



Appeal Decision

Site visit made on 15 November 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/N1540/W/23/3318682

Grass verge to Rye Hill Road Easting 544661 Northing 207451

- 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 Harlow District Council.
 - The application Ref HW/PNT/22/00542, dated 9 December 2022, was refused by notice dated 8 February 2023.
 - The development proposed is installation of a 20m high slim-line monopole, supporting 6 no. antennas, 1 no. wraparound equipment cabinet at the base of the monopole, 2 no. equipment cabinets, 1 no. electric meter cabinet, and ancillary development thereto.
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Decision

1. The appeal is allowed, and prior 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 a 20m high slim-line monopole, supporting 6 no. antennas, 1 no. wraparound equipment cabinet at the base of the monopole, 2 no. equipment cabinets, 1 no. electric meter cabinet, and ancillary development thereto at Grass verge to Rye Hill Road Easting 544661 Northing 207451, in accordance with the terms of the application, Ref HW/PNT/22/00542, dated 9 December 2022, and the plans submitted with it HLW25343_B35_GA_A Rev A 002 Site Location Plan, HLW25343_B35_GA_A Rev A 210 Proposed Site Plan, and HLW25343_B35_GA_A Rev A 260 Proposed Elevation .

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 16, Class A 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 this basis.
3. The Council has referred to a number of 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. I have nonetheless had regard to the policies of the development plan, namely the Harlow Local Development Plan (LDP) (2020), and the National Planning Policy Framework (the Framework) only insofar as they are material considerations relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation with regard to the character and appearance of the area, with particular regard to the effect on the green wedge, 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 sited at the junction of Rye Hill Road and Paringdon Road. Both corners of the junction are open. Behind the appeal site is an area of open space with open views, while the opposite corner has substantial tree planting screening housing to the rear. There is a primary school on the opposite side of Paringdon Road.
6. The proposed mast would be readily visible in the street scene due to its height, position, the long views available along both Rye Hill Road and Paringdon Road 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 be a prominent feature. This would be exacerbated by the cabinets which would also be in a prominent position and of a noticeable scale.
7. LDP Policy PL5 concerns green wedges. I have not been provided with details of the extent of the green wedge. However, the proposed site is separated from the more expansive area of open space to the rear by a hedge and forms a small informal area of incidental open space. While this adds to the quality of the surrounding environment, its value would not be entirely lost were the mast and supporting equipment to be sited on it. The role and function of the larger area of open space, and thus the green wedge, would be unaffected.
8. Nonetheless, I find the proposed development would cause some harm to the character and appearance of the area, and I attach moderate weight to this.
9. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Paragraph 117 confirms that applications should be 'supported by the necessary evidence to justify the proposed development' including as regards potential alternatives. LDP Policy IN5 similarly requires appropriate evidence of mast or site sharing to be provided. I have also been provided with copies of consultation letters sent to interested parties in the surrounding area as sought by paragraph 117. There is no specific requirement for pre-application consultation with the Council.
10. A number of alternative sites have been considered and subsequently discounted, with a brief commentary on why each of the alternative sites is unsuitable. A number of rooftop sites were discounted for technical coverage reasons which I have no reason to dispute. The main reasons given are pavement width restrictions, presence of other underground services and relationship with housing. I have no reason to dispute these findings either. Furthermore, I noted a number of the sites, along Paringdon Road in particular, would be similarly visible in the street to the proposed development.
11. I have not been made aware of any further sites in the area where mast or site sharing should have been considered. The Council has expressed concerns with regard to the lack of coverage maps however paragraph 118 of the Framework

is clear that the need for electronic communications systems should not be questioned.

12. I am satisfied that there are no suitable alternative options available and that there would be public benefits from an improved telecommunications network. These benefits would attract substantial weight that outweighs the moderate degree of harm to the character and appearance of the area that I have identified.

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 this case the approved plans show the apparatus would be installed on root foundations which would protect the adjacent hedges. 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.

Conclusion

14. For the reasons given above, the appeal should be allowed and prior approval granted subject to the conditions set out in the GPDO.

J Downs

INSPECTOR