



Appeal Decision

Site visit made on 1 August 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023

Appeal Ref: APP/G2245/W/22/3312507

St. Bartholomews Street Works, Swanley BR8 7AY

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Cameron Wilson of CK Hutchison Networks (UK) Ltd against the decision of Sevenoaks District Council.
 - The application Ref 22/02425/TELNOT, dated 31 August 2022, was refused by notice dated 26 October 2022.
 - The development proposed is described as proposed 5G 15m 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 proposed 5G 15m telecoms installation: H3G street pole and additional equipment cabinets at St. Bartholomews Street Works, Swanley BR8 7AY, in accordance with the application ref: Ref 22/02425/TELNOT, dated 31 August 2022, and the plans submitted with it including drawing numbers 002 Rev A (Site location plan), 215 Rev A (Proposed site plan) and 265 Rev A (Proposed site elevation).

Preliminary Matters

2. The provisions of 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, 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 Council's decision notice refers to policies of the Sevenoaks Core Strategy (2011) (CS) and the Sevenoaks Allocations and Development Management Plan (2015) (DMP) and the Framework. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. Nevertheless, such policies and guidance are material considerations where they relate to issues of siting and appearance.

Main Issues

4. The main issues raised by this appeal are 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 would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and appearance

5. The appeal site is located on an open grass verge at the junction of Bartholomew Way and Sycamore Drive. To the north of the site is a church and school. To the west are three storey commercial and residential buildings. Opposite the site is a large, open car park and supermarket.
6. The location of the proposed telecommunications apparatus would be set back from the carriageway, adjacent to a footpath. Within the grass verge is a flower bed and two mature trees. The surrounding area has a variety of street furniture, some with vertical emphasis, including streetlights of varying designs and street signs. Therefore, vertical structures are common in the streetscene.
7. Given the proposal's location on a junction it would be visible in long range views from a variety of locations on Sycamore Drive, Bartholomew Way and St Mary's Road. It would also be visible in views across the open supermarket car park.
8. The proposed design is utilitarian, and typical of many other similar telecommunications masts that are frequently found in urban locations. However, the submitted drawings show clearly how the proposed street pole would be much thicker and taller than the adjacent streetlights, demonstrating the discreet design of the latter rather than the similarity and visual acceptability of the former. Furthermore, the antennae attached to the pole, would produce a top-heavy appearance. As such, from both close and distant vantage points, the street pole would appear quite dominant and somewhat intrusive in the street scene.
9. The submitted drawings indicate that the siting of the proposal would not affect the nearby flower bed. The two mature trees located on the verge to the rear of the site would provide some softening of the development especially in the months when the trees would be fully in leaf. However, due to its height, the pole would be clearly visible as a tall feature projecting significantly above the trees.
10. The proposed ancillary equipment cabinets would be of fairly modest size and would not be dominant features in the context of the other nearby street furniture. However, for the reasons set out above, the pole would cause moderate harm to the character and appearance of the area, and it is therefore necessary to consider whether there are any alternative, preferable sites where the installation could be located.

Suitable alternatives

11. The Government is committed to supporting the deployment of next-generation mobile infrastructure. This is reflected in the Framework. However, while there

would be various social and economic benefits arising from the proposal, it is important that any harm, such as that identified above, is minimised in the pursuit of these objectives. In response to paragraph 117(c) of the Framework, the appellant includes confirmation that a desktop survey identified no potential alternatives for site sharing through erecting antennas on an existing building, mast or other structure. On this basis the evidence before me demonstrates that there are no opportunities for appropriate mast sharing.

12. The appellant has also submitted details setting out the sequential approach followed, alongside evidence of the consideration of alternative sites, which have been discounted with reasonable justification. This evidence has not been disputed by the Council who did not express a preference for any of the rejected options and did not put forward any further possible alternative sites. Based on all the evidence before me, including my observations on my site visit and review of the alternatives considered, I am satisfied that there is not a more suitable site for the required facility.
13. Taking all of these points together, while the development proposed would cause some harm to the character and appearance of the area, it has been demonstrated that there is an identified need for the proposed equipment within this area and that there are not more suitable alternatives available.

Other Matters

14. Concerns have been raised in relation to the proximity of the proposal to a school and houses and the potential impact on the health of those nearby. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conditions

15. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and 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.

Planning balance

16. Paragraph 114 of the Framework states that, amongst other things, planning decisions should support the expansion of electronic communications networks including next generation mobile technology, such as 5G. The proposal would provide benefits through the upgrade to digital telecommunications in this

area, allowing for additional coverage and capacity, including 5G technology in the locality. The wider benefits have effectively been recognised by the grant of planning permission under Article 3(1) of the GPDO. These factors weigh in favour of the proposal.

17. A balance should be struck between visual impact and the need for the proposal to be sited in the proposed location. The need for this installation weighs in favour of the appeal as do the benefits of improved connectivity. In these circumstances, the need for the telecommunications development and the absence of any suitable alternative, outweighs the moderate harm that I have found would be caused to the character and appearance of the area.

Conclusion

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

B Pattison

INSPECTOR