



Appeal Decision

Site visit made on 15 August 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/J0405/W/23/3317774

Wendover Road, Aylesbury HP21 9LP

- 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) Limited against the decision of Buckinghamshire Council.
 - The application Ref 22/04270/ATN, dated 21 December 2022, was refused by notice dated 14 February 2023.
 - The development proposed is 5G telecoms installation: H3G 15m 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) (the GPDO) for the siting and appearance of 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at land at Wendover Road, Aylesbury HP21 9LP in accordance with the terms of the application Ref 22/04270/ATN, dated 21 December 2022, and the plans submitted with it including: AYV26291_AYV159_89522_HP0696_GA_REV_A Issue A 002 Site Location Plan; AYV26291_AYV159_89522_HP0696_GA_REV_A Issue A 215 Proposed Site Plan; and AYV26291_AYV159_89522_HP0696_GA_REV_A Issue A 265 Proposed Site Elevation.

Preliminary Matters

2. The provisions of 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. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to 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 proposed installation on the character and appearance of the area, and;
- the effect of the siting and appearance of the proposed installation on the living conditions of the occupiers of 28 Ringstead Way and 1 Glenfield Close having particular regard to outlook.

Reasons

Character and appearance

5. The appeal site is located on a grass verge adjacent to Wendover Road, which is a busy classified road. There are wide footpaths and grass verges along the length of the road which is also lined with extensive vegetation which results in an open character and appearance. Street furniture is common in the area and tall streetlights line the road, but these do not generally detract from the open character of the area.
6. The proposed mast's location on the grass verge in front of the line of vegetation would mean that a large proportion of it would be screened from the surrounding residential streets. The Council suggest the vegetation is of poor quality, but I observed upon my site visit streetside planting to be extensive and to provide a good degree of screening which would, due to the variety of vegetation, be likely to be the case all year round.
7. The top portion of the mast would remain visible from residential locations nearby. Nevertheless, this would be in the context of tall streetlights, flood lighting that is located at the leisure facilities opposite the site, and an existing mast situated on the opposite side of Wendover Road. The new mast would not stand out as an overly dominant, imposing or incongruous feature.
8. The proposed mast would be most visible from Wendover Road due to its location next to the footpath and road. The road is lined with various items of street furniture, including cabinets and signage, and runs in proximity to another mast in the locality. As such, the proposed mast would not look out of place, nor would it result in a cluttered appearance due to the well spaced nature of neighbouring street furniture. A reasonable degree of separation to the nearest existing mast would also apply. As a result, the open character and appearance of the area would be satisfactorily maintained.
9. The proposal also includes several cabinets which would be situated at low level next to the mast. These would not be visible to the surrounding residential streets due to their low height and screening. While they would be visible from Wendover Road, they would be seen in the context of other cabinets on the road, which, when also factoring in their low height, would not result in them standing out in the street scene. Therefore, the open character and appearance of the area would be suitably maintained.
10. I therefore find the siting and appearance of the proposal would not harm the character and appearance of the area. I find no conflict with Policies BE2 and I6 of the Vale of Aylesbury Local Plan (VALP) 2013-2033 Adopted Plan September 2021. Amongst other things, these seek to ensure development respects and complements the local distinctiveness and vernacular character of the locality

and seeks to ensure telecommunications in particular are sited and designed to not have a detrimental visual impact.

Living conditions

11. The proposed mast would be located near to residential properties, in particular 28 Ringstead Way (No 28) and 1 Glenfield Close (No 1). The mast would be located to the side of No 28 and to the rear of No 1.
12. I have already found that a large proportion of the mast would be screened by existing vegetation. However, it is fairly anticipated that the top of the mast would still be visible from the gardens of both properties. However, the mast is proposed to be of slimline design and would be stepped back from each of the garden areas in question. Even though to be of slightly bulkier design to its upper portion when compared to lower parts, I am satisfied that the pole would not be experienced as overly dominant or unacceptably intrusive by neighbouring residential occupiers.
13. I therefore find the siting and appearance of the proposal would not harm the living conditions of the occupiers of No 28 or No 1 having particular regard to outlook. I find no conflict with Policies BE3 and I6 of the VALP. Amongst other things, these policies seek to ensure development does not unreasonably harm any aspect of the amenity of existing residents and is sited and designed to minimise visual impact.

Other Matters

14. Interested parties have questioned why the nearby mast cannot be upgraded to meet the needs of the appellant. The evidence before me includes details of the sequential approach outlined in Paragraph 117 of the National Planning Policy Framework which was undertaken to select the appeal site. This included the exploration of mast sharing and concludes that no mast or site sharing opportunities are available. This is not disputed by the Council. While somewhat limited justification has been provided in this sense, I am satisfied that the appellant has followed the sequential approach with respect to site selection and I have no substantive evidence before me to clearly indicate otherwise.
15. It must also be noted that, as I have identified that the proposed siting and appearance of the proposed development to be acceptable, it is unnecessary for me to consider the detailed merits of potential alternative sites.
16. 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.
17. Interested parties consider that if this appeal is allowed then a precedent will be set for similar developments in the locality. However, I am only in a position to consider the proposal before me, based on its individual planning merits and

in this particular case I have found the siting and appearance of the proposal to be acceptable.

18. I note that interested parties have also raised concerns in relation to the impact of the proposal on nearby trees and ecology, the appellant's lack of engagement with residents, and issues with neighbour notifications. However, while I have carefully considered these matters, the evidence before me has not led me to different conclusions. Moreover, there is no clear reason for me to consider that the Council did not give notice of the proposal in accordance with the relevant requirements of the GPDO.
19. The concerns of the occupiers of nearby properties with regards to the effect of the proposal upon property values are not of material relevant to the outcome of this appeal.

Conditions

20. 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

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

D Wilson

INSPECTOR