



Appeal Decision

Site visit made on 7 November 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal Ref: APP/A1530/W/23/3315171

Boundary Road, University of Essex, Wivenhoe, Colchester CO4 3ZL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country (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 222356, dated 12 September 2022, was refused by notice dated 26 October 2022.
- The development proposed is described as "Proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works".

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 a 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works at Boundary Road, University of Essex, Wivenhoe, Colchester CO4 3ZL, in accordance with the application ref: 222356, dated 12 September 2022, and the plans submitted with it including drawing Nos COC15089_M002 Issue B: 002 Site Location Plan, 210 Proposed Site Plan and 260 Proposed Elevation.

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. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 5 September 2023, replacing the version published on 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
4. From the evidence before me the landowners were notified of the proposal. Therefore, I see no reason to conclude that the application was invalid.

Planning Policy

5. As the appeal relates to a prior approval for a telecommunications development, there is no requirement to have regard to the development plan as there would be for any development requiring an application for planning permission. Nevertheless, Policy DM15 of the Colchester Borough Local Plan 2017-2033 (LP) and the Essex Design Guide, are material considerations insofar as they relate to issues of siting and appearance. In particular, they seek to ensure development is well designed and does not harm the character of an area. Similarly, the Framework is also a material consideration, and this includes a section on supporting high quality communications.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

Reasons

Character and appearance

7. The appeal site is located to the front of a grass verge at the junction of Boundary Road with St. Andrews Avenue (the A133). A large advertisement is positioned within the grass verge, situated east of the proposed development. The junction is wide, signalised and accommodates service roads and grass verges. The immediate locality of the appeal site is interspersed with vertical street furniture comprising traffic lights, lampposts and road signage.
8. The deep grass verge at this corner location contributes to the open and spacious gateway to the area. Building heights to the east and south of the appeal site are relatively high, being of multiple storeys.
9. The proposal would result in a 15-metre monopole and associated equipment cabinets being located at the edge of the deep grass verge. The mast would be relatively slender in design, and the top portion of the overall height made up of antennas. Vertical structures are common in the street scene, and the proposed mast would be positioned between two lampposts of approximately 7.5m in height. The monopole would be greater in height than the existing vertical structures and would be greater in thickness. However, given the presence of the many existing vertical structures in the vicinity of the site the proposed monopole would not appear alien in such a context. Furthermore, I am satisfied that the external finish of the proposed development, as set out in the Site Specific Supplementary document, would be acceptable in this urban context.
10. The mast would be positioned on land at the entrance to the University Campus and Knowledge Centre, which provides an attractive gateway. At the time of my visit, I observed a tall building to be under construction, which I understand is to be four-storeys in height. Whilst the monopole would extend above existing vegetation, present to the north-east corner of the verge, the proposal would be set back from the A133 and would be seen within a backdrop of existing built form of significant height. Moreover, the proposal would occupy only a small proportion of the grass verge, and its sense of spaciousness would not be eroded. For these reasons the monopole would integrate with this urban context and would not appear overly prominent or visually intrusive.

11. In conclusion, the proposal would not cause harm to the character and appearance of the area. The proposal therefore complies with LP Policy DM15, as well as the Framework's policies for supporting high quality communications and achieving well-designed places. Consequently, I consider the siting and appearance of the proposal would be acceptable.

Conditions

12. Any planning permission granted for 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 no later than the expiration of 5 years beginning with the date on which the local planning authority received the application. Also, it 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.

Other Matters

13. The Council notes that the appeal site lies within a designated Local Wildlife Site (LWS), however, they are satisfied that its position within a grass verge is not environmentally sensitive and accordingly, the proposal would not adversely affect the LWS. Based on the evidence before me I have no reason to disagree.
14. I note concerns that the proposed mast would undermine the investment made in the University Campus and Knowledge Centre gateway. However, there is little substantive evidence of this before me, and I attribute limited weight to these considerations.
15. The only issues that I can consider in respect of a prior approval appeal for telecommunications equipment is siting and appearance. Therefore, the implementation of a scheme is a matter between the relevant parties, and has not altered my assessment of the scheme.

Conclusion

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

R. Gee

INSPECTOR