



# Appeal Decision

Site visit made on 20 June 2023

**By Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 July 2023**

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**Appeal Ref: APP/Q4625/W/23/3315367**

**Lanchester Way, Smith's Wood, Solihull B36 9LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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) Limited against the decision of Solihull Metropolitan Borough Council.
  - The application Ref PL/2022/02018/PN, dated 16 September 2022, was refused by notice dated 14 November 2022.
  - The development proposed is a 16.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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## Decision

1. the appeal is dismissed.

## 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.
3. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies P14 and P15 of the Solihull Local Plan (December 2013, the SLP) are material considerations as they relate to issues of siting and appearance, including with regard to telecommunications installations. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and includes a section on support high quality communications.
5. The proposal includes the provision of a mast along with a number of associated cabinets. It has been suggested that these cabinets do not require planning permission or prior approval to be granted and are instead covered by permitted development rights. However, the cabinets have been submitted as part of a prior-approval application and it has not been suitably demonstrated that the cabinets would fall under permitted development that does not require prior approval. Therefore, I have considered the cabinets as part of the appeal proposal before me.

## **Main Issues**

6. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding area, the living conditions of neighbouring occupiers, 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*

7. The appeal site is located on a narrow stretch of verge between the pavement and carriageway serving Lanchester Way near the junction with Auckland Drive. Nearby are a small group of trees and a bus stop, and on the opposite side of the road is an open green space that rises up away from the appeal site. The surrounding area is residential and is predominantly characterised by two-storey dwellings.
8. The proposal would introduce a feature that is significantly taller than the surrounding street scene and would be prominent as a result of its siting near the junction and public green space. Moreover, the mast, given its utilitarian appearance and significant height, would not be sympathetic to, or sit well with, the surrounding residential development or vegetation. Therefore, pedestrians and motorists approaching the site would see the mast as a prominent feature that would be intrusive in views even from a distance. Although no residential dwellings would directly face the proposal, it would nevertheless still be highly visible in the surrounding area as outlined above.
9. Given their small scale and simple appearance, the cabinets associated with the mast would be retiring features within the street scene and would not unacceptably harm the character and appearance of the surrounding area.
10. Nevertheless, the siting and appearance of the proposed mast would result in an unacceptable harm to the character and appearance of the surrounding area. I have been mindful of, and the proposal would conflict with, SLP Policies P14 and P15 as well as Chapters 10 and 12 of the Framework.

### *Living Conditions*

11. I am mindful that there are residential properties near to the appeal site. However, the proposed mast and cabinets are not sited directly in front of any windows and are some distance away from any windows that face towards the mast. Moreover, the mast is a relatively narrow feature and the associated cabinets are low in height. Cumulatively, I find that there would be no unacceptable harm to the living conditions of neighbouring occupiers from a loss of outlook or any overbearing or overshadowing impacts.
12. Consequently, the proposal would not unacceptably harm the living conditions of neighbouring occupiers. To this degree the proposal would not conflict with SLP Policies P14 and P15 or with Chapters 10 and 12 of the Framework.

### *Need for Proposed Siting*

13. The appellant has submitted that the area surrounding the appeal site currently suffers from acute capacity issues, and they have identified the nominal search point within this area. The mast would also provide 5G connectivity to this

area. Therefore, it is clear from the submissions that there is a need identified for improved telecommunications infrastructure. The appellant has also identified a number of alternative locations around the nominal point which were discounted for reasons including the proximity to residential dwellings and the distance from the nominal point.

14. The assessment of these discounted options is overall brief and the information on each is scant. In particular, the reasoning for the discounting of options D4, D5 and D6 are not sufficient.
15. Option D4 was discounted by the appellant due to its distance from the nominal point. However, it is clear from the Site Specific Supplementary Information that it is not a significant distance outside of the nominal search area. Moreover, option D4 appears to be closer to the nominal point than options D2, D5 and D6 which were not discounted due to their distance from the nominal point. I cannot, therefore, be certain that Option D4 is not a viable option.
16. Regarding option D5, the appellant states that other options would be more robust from a planning perspective. However, it is not explained on what grounds this option is unacceptable or unviable. Similarly, with option D6 the appellant has explained why it was discounted for its siting on a trunk road serving A452.
17. Whilst I find the reasoning behind discounting options D1, D2, D3, D7, D8 and D9 to be sufficient, there are still at least three potential options available for the siting of the development.
18. Consequently, I cannot be certain that the appeal site is less harmful than the alternatives or that they are not viable options. Therefore, and without sufficient evidence to demonstrate otherwise, the need for the proposal to be located at the appeal site does not outweigh the harm identified. I have been mindful of, and the proposal would conflict with, SLP Policy P14 and P15 and the Framework.

### **Other Matters**

19. 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.
20. Although the proposal may not impact on the free flow of pedestrians in this area, a lack of harm is not, in itself, a benefit. I have therefore given this matter neutral weight in my considerations.

### **Conclusion**

21. For the reasons given above, the appeal is dismissed.

*Samuel Watson*

INSPECTOR