



Appeal Decision

Site visit made on 1 August 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/V1505/W/22/3306174

Nightingales, Langdon Hills, Basildon, Essex SS16 6NR

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Basildon Borough Council.
- The application Ref 22/00860/TEL, dated 9 June 2022, was refused by notice dated 23 July 2022.
- The development proposed is proposed 5G telecoms installation: 15m high street pole and 3 additional ancillary equipment cabinets and associated ancillary works.

Decision

1. The appeal is allowed and approval is granted under the provisions of 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 a proposed 5G telecoms installation: 15m high street pole and 3 additional ancillary equipment cabinets and associated ancillary works at Nightingales, Langdon Hills, Basildon, Essex SS16 6NR in accordance with the terms of application Ref 22/00860/TEL dated 9 June 2022 and drawing nos 002 Site Location Plan; 215 Proposed Site Plan; and 265 Proposed Site Elevation.

Preliminary Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A requires the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. I have determined this appeal on that basis.
3. The Council referred to the development plan and national policies in its decision notice. However, the principle of development is established by the GPDO as set out above and its provisions do not require regard to be had to the development plan. However, the policies of the Basildon District Local Plan 2007 (LP) are material considerations insofar as they relate to the siting and appearance of the proposed installation. The National Planning Policy Framework (the Framework) is also a material consideration.

Main Issue

4. 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

5. The appeal site is a grass verge, adjacent to the side elevation of a dwelling. There is an area of open space adjacent around which dwellings are arranged. Nightingales has a wide carriageway and grass verges to either side. It is generally straight which provides for long views along the street. It is predominantly residential in nature, albeit with a medical centre on the opposite side of the road.
6. The proposed mast would be readily visible in the street scene due to its height, position, the views available along Nightingales and the lack of screening. Due to its height, width and the additional bulk of the equipment to the top of the mast, it would appear prominent and incongruous. This would be exacerbated by the substantial cabinets which would also be in a prominent position and of a noticeable scale.
7. The side elevation of the adjacent dwelling has a window facing the proposed mast. However, it is part of a larger window that wraps around to the front elevation of the dwelling allowing for an outlook that would not include the proposed mast. While it would be visible from other surrounding residential properties, these views would be at more oblique angles, or partially screened by planting. Notwithstanding, it would be clearly visible from those surrounding properties and would be an incongruous feature in the street scene.
8. LP Policy BAS BE20 sets out that telecommunications apparatus should not have a significantly detrimental visual impact. While the harm is reduced by the limited amount of direct overlooking by residential properties, the siting and appearance of the mast is nonetheless detrimental to the character and appearance of the area for the reasons set out above.
9. Paragraph 114 of the Framework confirms that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology such as the 5G network that would be supported by the proposed development. LP Policy BAS BE20 acknowledges that technical and operational requirements will be taken into account, including the availability of alternative sites.
10. There is a need for the mast to improve mobile telecommunications in the surrounding area. As such, the proposal would provide significant benefits through the improved coverage and capacity in the locality. The area of search is predominantly residential. The appellant has provided details of other sites considered and the reasons for which they were discounted. I have not been made aware of any further sites. I am satisfied that the reasons for discounting those locations are robust and note that the adverse effects I have identified above would also likely arise at the other locations considered by the appellant given the residential nature of their surrounds.
11. From the evidence before me, I accept there are not other suitable alternative sites within the area. As a result, the need and benefits that would arise from the proposal would outweigh the harms that would result. The siting and appearance of the proposed installation is therefore acceptable.

Other Matters

12. The Council has referred to there being other masts in the surrounding area. However, there is no evidence before me to suggest it would be possible for equipment sharing on these structures. Furthermore, paragraph 118 of the Framework is clear that applications should be determined on planning grounds only, that competition between different operators should not be prevented or the need for an electronic communications system questioned.

Conditions

13. The GPDO does not provide authority for imposing additional conditions beyond those set out. The relevant conditions specify that the development must be carried out in accordance with the details approved and must begin within five years of the date on which approval was given. In addition, any apparatus 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, or to any other condition as may be agreed in writing between the local planning authority and the developer.

Conclusion

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

J Downs

INSPECTOR