



---

# Appeal Decision

Site visit made on 21 March 2023

**by David Jones BSc (Hons) MPlan MRTPI**

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

**Decision date: 16 May 2023**

---

**Appeal Ref: APP/Q4625/W/22/3307817**

**Charterhouse Drive Streetworks, Charterhouse Drive, Solihull, B91 3FH**

- 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 Solihull Metropolitan Borough Council.
  - The application Ref PL/2022/01383/PN, dated 28 June 2022, was refused by notice dated 9 September 2022.
  - The development proposed is a 5G telecoms installation: H3G street pole and additional equipment cabinets.
- 

## Decision

1. The appeal is dismissed.

## Procedural 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 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 to be had to the development plan. I have however 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.
4. The appellant considers that the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site without prior approval. However, it is reasonable to assume that these would only be constructed as part of the proposed works as they are intrinsically connected to the functioning of the proposed mast. They would not be built if the mast were not built, and equally the mast would not be built without the ground level works. I have therefore considered the cumulative effects of the proposed mast and ground level works.

## **Main Issue**

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and, if any harm is identified, whether it would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

## **Reasons**

6. The appeal site forms part of a grass verge located close to the junction of Charterhouse Drive and Monkspath Hall Road. The site is located within a predominately residential area which is characterised by two-storey detached dwellings. Immediately to the north-east of the site is a wooded area consisting of several mature trees. Further trees are also sited along Monkspath Road which contribute to the softening of the built environment and give the area a verdant character.
7. Apart from the streetlights which are periodically spaced along the highway there are few other vertical features nearby. These streetlights however are slimline in design and stand at around 8.5 metres in height. The proposed monopole would therefore be significantly taller, bulkier, and more prominent than these existing features. Particularly when combined with the associated equipment cabinets, the proposed development would appear a visually dominant structure at odds with the prevailing size and scale of the existing street furniture.
8. The position of the proposed monopole and cabinets in close proximity to the highway on a prominent corner position would further exacerbate the visual clutter and dominance of the proposal. Particularly when approaching from the south along Monkspath Hall Road, the proposed monopole and associated cabinets would be unduly visible and appear as incongruous features within the street scene.
9. The group of mature trees located to the north-east of the appeal site provide an element of screening of the proposed development, particularly when travelling from the north along Monkspath Hall Road. However, their effect would be limited due to the overall height of the monopole which would project above the top of the trees. Furthermore, despite providing a backdrop to the proposed mast, the trees would provide no screening of the development in views from the south. As a result, the proposed development would fail to integrate with the prevailing residential character of the area and would appear as an incongruous addition within the street scene.
10. It is acknowledged that the proposed monopole and cabinets have been designed to be installed alongside public roads, and that their slimline design and external colour have been chosen to assist with their assimilation into the street scene. It is also recognised that the proposed height of the monopole is the lowest possible to achieve the improved service in the locality. Notwithstanding these mitigating factors, the pole would still be a prominent and incongruous feature, and its siting and appearance would be harmful to the character and appearance of the streetscene and surrounding area.
11. Accordingly, having regard to its siting and appearance, the proposed development would cause harm to the character and appearance of the area. In so far as they are a material consideration, the proposal would be contrary

to Policies P14 and P15 of the Solihull Local Plan: Shaping a Sustainable Future (adopted December 2013). These policies, amongst other matters, seek to ensure that proposals achieve good quality design and protect local character, whilst also requiring proposals for telecommunications developments to have regard to the effect on their surroundings.

### *Alternative Sites*

12. Paragraph 117 of the Framework explains that applications for telecommunications development, including prior approval, should be supported with the necessary evidence to justify the proposed development. This should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure. The appellant has considered and discounted six other sites, which are listed and described.
13. The appellant has discounted three of these sites because they are located in a residential area, however the appeal site itself is close to and directly opposite residential properties. No information has been provided to specifically detail the proximity of the discounted sites to residential properties and why they would result in equivalent or greater harm than developing the appeal site.
14. I acknowledge that the 5G cell search area is very constrained and is predominately a residential area. However, the evidence provided for dismissing the discounted sites is vague, lacks justification and is not readily interrogatable. Given the prominent location of the proposed site, it has not been sufficiently demonstrated that the discounted sites would be more harmful.
15. Therefore, even accounting for the constrained search area and the importance that the Framework places on the need for high quality mobile communications, the need for installation in the particular location proposed has therefore not been sufficiently demonstrated to outweigh the harm to the character and appearance of the area.

### **Other Matters**

16. I note that the application was recommended for approval by Council Officers but was refused by committee. I have also had regard to the report that went to that meeting. This is a legitimate procedure and committee members are not obliged to take the advice of their officers. The fact that the case was determined by members, contrary to the recommendation of officers, does not alter my conclusion on the main issue.
17. I recognise the Government's support for expansion of electronic communications networks. However, such equipment should also be sympathetically designed. 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.
18. In order to meet health safeguards, 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.

**Conclusion**

19. For the reasons given above, I conclude that the appeal should be dismissed.

*David Jones*

INSPECTOR