



Appeal Decision

Site visit made on 11 July 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/A1530/W/22/3311044

Sanders Drive Streetworks, Handford Place, Lexden, Colchester CO3 3SE

- 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) Ltd against the decision of Colchester Borough Council.
 - The application Ref 222171, dated 20 August 2022, was refused by notice dated 18 October 2022.
 - The development proposed is telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole 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 (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 do not require regard be had to the development plan. I have had regard to the policies of the development plan 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 Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposal on the character and appearance of the area, having particular regard to the setting of the Colchester Area 3 Conservation Area and the effect upon trees; 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

5. The appeal site is a large grass verge which fronts Sanders Drive, which is a residential street. The large wide verges which are lined with large, mature trees give the area an open, spacious and leafy character and appearance.
6. The proposed mast would be located centrally within the grass verge and the trees would provide some screening. While it may be the case that the mast cannot be any shorter than proposed for technical reasons, the mast would be higher and wider than most of the trees which therefore limits the extent of the screening that they provide, and views would still be possible through gaps in the trees.
7. The mast would stand out, both from short and long range views due to the lack of street furniture in the area that mostly consists of sporadic lampposts and small signs. The appellant has proposed to change the colour of the mast but as a result of the open character of the area it would still stand out. The mast would therefore stand out as an incongruous and dominant feature in the street scene.
8. The proposed mast would be within very close proximity to a number of trees and while the Council have provided no technical evidence that damage could be caused to their roots, it is logical, due to the proximity that this could occur. I note that the proposal would be carried out in accordance with NJUG Guidelines, however, the appellant has not demonstrated that the mast could be installed without damaging any tree roots and as such I cannot be sure that damage would not be caused. The tree coverage is an important aspect of the leafy character and appearance of the area and as such any loss of trees would erode this.
9. The proposal includes several cabinets that would be sited close to the mast. These would add clutter to the street scene and contribute to the overall dominance of the proposal and lead to further works within close proximity to trees. The appellant has suggested that these could be installed under permitted development rights. However, there is no evidence to suggest this would occur without the mast. As such, this does not constitute a realistic fallback position. I must also consider the effect of the development as a whole and the cabinets would add to the harm caused.
10. The appeal site is immediately adjacent to the Conservation Area 3 (CA). The CA includes the wide, grass verges on the opposite side of the road from the appeal site and further mature trees line the road as you move further into the CA. While the appeal site is outside of the CA the grass verge and mature trees is viewed in the same context and therefore contributes positively to the open and leafy character of the CA which the proposal would erode.
11. The Framework indicates that any harm to or loss of the significance of a designated heritage asset, including development within its setting, should require clear and convincing justification. It requires, when considering the impact of a proposal on the significance of a designated heritage asset, that great weight be given to the asset's conservation. Though the harm to the significance of the CA would be less than substantial, this should be weighed against the public benefits of the proposal.

12. The proposal's public benefits including the economic and social benefits of upgrading electronic communication infrastructure and improving mobile coverage in the area weigh significantly in favour of the proposal, in addition to the support given by paragraph 114 of the Framework for such developments. Nonetheless, the proposal's significant benefits do not outweigh the extent of harm I have identified to the significance of the CA.
13. I conclude that the development would harm the character and appearance of the area, as well as the significance of the CA and trees. It would, insofar as they are relevant, be contrary to policies SP7 of the Colchester Borough Local Plan 2013-2033 Section 1 Adopted February 2021, DM15 and DM16 of the Colchester Borough Council Local Plan 2017-2033 Section 2 Adopted July 2022 and paragraphs 155 and 199-203 of the Framework. Amongst other things, these seek to ensure development responds positively to local character, is sympathetically designed and protects the historic environment.

Need and alternative sites

14. The appellant's alternative site assessment suggests that there are constraints associated with other new mast locations within the search area. The reason the other sites have been discounted are insufficient pavement widths, overhanging tree canopies and closeness to residential properties.
15. I note that the map shows a search area which includes several open areas, particularly at the top of the search area which do not appear to have been explored. I note the reasoning behind discounting the sites shown with the submission however I am not convinced that the search area has been properly explored. In particular, the proposal would be close to trees which is the reason several other sites have been discounted, so it is not clear why these other sites are considered to be more harmful. I therefore cannot be sure that the appeal scheme is the most suitable in terms of its siting and appearance.
16. Paragraph 117 of the Framework advises that for new telecommunication masts such as the proposal, applicants should provide evidence of the possibility of erecting antennas on an existing building, mast or other structures. In this case the appellant suggests that there are no suitable structures, which appears reasonable in a residential area.
17. In summary, the proposal would unacceptably the harm to the character and appearance of the area including the setting of the CA and trees. I have already concluded that this harm would not be outweighed by the public benefits of the proposal. This attracts significant weight against the proposal. I am also not convinced that there are no alternative sites for the proposal. For these reasons, I do not consider the harm identified is outweighed by the need for the installation to be sited as proposed. I therefore find the siting and appearance of the proposed development to be unacceptable.

Other Matters

18. The Council have found that the proposal would not harm the amenity of the occupiers of neighbouring properties. However, this is a neutral factor that does not outweigh the harm I have found.

Conclusion

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

D Wilson

INSPECTOR