



Appeal Decision

Site visit made on 9 May 2023

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/A2280/W/22/3300455

Maritime Way, St Marys Island, Gillingham ME4 4QZ

- 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 The Medway Council.
 - The application Ref MC/21/3357, dated 12 November 2021, was refused by notice dated 11 March 2022.
 - The development proposed is a telecommunications 16.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
-

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 a telecommunications 16.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works at Maritime Way, St Marys Island, Gillingham ME4 4QZ in accordance with the application Ref MC/21/3357, dated 12 November 2021, and the details submitted with it including drawing nos MDY19351_M001 Issue A 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, and 305 Equipment Schedule & Support Structure Details.

Preliminary Matters

2. Part 16, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the 2015 Order) grants permitted development to electronic communications operators for the installation of electronic communications apparatus, subject to various limitations set out at Paragraph A.1. The proposal would be within these limitations.
3. Paragraph A.2(3)(c)(i) of the 2015 Order confirms that the permitted development rights are subject to 'prior approval' for the installation of a mast of the type proposed. Although the appellant highlights that the associated ancillary equipment cabinets are within the size limits such as to be classified as permitted development without 'prior approval', the proposal before me relates to the whole installation. I have dealt with the appeal on that basis.
4. There is no requirement to have regard to the Development Plan as there would be for any development requiring planning permission. Nevertheless, I

have had regard to the National Planning Policy Framework (the Framework) as appropriate insofar as it relates to matters of siting and appearance.

Main Issues

5. Paragraph A.3(4) of the 2015 Order confirms that the 'prior approval' required is as to the siting and appearance of the development. The main issues are therefore:
- the effect of the siting and appearance of the proposal on the character and appearance of the area;
 - the effect of the siting and appearance of the proposal on the setting of the Number 8 Machine Shop grade II* and Combined Ship Trade Office grade II listed buildings; and,
 - the effect of the siting and appearance of the proposal on highway safety.

Reasons

Character and appearance

6. Chapter 12 of the Framework requires high quality design and, at Paragraphs 194 and 195, highlights the importance of taking into account the impact of a proposal on the significance of heritage assets.
7. The appeal site is a patch of grass located between a brick-paved footway and a road, on the side of a roundabout. There are a number of relatively tall trees running behind between the appeal site and surrounding properties. There are lampposts along the road including one near to the appeal site. Combined, these provide some existing vertical and tall elements to the character and appearance of the area. There is a quay and further water slightly further afield from the site. There is a relatively open feel to the area with the buildings set back from the roads as well as the open water areas. There are some residential properties further to the east and west but the nearest properties are in commercial use. Overall, the wider area is mainly commercial in nature with a variety of building styles and sizes.
8. The proposed mast would be 16m tall, significantly in excess of any existing structures along the highway. However, it would be slim. The existing lampposts create an element of existing verticality into the character and appearance of the area. The trees would provide a degree of screening, particularly from distance. The appeal site is relatively distant from surrounding occupiers and where visible, either to them or users of the highway, it would be seen in the context of an area with a commercial character and appearance. This would serve to lessen its impact.
9. The ground floor cabinets would be relatively bulky and would alter the character of the footway, in particular. However, this would only be over a small length of the footway and they would not intrude into the footway itself.
10. Overall, there would only be a small loss of green land, which is a narrow strip between a footpath and a road and is of relatively low existing visual amenity. The trees and existing, fairly extensive, planted verges to the road would remain. These are the most important elements of the existing open and/or green space in the area. The character of the surrounding area is mainly commercial in nature and there are existing relatively tall features in the trees and the lampposts. There would, therefore, be no harm from the siting and

appearance of the proposal on the character and appearance of the appeal site and the surrounding area.

Listed buildings

11. The Number 8 Machine Shop grade II* listed building lies nearby to the appeal site, to the west. The only part of the building that remains is its large metal frame. The building derives its significance almost entirely from this frame, which is the earliest surviving metal frame of its type in the area¹. The proposal would be set away from the frame, with an intervening road and line of trees. In addition, the low level cabinets would be partially screened by the existing trees and the monopole would be a slim metal structure that would not harmfully visually interact with the metal frame of the building. Therefore, the proposal would not affect the frame or, in any material manner, its setting.
12. Further to the north lies the Combined Ship Trade Office grade II listed building, which is a brick office block. It derives its significance from its architectural quality and association with the docks and ship trade. The proposal would be set relatively distant from the building and would not affect either its intrinsic architectural quality or its relationship with the docks. The proposal would not, therefore, materially affect the setting of the building.
13. The significance of both listed buildings would, therefore, be sustained and the proposed siting and appearance of the proposal is acceptable in this respect.

Highway safety

14. The proposal would be on an existing grass verge. It would be adjacent to, but would not encroach upon, a footway and it would be nearby to a road. The footway is clearly demarcated by its brick paving. There would be no actual or perceived reduction in the useability or width of the footway. The proposed mast and cabinets would be set slightly back from the road and further away than existing planting on the verge to the north-east. It would have no effect on the road width and limited visual effect. The siting and appearance of the proposal would therefore result in no material effect on highway safety, either to pedestrians or drivers.

Other Matters

15. 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), thereby complying with Paragraph 117 of the Framework. 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. The proposal is therefore acceptable in this regard.
16. Nine alternative sites were considered by the appellant. However, because I have found no harm from the proposal as a result of its siting or appearance, I do not need to consider these further.
17. Letters of objection have been received, including from the Chatham Maritime Trust. I have assessed the concerns raised above.

¹ See the official list entry

Conclusion

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

Conditions

19. Any planning permission granted under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.

O S Woodward
INSPECTOR