



Appeal Decision

Site visit made on 16 May 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/Y0435/W/22/3294969

Manifold Lane, Emerson Valley, Shenley Brook End, Milton Keynes MK5 7HP

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Milton Keynes Council.
 - The application Ref 21/02441/PANOTH, dated 31 July 2021, was refused by notice dated 30 September 2021.
 - The development proposed is 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and prior 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 (as amended) for the siting and appearance of a 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works at Manifold Lane, Emerson Valley, Shenley Brook End, Milton Keynes MK5 7HP in accordance with the terms of the application, Ref 21/02441/PANOTH, dated 31 July 2021, and the plans submitted with it including drawing nos: 002 Site Location Plan; 100 Existing Site Plan; 150 Existing Elevation A; 210 Proposed Site Plan; 260 Proposed Elevation; 303 Proposed Antenna Schedule & Line Configuration; 305 Equipment Schedule & Support Structure Details.

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 a decision maker to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. I have determined the appeal on the same basis.
3. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and 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 Council's decision notice refers to the height of the proposed monopole as 17m. I have determined the appeal on the basis that the height of the monopole would be 15m, as indicated on the submitted application form and annotated on the plan drawing.

Main Issues

5. The main issue in this appeal is the effects of the siting and appearance, having regard to:
 - The character and appearance of the site and surrounding area;
 - Highway safety; 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

Character and appearance

6. The proposed installation would be sited on a wide grassed highway verge adjacent to a housing estate and near a road junction with a roundabout. Except for a lamppost at one end, the grass verge is open and free from development. Opposite the appeal site is a modern church building set behind amenity land and a large surface car park. The amenity land, verges and wide junction contribute a sense of openness with some pleasant greenery. Although the area is not defined by any statutory landscape designation, it has a spacious, suburban character.
7. On the approach from Manifold Lane, the installation would be viewed against a backdrop of dense trees at the centre of the roundabout, and alongside street lampposts and car park floodlights. Whilst the proposed monopole is of minimum height necessary to provide suitable coverage without obstruction, it would significantly exceed the height of surrounding vertical features.
8. Despite the monopole's slimline design which seeks to minimise the mass and scale of the installation, the antennas would add considerable bulk to the topmost section. The presence of vertical features would not, therefore, adequately assimilate the installation into the street scene.
9. The installation would be sited between the carriageway and a shared footpath and cycleway. Due to its openness, the grass verge would provide no screening of the installation within the foreground. The proposed installation would therefore appear highly prominent to users of the footway/cycleway and carriageway.
10. The development would be close to the side wall of a residential property. The monopole design would substantially exceed the height of surrounding dwellings and the nearby church building. Its height would appear out of keeping relative to nearby building heights. The external colour finish of the installation would not significantly alleviate those specific impacts. It still would amount to a visually dominant development. Nevertheless, it is otherwise viewed in the context of other street paraphernalia further afield and in a developed location where monopole installations are generally not perceived as unexpected street features.

11. For these reasons, the siting and appearance of the proposal would result in some modest harm to the character and appearance of the site and surrounding area.
12. I also agree the siting would be out of step with the Milton Keynes Council Telecommunications System Policy 2005 Supplementary Planning Document which advises telecommunications development suitably blend into or be hidden by the existing landscape.

Highway safety

13. The proposed siting of the development would be set back from both the road junction and the junction between two shared use paths. The wide and open nature of the junction area offers good visibility.
14. Whilst the proposed installation would be clearly visible to users of the road and paths, due to the low height of the cabinets, slimline form of the monopole, and siting back from the junction, I do not consider the proposed installation would restrict safe levels of visibility for vehicles, cyclists, or pedestrians.
15. Accordingly, I accept that there would be no harm to highway safety arising from the siting or appearance of the development.

Other considerations

16. Paragraph 115 of the Framework indicates that the number of communications masts and sites should be kept to a minimum consistent with the needs of consumers and the efficient operation of the network, and the use of existing masts, buildings and other structures should be encouraged. The appellant's site selection process followed a sequential approach. No opportunities for site sharing are available within the cell search area, and therefore I agree a new site is necessary to provide the telecommunications service sought by the appellant.
17. In addition to the appeal site, the appellant identified eight alternative sites each of which were considered and discounted. The Council has not expressed a preferred alternative site nor suggested any sites of its own.
18. Site option D1 was discounted due to harm to visibility splays. From my site visit, I found site D1 to be a visually prominent area of amenity land close to the junction of Wallinger Drive and Whaddon Road. I concur that siting the proposed development in this location would obstruct visibility at the junction.
19. Site D3 is a grass verge between the pavement and carriageway at a residential street, close to dwellings. Having observed the site during my site visit I consider that, were the proposal sited at this location, it would be highly visually prominent and would not readily assimilate into the street scene to the detriment of the residential character of the area. The remaining site options were discounted due to technical build constraints or insufficient space to accommodate the proposal.
20. Some respondents suggested the proposed development should be directed to locations along major roads. The appellant indicates that if sited at Chaffron Way, the nearest main road route, the development would not be able to service the target area due to the significant separation distance.

21. I am therefore satisfied that, on the basis of the evidence submitted, there are no preferable suitable sites within the locality for the proposed installation.

Other Matters

22. Despite claims that construction of the development had commenced, I am satisfied that this was not the case at time of my site visit. Whilst some respondents expressed concern they were not directly consulted by the Council, the overall evidence before me does not indicate that due process has not been followed, where comments at appeal have also been invited.
23. In addition, regarding residents' concerns about the health risks of 5G communications, paragraph 118 of the Framework makes clear that health safeguards different from the International Commission guidelines should not be set. Evidence of an International Commission on Non-Ionizing Radiation Protection (ICNIRP) certificate has been provided in support of this application, and therefore public exposure is demonstrated as being within the health expected of telecommunication apparatus operators. Moreover, matters in relation to property values are private interests and do not carry weight in my decision.
24. Some interested party comments expressed concerns regarding the suitability of the site due to ground conditions and the potential of the proposal to generate light pollution and air pollution. However, I have been presented no convincing evidence of such effects counting against the development. Concerns about the effects of the proposal on the church were raised. As I have identified above, the scale of the installation would appear out of keeping with the church building. However, I do not consider the proposal would affect the operation of the church.
25. I note that a school is located a short distance away from the appeal site at Walbank Grove. However, the evidence before me does not suggest the proposed installation would be detrimental to the operation of the school.

Planning Balance and Conclusion

26. The siting and appearance of the proposal would result in some modest harm to the character and appearance of the area. However, the lack of suitable alternative sites and the appellant's technical need case supporting the installation in the location proposed to allow greater coverage outweighs the level of harm to the character and appearance of the area arising in this particular case.
27. For those reasons, I conclude that the appeal should be allowed, and prior approval should be granted.

E Dade

INSPECTOR