



Appeal Decision

Site visit made on 5 April 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/J0405/W/22/3305395

**Area of Footpath at Bicester Road, Haydon Hill, Aylesbury,
Buckinghamshire HP19 9BF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Buckinghamshire Council.
 - The application Ref 22/01564/ATN, dated 28 April 2022, was refused by notice dated 24 June 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 16m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. No details were provided in the site address section of the application form. However, an address was included in the description of site location. This address matches the appeal site address provided on the appeal form. I have therefore used this address in the banner heading above.
3. It is noted in the officer's report that Transport for Buckinghamshire are currently changing the Jackson Road/Dickens Way Roundabout, where the appeal proposal would be located, to a traffic signal junction. I saw on site that these works have been completed. They include alterations to the arrangement of the footway and verge where the proposal would be located, the repositioning of lighting columns and the introduction of traffic signals. However, the wider context remains the same. I have therefore determined the appeal based on the existing highway arrangement rather than that shown on the submitted plans using my observations on site. Given that copies of the construction drawings were available during the application process, it would not prejudice any of the parties for me to determine the appeal on this basis.
4. In its statement of case, the Council refer to the Local Plan policies and NPPF being relevant to the appeal. However, the appeal before me relates to an application for prior approval under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The principle of development is, therefore, established and I have had regard to the policies of the Vale of Aylesbury Local Plan (2021) (Local Plan) and the National Planning Policy Framework 2021 (the Framework), only where they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. There is no dispute between the parties that the proposed development would be permitted under Schedule 2, Part 16, Class A of the GPDO, provided it would meet the conditions set out at paragraph A.2 and procedural requirements set out at paragraph A.3 of the Order. From the evidence before me, there is nothing to lead me to a different conclusion.
6. Although not explicitly stated in their reasons for refusal, in their statement of case, the Council has set out reservations regarding the adequacy of the assessment of alternative sites. This is in contrast to the officer's report, which concluded that the alternative sites had been discounted for sound reason. Nevertheless, given the appellant and any interested parties have had an opportunity to respond to the Council's concerns, I do not consider that their interests would be prejudiced if I take them into account.
7. The main issues are therefore:
 - the effect of the siting and appearance of the proposal upon the character and appearance of the area; 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

8. The proposal would be located on part of a grass verge at the junction of Bicester Road, Dickens Way, and Jackson Road. The grass verge abuts a relatively short wooden fence demarcating the boundary between the garden of the Cotton Wheel Public House and the public highway.
9. Bicester Road is wide, consisting of five vehicle lanes at either side of the junction. There are frequent traffic and cycle movements along Bicester Road and queues form at each entrance to the junction as a result of the traffic signals. There is also relatively frequent pedestrian movement associated with the local services and facilities at this location.
10. This section of Bicester Road, with the exception of the immediate area surrounding the proposal, is lined with trees, which vary in their height and canopy density. This, together with the significant width of the road, gives the surrounding area a verdant, yet spacious character. The junction includes a number of traffic signals, traffic signs and lighting columns, and as a signalised junction there are more traffic signals than before. These items of street furniture provide an element of verticality to the street scene which is also reflected in the trees.
11. In contrast to the other corners of the junction, which include trees and planting to screen the gardens of adjacent houses from the highway, the corner of the junction where the proposal would be located is open. The Cotton Wheel Public House is set back from the highway with a relatively open frontage comprising a beer garden bounded by a low fence. The building has a low 1-2 storey profile. Given the open nature of this corner, the Cotton Wheel Public House and its immediate surroundings are prominent in the street scene, particularly from the junction and when approaching the junction from Dickens Way.

12. The proposed mast would be significantly taller than the Cotton Wheel Public House, as well as the existing street furniture, particularly the traffic signals, which, although they have increased in number, are very short in comparison.
13. Therefore, despite the verticality created by the existing street furniture, the mast by virtue of its height, would dominate the space and appear as an incongruous feature in the street scene.
14. While there would not be any trees directly adjacent to the proposal, nearby trees would help reduce its visual impact. In longer distance views along Bicester Road, trees would both partly screen the proposed mast as well as provide a backdrop, which would help soften the appearance of it. Nevertheless, in views from Dickens Way and shorter distance views from the junction, there are no trees to help integrate it more successfully with its surroundings, and, given the openness of its immediate context, it would result in a visually intrusive form of development.
15. It has been put to me by the appellant that the proposal would not be dominant or out of scale due to the presence of three and four storey flatted development within the vicinity of the site. However, on my visit I did not see any three and four storey flatted development in the immediate area.
16. The design of the equipment cabinets is typical of control boxes commonly found along public highways and they would be positioned on the inner edge of the grass verge adjacent to the garden fence of the Cotton Wheel Public House. I saw on site that there are other similar control boxes close to the junction. They would therefore not be visually intrusive or appear out of place.
17. Overall, for the reasons above, the siting and appearance of the proposal would result in significant harm to the character and appearance of the area.

Suitable alternatives

18. Policy I6 of the Local Plan and Paragraph 117 of the Framework deal directly with telecommunications masts and infrastructure, they are therefore material in this case. Both require evidence to be submitted to demonstrate that the possibility of erecting antennas on an existing building, mast or other structure has been explored.
19. The evidence before me includes details of the sequential approach that was undertaken to select the appeal site, which, it is stated, included the exploration of mast sharing and erecting antenna on existing buildings and structures. It concludes that no mast or site sharing opportunities, or existing buildings or structures were identified, and this is not disputed by the Council.
20. Nevertheless, although other nearby locations for a new ground-based mast were considered and discounted, the extent and detail of the evidence provided is very brief. It would appear that the proposed location for the mast is quite a distance from the intended cell or target area, and there is no substantive evidence demonstrating why other areas of land within the search area were not considered and discounted. In particular, other locations at the junction of Bicester Road, Dickens Way, and Jackson Road closer to the existing trees, which would provide a greater level of screening to the mast and would help integrate it more successfully with its surroundings.

21. In conclusion, while I recognise that the technical requirements of the mast mean it is not possible to reduce its height, I am not satisfied that the harm that I have identified to the character and appearance of the area is outweighed by the need for the installation to be sited as proposed.

Other Matters

22. The appellant contends that the Council did not afford sufficient weight to the benefits of the proposal in providing enhanced and improved telecommunications infrastructure. However, while I acknowledged the references made to various social and economic benefits, as well as the importance given to telecommunications infrastructure in the Framework, they have not been taken into account in considering matters of siting and appearance. The provisions of the GPDO 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, and I have determined the appeal on the same basis.

Conclusion

23. For the reasons above, the appeal is dismissed.

Hannah Guest

INSPECTOR