



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/22/3312678

Land adjacent to the A1184, London Road, Spellbrook, Bishop's Stortford, Hertfordshire

- 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 3/22/1513/TEL dated 15 July 2022, was refused by notice dated 23 September 2022.
 - The development proposed is the installation of a new monopole 15m in height together with 3 no equipment cabinets at the base of the column and ancillary development
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Decision

1. The appeal is dismissed.

Procedural matters

2. The address on the application form and appeal form does not correspond with that on the decision notice. I have used the one shown on the decision notice as I consider this to be more accurate and am satisfied that dealing with the appeal on this basis has not prejudiced the interests of any party.
3. The submitted drawings and appeal statement reveal that the proposed monopole mast and equipment cabinets would be coloured grey (RAL-7035). However, this conflicts with the application supplementary information which states that the equipment cabinets would be green. For the avoidance of doubt, I have assessed the scheme on the basis of the former documents, namely that the proposed monopole mast and equipment cabinets would be coloured grey.
4. 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

5. 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

6. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO.
7. 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.

Reasons

8. The proposed installation would be located on a grass verge on the western side of the busy London Road (A1184), to the north of the built-up area of Spellbrook and within the open countryside. The proposed location is set against a backdrop of mature trees and hedgerows of varying and limited height. Overall, I found the area to have an edge of settlement countryside character.
9. Although the street scene surrounding the proposed installation includes utilitarian highway paraphernalia such as a circular speed limit sign, small equipment cabinet, bus stop shelter with associated refuse bin, telegraph pole and street light columns, these are of a limited height and commonly found in the public realm adjacent to roads. As a consequence, their prominence and visual impact in the street scene is muted.
10. On the other hand, the proposed installation, with 15 metre high monopole mast, would project well above the trees & hedgerows, bus stop shelter, refuse bin, speed limit sign, telegraph pole & street light columns and be positioned in a highly exposed location such that it would be clearly visible on the grass verge when approaching in both directions. 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.
11. 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 to mitigate its impact against the backdrop of existing trees & hedges. I also acknowledge that there is a speed limit sign, telegraph pole, bus stop shelter with refuse bin and small equipment cabinet close-by, along with a lamp post on the opposite side of the road, 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.
12. 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.

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

13. 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.
14. 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.
15. 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 support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre connections.'
16. 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.
17. 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, including the utilisation of existing rooftops, 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 installation of a mast within and to the rear of; - (a) the Hilton Suzuki site to the north; (b) the industrial unit site on Spellbrook Lane West; or (c) the commercial area adjacent to the railway line on Spellbrook Lane East). As a consequence, I am not convinced that no suitable alternatives exist that would prove less harmful.
18. The proposed installation is not therefore acceptable in respect of its siting and appearance.

Conclusion

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

Robert Fallon

INSPECTOR

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

³ Written statement by the Department for Digital, Culture, Media & Sport and Ministry of Housing, Communities and Local Government dated 27 August 2000.