



Appeal Decision

Site visit made on 7 June 2023

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 19th June 2023

Appeal Ref: APP/N1540/W/22/3306360

Hamstel Road street works, Harlow, CM20 1RJ

- 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 Harlow District Council.
- The application Ref HW/PNT/22/00231, dated 26 May 2022, was refused by notice dated 12 July 2022.
- The development proposed is 5G telecoms installation: H3G Phase 8 high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.

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 (as amended) for 5G telecoms installation: H3G Phase 8 high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets at Hamstel Road street works, Harlow, CM20 1RJ in accordance with the terms of the application, Ref HW/PNT/22/00231, dated 26 May 2022, and the plans submitted with it, subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 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.

Planning Policy

3. The principle of development is established by the GPDO, and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. Nevertheless, Policies PL1, IN4 and IN5 of the Harlow Local Development Plan (2020) are material considerations, as they relate to issues of siting and appearance. In particular, these policies, together, seek to ensure all development is to a high standard, protects, enhances or improves local distinctiveness, whilst taking account of local character and context, including patterns of development, urban form and landscape character, Green Infrastructure including trees and landscaping, building typology and the

historic environment and responds to the scale, height, and massing of the surrounding area; seek to minimise adverse impacts on the natural and built environment and communities; and ensure that opportunities to share masts or sites with other providers have been explored. The National Planning Policy Framework (the Framework) is also a material consideration, and it includes a section on supporting high quality communications.

Main Issues

4. The main issues in this appeal are the effect of the siting and appearance of the proposed installation on 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

Character and appearance

5. The appeal site (the site) lies within a footway which forms part of the public highway of Hamstel Road, close, but opposite to, its junction with Park Mead. The dwellings around this junction are limited to two storeys in height. The land opposite Park Mead is heavily wooded, with substantial trees. The site therefore lies in an area that is suburban in appearance, with domestic scale buildings and an open, spacious verdant character.
6. There are streetlights of slim design, about 7.5 metres high. There is also a bench and traffic signage. Street furniture is of a modest scale and is not a visually predominant feature in the area. There is extensive on-street parking in the area, limited to within on-street parking bays. The street scene is characterised by the domestic scale buildings, the woodland and on-street parking.
7. The proposed 15 metre monopole and associated cabinets would be located within the footway in front of the woodland and opposite the dwellings. The trees in the immediate vicinity would be a little taller than the monopole. At this point Hamstel Road forms a gentle bend. Its positioning against the backdrop of the trees and this bend would, from vantage points further away along Hamstel Way, provide a degree of screening, particularly when the trees are in leaf. When the trees are bare, the monopole would appear more prominent, but views would still be limited along the road and from the wider area. Views from the windows of dwellings on Park Mead would be oblique, however there would be some views of the monopole from dwellings further away, such as those around Cherry Tree Lane.
8. Whilst there are streetlights in close proximity, they are of a much slimmer design, and would be only roughly half the height of the proposed mast. The structure would be higher than any of the nearby surrounding buildings and would be much bulkier than any of the existing street furniture in the locality.
9. Due to the local topography, built form and woodland the monopole and cabinets would be largely screened from longer views. However, in close proximity, the equipment would be a highly visible, prominent and incongruous feature that would be out of proportion with the surrounding domestic scale of the buildings and recessive street furniture. Its harmful visual impact would be readily perceived by persons passing through the area, by persons resting on the adjacent bench and by some residents.

10. In these views it would be an alien feature in this otherwise suburban location. As the installation would be well screened in longer views, the harm to the character and appearance of the area would be limited to the area closest to the site, but close to, the harm would be significant.
11. In arriving at this conclusion, I have considered the appellant's choice of colours, and I consider that the colour of the mast could be controlled by condition. However, whilst some colours may reduce the prominence of the proposed development to a limited degree, they would not successfully conceal its height, bulk, and incongruous presence in these suburban surroundings.
12. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area. Consequently, I must consider whether this harm is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reason for installation, alternative sites and planning balance

13. As set out at paragraph 114 of the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Paragraph 117 of the Framework confirms that applications for telecommunications development should be supported with the necessary evidence to justify the proposal. This should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. It should also be noted that paragraph 118 of the Framework indicates that the need for electronic communication systems should not be questioned when determining applications.
14. The installation is required to fill a gap in 5G coverage in an area of residential and other uses, including a hospital, surrounding the site, where access to digital services is poor. Paragraph 115 of the Framework advises that the number of telecommunications masts should be kept to a minimum, consistent with the needs of consumers, the efficient operation of the network, and the provision of reasonable capacity for future expansion. It also encourages the use of existing masts, buildings, and other structures. However, it does recognise that new sites may be required for new 5G networks. The evidence indicates that the sequential approach to site selection set out in paragraph 117 of the Framework has been followed, and that there are no opportunities for erecting antennas on existing buildings, masts, or other structures.
15. It is contended that, within a constrained search area, the appeal site presents the only viable solution, bearing in mind technical requirements. The appellant's evidence highlights four alternative sites within the target coverage area that have been considered, but the reasons given for discounting them are brief. The sites referred to as D1 and D3 were rejected due to the limited footway width within which to install the equipment. D3 was also rejected due to the likely proximity of buried services. D2 was rejected as it would interfere with visibility splays at a junction. The reason cited for rejection of D4 was limited footway space in its intended location. Having visited the alternative sites I have no reason to disagree with the appellant's conclusions.

16. The Council has suggested an alternative site for the installation on a grass verge opposite the Hamstel Road/Fourth Avenue junction. However, this lies some considerable distance outside of the search area and it is reasonable to assume that this location would not, therefore, cover the area under consideration.
17. The appellant has satisfactorily demonstrated that the proposed development is necessary for coverage of the locality and therefore, on the evidence before me, I conclude that the appeal site represents the least harmful alternative for a new installation to provide 5G coverage for the area.
18. Given the specific circumstances of this appeal, I find that the proposed development's benefits in terms of providing improved digital connectivity should be given very significant weight.
19. Having considered the above, I am of the view that, taken together, very significant weight can be afforded to the public benefits of the proposed development, which would outweigh the significant harm to the character and appearance of the immediate area.
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.

Other Matters

21. I am aware that the Council received many representations against the proposal from local residents, including a petition. Concerns have been raised about potential effects on health, both to humans and wildlife. There is a hospital, two primary schools and a residential home in the wider area. 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.

Conditions

22. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

I A Dyer

INSPECTOR