



Appeal Decision

Site visit made on 7 June 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2023

Appeal Ref: APP/J1915/W/22/3307717

**Stansted Road Street Works, Stansted Road, Bishop's Stortford,
Hertfordshire, CM23 2FP**

- 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 East Hertfordshire District Council.
 - The application Ref 3/22/1385/TEL dated 2 July 2022, was refused by notice dated 25 August 2022.
 - The development proposed is a 5G telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed

Procedural matter

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 provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the Framework¹ only in so far as they are a material consideration relevant to matters of siting and appearance.

Main issue

4. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO.
5. The main issue is 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.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

Reasons

6. The proposed installation would be located on a small grassed area that fronts onto the busy Stansted Road (B1383). It forms one half of a pair of prominent small green spaces that sit either side of the entrance to Cannons Close, both of which are set against a backdrop of mature trees and hedgerows.
7. Although the street scene surrounding the proposed installation includes utilitarian highway paraphernalia such as a street light column, telegraph pole, grit bin and equipment cabinets, these are; (1) on the periphery of the small green space; (2) commonly found in the public realm adjacent to roads; and (3) set behind the adjacent public footway directly adjacent to the trees and hedgerows. As a consequence, their prominence and visual impact in the street scene is muted.
8. On the other hand, the proposed installation, with 15 metre high monopole mast, would be taller than the street light column & telegraph pole and be positioned forward of the public footway on the small grassed area. It would as a consequence appear as an intrusive and prominent feature in the street scene and cause significant harm to the character and appearance of the area.
9. Paragraph 115 of the Framework states that where new sites are required (such as for 5G), equipment should be sympathetically designed and camouflaged where appropriate. Set against this context, I recognise that the appellant has designed the installation to be as low as possible and finished in green to mitigate its impact against the backdrop of existing trees & hedges. I also acknowledge that there is a lamp post, telegraph pole, grit bin and equipment cabinets nearby, along with inspection chambers, a post box, road sign and tree within the grassed area, and that the site does not fall within a conservation area. However, none of these factors are sufficient to mitigate the harmfully incongruous and intrusive appearance of the proposal in this prominent location.
10. 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.
11. In view of the above, and insofar as they are material considerations relevant to matters of siting and appearance, I conclude that the scheme's harm to the character and appearance of the area would conflict with Policies ED3 and DES4 of the District Plan², which collectively seek, amongst other things, that;- (1) new structures are sympathetically and appropriately located; and (2) that proposals respect the character of the site and surrounding area.
12. The Government has set out its commitment to supporting the deployment of gigabit broadband across the country and bringing digital connectivity to local businesses & residents to enable faster economic growth and social inclusion³.
13. This is reinforced by Paragraph 114 of the Framework which states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being' and that 'planning decisions should

² East Herts District Plan, October 2018, East Herts Council.

³ Written statements by the Department for Digital, Culture, Media & Sport and Ministry of Housing, Communities and Local Government dated 7 March 2019 and 27 August 2020.

support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre connections.’

14. Set against the above context, I recognise that the purpose of the installation is to provide new 5G coverage which would facilitate significantly improved connectivity for the target coverage area and that the scheme would accordingly provide public benefits in accordance with the economic and social objectives of the Framework. I also acknowledge that it would be available for sharing by another operator.
15. Nevertheless, the Framework also states at Paragraph 117 that for a new mast or base station, evidence must be supplied that the operator has explored the possibility of erecting antennas on an existing building, mast or other structure. Although the appellant states that they have carried this objective out and considered a variety of other locations, I do not consider it has been sufficiently evidenced and demonstrated that there exist no other; (1) masts in the locality that could be shared; and (2) alternative sites in a less prominent position, potentially accompanied by a more inconspicuous design of mast, that could also prove suitable and less harmful (such as the Shell garage to the north or whether the installation/sharing of a taller mast in the industrial estate to the north or the leisure centre to the west of the main rail line could provide the necessary coverage over a larger area, or by combining a monopole mast with an existing street light column). As a consequence, I am not convinced that no suitable alternatives exist that would prove less harmful.
16. The proposed installation is not therefore acceptable in respect of its siting and appearance.

Conclusion

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

Robert Fallon

INSPECTOR