



Appeal Decision

Site visit made on 19 December 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/B0230/W/23/3320850

Land adjacent to 79 Abbots Wood Road, Luton LU2 0LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against 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 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Borough of Luton.
 - The application Ref 22/01398/TEL, dated 24th October 2022 was refused by notice dated 10th January 2023.
 - The development proposed is the decommissioning of existing antennas on adjacent lamppost and installation of a replacement 18-metre-high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, as well as the installation of 3 no. new equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the appellant's statement of case refers to MBNL Limited as the appellant, the appellant's agent has confirmed that the appeal can continue in the name of CK Hutchison Networks (UK) Ltd.
3. 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.
4. The Council has referred to a number of development plan policies in its decision notice, however, the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require that regard be had to the development plan. I have therefore only had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) (December 2023), insofar as they are a material consideration relevant to matters of siting and appearance.
5. An updated Framework was published 19th December 2023 and 20th December 2023. Whilst section 10 of the Framework, entitled, supporting high quality communications, was unaltered in the revised Framework, the paragraph

numbering changed. Accordingly, I have had regard to the updated paragraph numbers in substitute for the paragraphs referred to in the appellant's statement of case, with paragraphs 118 to 122 of the updated Framework replacing paragraphs 114 to 118 of the previous Framework.

6. It has been suggested that the proposed cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposed installation on,
 - the character and appearance of the surrounding area;
 - the living conditions of the occupiers of nearby dwellings at 79 Abbots Wood Road and 64 Cowridge Crescent, in regard to outlook; 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

8. The appeal site is within a housing estate, comprising predominately two-storey dwellings. The proposal would be sited on the opposite side of the road to the existing lamppost mounted antennas it would replace, located within a small area of amenity greenspace on the corner of Abbots Wood Road and Cowridge Crescent. The existing greenspace is a grassed area containing two trees, in front of 79 Abbots Wood Road and 64 Cowridge Crescent, which form a pair of two-storey, semi-detached dwellings. The greenspace mirrors a similar area of greenspace located on the opposing corner of Cowridge Crescent and Abbots Wood Road.
9. On the opposite side of Abbots Wood Road there is a large open area of amenity greenspace, which together with the two small areas of greenspace on the corners of Cowridge Crescent provides a very open, spacious character to this part of the housing estate. Due to the rising ground levels leading up to the central greenspace located in this part of Abbots Wood Road, combined with the open character of this part of the estate, the installation would appear very prominent in its proposed location.
10. There is various existing street furniture, including lampposts and telegraph posts nearby. Also, there are a number of individual trees within the street scene in this part of the estate. The lampposts and telegraph posts are vertical features set at regular intervals, with slim profiles and are of simple design. They are typical street features that do not protrude above the height of the ridgelines of surrounding dwellings. Therefore, these structures do not form overly dominant features within the surrounding area.
11. The proposed mast at a height of some 18 metres would significantly exceed the ridge height of the roofs of existing surrounding dwellings, tree canopies and the height of existing street furniture. Also, the profile of the mast would

be much thicker than that of any existing slim street furniture found within the area, including that of the lamppost antennas it would replace.

12. The two existing trees either side of the proposed installation would provide some screening at times of full leaf, yet the proposal would be almost double the height of the trees and therefore would be prominent from wider views in the surrounding area, rising above tree canopies and the roof ridgelines of surrounding dwellings. Due to the design, including grey colour and thickness of the pole, when the trees are not in full leaf, the installation would be even more prominent. Consequently, the proposal would not be discrete, rather it would form an overly dominant feature within the street scene and, be prominent from wider views within the skyline, due to its height, design, and prominent location.
13. The number of equipment cabinets would be extensive and occupy a significant area of the amenity greenspace between the trees, cluttering the space and reducing the spacious open feel of the street corner. Further, the cabinets combined with the proposed monopole would negatively affect the symmetry this amenity greenspace has with the similar space on the opposite corner of Cowridge Crescent. Thereby, it would be harmful to the prevailing character of the immediate area.
14. In view of the above, the proposal would cause harm to the character and appearance of the surrounding area. Accordingly, insofar as they are a material consideration, the siting and appearance of the proposal would be contrary to Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 (LLP) (November 2017), which amongst other things, require development to enhance the character of an area. Also, the proposal would be contrary to Policy LLP35 of the LLP which, amongst other things, requires development to minimise impact on amenity.

Living conditions

15. The proposed monopole would be sited directly in front of 64 Cowridge Crescent, which has ground and first floor windows that would look out onto the proposal. Additionally, the associated equipment cabinets, together with the monopole would clutter the amenity greenspace and appear overly prominent when viewed from both 79 Abbots Wood Road and 64 Cowridge Crescent, due to the appearance and close proximity of the installation to these properties.
16. The design and height of the monopole would appear much more prominent than the existing low, slimline, lamppost antenna it is to replace. Furthermore, the replacement installation would be sited significantly closer to residential properties than the existing lamppost pole, and overly dominate the amenity greenspace area directly in front of the windows of the two nearby dwellings. As a result of its size, design and position, the installation would have an overbearing impact on the occupiers of the nearby dwellings.
17. By virtue of the appearance and siting of the proposed installation, it would cause harm to the living conditions of nearby dwellings at 79 Abbots Wood Road and 64 Cowridge Crescent, in regard to loss of outlook. Therefore, insofar as they are a material consideration, the proposal would be contrary to Policy LLP35 of the LLP 2011-2031 (November 2017) which, amongst other things, requires development to minimise impact on amenity. Policies LLP1 and LLP25

of the LLP were also referred to in the reason for refusal, however, I do not find these are directly of relevance to this matter of concern.

Need for the installation & alternatives

18. The proposal would upgrade the nearby mobile base-station on the adjacent lamppost, to enable improvements of 2G, 3G and 4G services and provide for 5G services for two mobile phone operators within the local area. Due to the limited range of radio transmitters, the mast needs to be located close to the area requiring coverage. The appellant also notes that the proposal would be of the minimum amount and scale of equipment possible to meet the operational requirements, although I do not have any substantial evidence in this regard.
19. Additionally, the appellant notes that telecommunication service provision in the surrounding area is in their opinion below optimum and, that there is increasing demand from local customers, including for 5G connectivity, particularly post the global Covid-19 pandemic. However, other than network coverage mapping, I have not been provided with any substantive evidence in regard to these matters.
20. There is significant national government support for improved digital infrastructure, including within the Framework and other government publications, as noted by the appellant. Also, the expansion of 5G would bring appreciable benefits, including economic, social, and environmental benefits, due to the increased access and speed of communication this would bring. Policy LLP35 of the LLP similarly provides support for the expansion of advanced high quality communications infrastructure within the district. Accordingly, the benefits of an enhanced digital network weighs in favour of the proposal.
21. In terms of the site specific requirements, the network coverage plans, and other information provided show that there is a potential range of some 50m radius where the replacement base-station could be located. However, no substantive information has been provided in respect of any other potential locations within this area where an alternative replacement free-standing installation has been considered.
22. The appellant notes that due to technical reasons the existing lamppost antennae mast cannot be upgraded and that, as the proposed development is a replacement mast, there is no requirement to explore other options. Notwithstanding such, they advise that the use of existing structures or buildings was explored, but no opportunities to share or locate on other structures or buildings were found to be suitable, due to the low heights of structures or roof designs of surrounding buildings and, that there are no other masts in the immediate area on which the proposed antennas could be sited.
23. The evidenced need for a replacement telecommunications installation, to improve network coverage, including 5G enhancement, weighs in favour of the proposal. However, due to the siting and appearance of the installation, including its associated cabinets, it would be harmful to the character and appearance of the surrounding area and, would be visually harmful to the outlook of occupiers of the immediate neighbouring dwellings. Also, I am not convinced that a less harmful alternative location for the replacement installation within the area has been properly explored in this instance.

24. In view of the above, it has not been demonstrated that the need for the installation outweighs the harm that would be caused, due to its siting and appearance.

Other Matters

25. The appellant has referred to other appeal examples where the Inspector, in allowing such appeals, provided notable weight to improved network coverage and capacity. Whilst the information provided here does not allow me to fully compare these examples with the appeal proposal, I note that none of the examples are located within the area surrounding the appeal site or the same district. Also, from the limited site information provided, the examples do not appear to be of direct comparison in terms of their site context to the proposal. Such examples therefore have limited weight in favour of the proposal.

Conclusion

26. Paragraph 118 (previously paragraph 114) of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic and social well-being. Planning policies and decisions should support the expansion of electronic communication networks, including next generation mobile technology, such as 5G. The proposal would provide significant benefits thorough the upgrade to digital communications in the local area, including service provision, capacity, and coverage.
27. However, I have found that the siting and appearance of the proposed installation would cause harm to the character and appearance of the surrounding area and, also would be harmful to the outlook of occupiers of nearby dwellings. In the absence of information relating to potentially more suitable sites within the area of requirement, the resultant harm is not outweighed by the benefits the installation would provide.
28. For these reasons, I conclude that the appeal should be dismissed.

C Billings
INSPECTOR