



Appeal Decision

Site visit made on 27 June 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/A1910/W/22/3307694

Redbourn Road Street Works, Redbourn Road, Hemel Hempstead HP2 5PN

- 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 Dacorum Borough Council.
 - The application Ref 22/02079/TEL, dated 1 July 2022, was refused by notice dated 24 August 2022. The development proposed is 5G telecoms installation: H3G street pole and additional equipment cabinets.
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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 the siting and appearance of 5G telecoms installation: H3G street pole and additional equipment cabinets, at Redbourn Road Street Works, Redbourn Road, Hemel Hempstead HP2 5PN in accordance with the terms of the application Ref 22/02079/TEL dated 1 July 2022 and the plans submitted with it including DAC22083_DAC149_86427_HP0565_GA_REV_A (002 Site Location Plan, 215 Proposed Site Plan, 265 Proposed Site Elevation).

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015, also do not require regard to be had to the development plan. I have had regard to the saved policies of Dacorum Borough Local Plan 1991-2011 (LP), April 2004, and the policies of Dacorum's Local Planning Framework, Core Strategy 2006-2031, September 2013, and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is whether the appeal site is an appropriate location for the proposed installation, having regard to siting and appearance, as well as any suitable alternatives.

Reasons

5. There is no requirement within either the GPDO 2015 or the Framework for a developer to demonstrate that they have identified the best feasible siting for the proposed installation, unless harm is identified.
6. The appeal site is located within the grass verge which aligns Redbourn Road, which is a busy road. This section of Redbourn Road is wide and includes grass verges and footpaths on either side of the road, with tall trees and dense shrubbery providing verdant borders. There are several other items of tall street furniture including street lighting and an existing mast in proximity to the appeal site. Numerous commercial properties are close to the appeal site including the car showroom opposite and a supermarket which is located on the edge of an industrial estate, these properties are often utilitarian in appearance. There is also a significant amount of activity associated with the supermarket and nearby commercial properties, which creates a busy, urban environment.
7. The proposed installation would include the erection of a tall mast within the grass verge. The proposed mast would be viewed alongside other tall items of street furniture and the commercial properties. Visually the mast would appear in keeping with other street furniture and alongside the commercial properties and given the extent of existing items would not lead to views appearing cluttered.
8. The proposed installation would be sited away from the tall trees and dense shrubbery, which would partially screen the proposed installation in wider views. The provision of telecoms equipment is expected within what is a busy, urban, roadside environment and, in this instance, it would reflect the existing public realm.
9. I therefore consider that no harm would be caused by the siting and appearance of the proposed installation; the Council also agree with this view. As no harm has been identified, in this instance, the appellant is not required to demonstrate that they have identified the best feasible siting for the proposed installation.
10. For these reasons, I conclude that the appeal site is an appropriate location for the proposed installation. Insofar, as no harm is caused by its siting and appearance. In reaching this conclusion I have considered the Council's contention that the proposed installation conflicts with LP Policy 126 and paragraph 117 of the Framework. However, whilst these policies are material considerations, there is no requirement to demonstrate the best feasible siting, unless harm is identified.

Other Matters

11. Corner Farmhouse is a Grade II listed building and is located on Redbourn Road, opposite the supermarket. Since the proposed installation would affect the setting of a listed building, I have had special regard to section 66(1) of the

Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and paragraph 199 of the Framework.

12. The significance of Corner Farmhouse is derived, in part from its age and traditional architecture. The proposed installation is located a significant distance from Corner Farmhouse and there is a significant amount of intervening development including the car showroom and supermarket. The proposed installation would be viewed from and toward the Farmhouse alongside similar street furniture. For these reasons, I conclude that the proposal would preserve the special historic setting of the Grade II listed building. This would satisfy the requirements of the Act and paragraph 199 of the Framework.

Conditions

13. 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

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

J Hobbs

INSPECTOR