



# Appeal Decision

Site visit made on 3 October 2023

**by K Lancaster BA (hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 8 November 2023**

**Appeal Ref: APP/N5090/W/23/3318067**

**The Ridgeway, Barnet, London NW7 1RN**

**(Grid Ref Easting: 523605, Grid Ref Northing: 192202)**

- 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) Order 2025 (as amended).
- The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref 22/5366/PNT, dated 3 November 2022, was refused by notice dated 14 December 2022.
- The development proposed is described as a "proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets".

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), require the local planning authority to assess the proposed development solely on the basis of its siting and appearance. My determination of this appeal has been made on the same basis.
3. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies DM01, DM06, DM15 and DM18 of the Development Management Policies 2012 (DMP) and Policies HC1 and G7 of the London Plan 2021 are material considerations as they relate to issues of siting and appearance as well as heritage assets. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration in respect of supporting high quality communications and the sympathetic design of telecommunications infrastructure.

## Main Issues

5. The main issues of the appeal are the effect of the siting and appearance of the proposal on:
  - the character and appearance of the area, with regard to whether or not the proposal would preserve or enhance the Mill Hill Conservation Area and with regard to protected trees; and

- if any harm would occur, whether this is outweighed by the benefits of the proposal and the need for the installation to be sited as proposed taking into account any suitable alternatives.

## **Reasons**

### *Character and Appearance*

6. The appeal site comprises a section of grass verge, located alongside The Ridgeway, close to the junction with Partingdale Lane. The grass verge abuts a boundary of trees which are protected by a Tree Preservation Order (TPO) to the rear and a footpath to the front, adjacent to the road. The presence of street furniture is limited and relatively slimline consisting of a few streetlamps measuring between 6 to 8 metres in height. The site is located within the Mill Hill Conservation Area (MHCA) and Green Belt.
7. The MHCA covers approximately 152 hectares of land towards the northwest corner of the Borough. It includes a scattering of institutional buildings and houses along the high ground of The Ridgeway. Its significance is derived from the attractive combination of a semi-rural setting, the underlying topography and proximity of open countryside, and the quality and diversity of the building pattern. This reflects the area's development from an agrarian economy to a sought-after location on the rural fringes of London.
8. The significance of the MHCA in so far as it relates to the appeal site is the presence of trees and planting which the MHCA Character Appraisal identifies as making a very important contribution to the character and appearance of the conservation area. These features positively contribute to the character of the Conservation Area which has a semi-rural setting and verdant character.
9. Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 places a duty to require special attention to be paid to the desirability of preserving or enhancing the special character and appearance of a conservation area, including its setting.
10. The proposed development would comprise a 20 metre high mast with wraparound cabinet and associated ancillary cabinets. This would introduce infrastructure that by its very nature would be vastly at odds with the setting and character of this section of The Ridgeway.
11. Whilst it is acknowledged that some of the trees in proximity to the appeal site are of a comparable height to the proposed development, these would provide little camouflaging due to the forward siting of the mast. The siting of the mast would therefore be highly visible from multiple vantage points in a prominent location, which would disrupt and erode some of the spacious open character of the site by adding undue street clutter.
12. The mast would also be substantially greater in height than the existing streetlamps meaning that it would not visually integrate with these features. The position of the monopole and the cabinets in proximity to the footpath and road would be conspicuous and would further contribute to the visual dominance of the proposal, particularly in views from The Ridgeway.

13. Whilst the submitted plans indicate that the proposed equipment would be green (RAL 6009 - Fir Green) because of their utilitarian form and siting they would be conspicuous and therefore this is not considered to mitigate the impact of the overall massing and scale of the proposed monopole and associated apparatus.
14. The proposed equipment would also be sited in proximity to the protected trees. Whilst I note the appellant's intentions not to damage these trees, the installation of the proposed equipment would require some below ground infrastructure. To this end, and in the absence of any substantive supporting arboricultural information, I cannot be certain that siting of the proposal would not unacceptably impact on these trees. This is a matter of considerable concern, given that these trees positively contribute to the character and appearance of the MHCA.
15. For the above reasons, I conclude that the development would cause significant harm to the character and appearance of the area and therefore fails to preserve or enhance the character and appearance of the MHCA. Insofar as it is a material consideration, the proposal would be contrary Policies DM01, DM06, DM15 and DM18 of the DMP and Policies HC1 and G7 of the London Plan which require, amongst other things, high quality design that preserves or enhances local character including openness of the Green Belt and the significance of conservation areas. These policies also require existing trees of value to be retained.

#### *Alternative Sites*

16. The proposed equipment would provide 5G coverage. The supporting Cell Search Area Map shows that the appeal site lies within an area of coverage deficiency which the proposal seeks to infill. This information is not disputed by the Council and has informed the appellant's search area for the new equipment. On the basis of the evidence before me, I am satisfied that the appellant has demonstrated that there is an identified need for the proposed development to be located somewhere in the search area.
17. I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area and the MHCA for the reasons given. The other options that might be available are therefore an important consideration. In addition, Paragraph 117 of the Framework requires that, for a new mast, evidence be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
18. The supporting information refers to five discounted alternative site options for the proposed development. The reasons given as to why these sites have been discounted include insufficient space, proximity to housing and private roads. However, the reasons are brief and unsupported by any further evidence to suggest why they would be more harmful than the appeal scheme. For the reasons given I am not satisfied that, based on the evidence, the appeal scheme represents the least harmful option, nor that the requirements of Paragraph 117 of the Framework have been met.
19. In summary, the proposed development would cause harm to the character and appearance of the area including the MHCA, and I am not satisfied that less harmful alternatives have been properly explored. For these reasons I

find the siting and appearance of the proposed development to be unacceptable.

### **Planning Balance and Conclusion**

20. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.
21. The proposal would improve the provision of a 5G network in this location, with associated benefits including faster and more reliable 5G connectivity. In turn it would contribute to economic growth in the UK, improve connectivity in society and serve potential new technologies. I acknowledge that the proposal to provide coverage in this geographical area is part of a wider whole and that the network would be undermined by gaps in coverage. I consider that the public benefits arising from this particular proposal would be moderate, but they would not be sufficient to outweigh the less than substantial harm to the significance of the heritage asset, to which I must give great weight in accordance with Paragraph 199 of the Framework.
22. In conclusion, the siting and appearance of the proposed development would cause significant harm to the character and appearance of the area. Given suitable alternatives have not been properly explored, this harm is not outweighed by the need for the installation to be sited as proposed. As such, I find the siting and appearance of the proposed development to be unacceptable.
23. For the reasons given above, I conclude that the appeal is dismissed.

*K Lancaster*

INSPECTOR