To my mind, that significance is derived primarily from the design and layout of the houses, and not from any outward or inward views, either to or from the vicinity of the appeal site. In any event, given the distance, and the urban nature of the intervening townscape, the effect on any such views would be negligible. The setting of the CA would thus be unharmed, and the CA's significance as a heritage asset would be unaffected. The character and appearance of the CA itself would also be preserved.
13. A number of local residents have raised concerns regarding the possible effects on the health of those living, working or studying nearby, and I have given careful consideration to the contents of all these representations, including the petition presented at the application stage. However, the applicable safe limits for public exposure to electromagnetic fields, within the relevant radio frequencies, are defined in the Guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The National Planning Policy Framework (NPPF) advises that relevant applications should be supported by a statement that self-certifies that the ICNIRP Guidelines will be met, and that authorities should not seek to impose health safeguards different from these. In the present case, the appeal proposal is accompanied by a certificate of compliance with the Guidelines. Although the certificate does not bear a signature, it seems to me that its content is clear, and that for the purposes of my decision the document is sufficient. I accept that there may not be universal agreement as to what levels of exposure are to be regarded as

¹ The Hertsmere Site Allocations and Development Management Policies Plan, adopted November 2016

² The Hertsmere Core Strategy, adopted January 2013

safe, but having regard to the evidence before me, I find no exceptional circumstances to justify a departure from the approach advocated in national policy. I have taken account of the other points made, including the proximity of schools, the need for consultation, the possibility of frail, elderly, hyper-sensitive, or other vulnerable people living in the area. However, none of these matters alters my view that the risk of an adverse impact on health appears remote, and consequently a refusal to approve the siting of the development on this ground is not warranted.

14. There is no clear evidence of any significant wildlife at the appeal site. And in any event, any loss of habitat would involve at most the loss of only a small area. The positioning of the mast and cabinets towards the rear of the verge, as proposed, would avoid any significant interference with highway visibility. I see no basis for the suggestion that the present proposal would be likely to result in one particular operator gaining a local monopoly in terms of 5G coverage, as any future applications by others would still be able to be considered on their own merits. Nor is there any evidence that emergency service providers would suffer reduced access to the network.
15. The appellants have provided details of the alternative sites that were considered, and the reasons for rejecting those and preferring the appeal site. Although the details provided are brief, they are adequate. In the absence of any significant harm arising from the present proposal, I am satisfied that the site selection process was reasonable and proportionate. The choice of site also paid proper regard for the principles of the sequential approach outlined in the NPPF, whilst recognising the particular technical requirements and constraints associated with 5G services. I can see no reasonable ground for objection arising from these matters.
16. The NPPF makes clear that advanced, high-quality and reliable electronic communications infrastructure is seen as essential for economic growth and social well-being; and that planning decisions should therefore seek to support the expansion of existing networks, specifically including new technology such as 5G services. This general support in national policy carries significant weight. In the present case, the appellants have also provided clear evidence of the particular needs of the local area that the appeal proposal is intended to serve. This local need, and the potential benefits to existing residents, businesses and schools, amongst other users, adds further weight in favour of the proposal.

Conclusion

17. For the reasons set out above, I have found no significant or material harm arising from either the siting or the appearance of the proposed development, and thus no conflict in this respect with any relevant development plan policies. Whereas, on the other hand, the evidence clearly demonstrates a local need for the development, and general policy support at national level.
18. I conclude that prior approval for the proposed siting and appearance should be granted. The appeal therefore succeeds.

J Felgate

INSPECTOR