



Appeal Decision

Site visit made on 9 January 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/Q0505/W/23/3322932

Area of Grass Verge, 18 Cherry Hinton Road, Petersfield Cambridge, Cambridgeshire CB1 7AZ

- 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) Ltd against the decision of Cambridge City Council.
 - The application Ref 22/05334/PRIOR, dated 9 December 2022, was refused by notice dated 1 February 2023.
 - The development proposed is Proposed 5G telecoms installation: H3G 18m 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) for the siting and appearance of H3G 18m street pole and additional equipment cabinets at land at Area of Grass Verge, 18 Cherry Hinton Road, Petersfield Cambridge, Cambridgeshire CB1 7AZ in accordance with the terms of the application Ref 22/05334/PRIOR, dated 9 December 2022, and the plans submitted with it including; Site Location Plan ref 002 B, Proposed Site Plan drawing reference 215 B, Proposed Elevation drawing reference 265 B, and Proposed antenna schedule drawing reference 304 A.

Preliminary Matters

2. There is no dispute that the proposal would accord with the requirements of Schedule 2, Part 16, Class A, Paragraph A.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires 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. Representations have raised objections with respect to the legal standing of 'Three UK Limited' and its ability to issue International Commission on Non-Ionizing Radiation Protection (ICNIRP) Certificates. Nonetheless, I shall determine this appeal on its planning merits.

Planning policy

4. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, I have considered the development plan and the Framework only in so far as they are material considerations in reference to matters of siting and appearance. As such, I have had regard to policies 55, 56, 60, 65 and 84 of the Cambridge Local Plan [2018]. These seek, among other matters, for telecommunication equipment to ensure visual impact is minimised through design and location and be of an appropriate scale that complements the scale and form of heritage assets.

Main Issues

5. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area,
 - the effect of the siting and appearance of the proposed mast on highway safety, and
 - if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed taking account of any suitable alternatives.

Reasons

Character and appearance

6. Cherry Hinton Road is a main route through a mixed-use commercial and residential area. The appeal site is close to the junction with Clifton Road and within a landscaped grass verge. This verge includes a telegraph pole, streetlights, trees and other street furniture typical for an urban location. There is an established context of vertical features within the street. The site is adjacent to a three-storey residential building. Buildings around the site are generally at the back of pavement and range in height from 3 to 9 stories. Despite the presence of the grass verge, the site is within an area of relatively high density development, where roadside buildings form a strong sense of enclosure.
7. The proposed mast is a 'phase 9' slimline design and would not include a wraparound cabinet at its base. It would be visible in only one distant view, which would be when approaching the site along Cherry Hinton Road from the east. Such views would be partially screened by mature trees in front of Clifton Court and the mast would be framed by taller buildings behind, along the A1307. These would create a background screen that would further diminish the overall visual impact of the mast. As such, the structure would not break the skyline or be significantly taller than surrounding built form.
8. More locally, the proposed mast would be seen in the context of a range of existing street furniture, within constrained views. Therefore, whilst the mast would be taller than existing street furniture, its visual impact would result in limited visual harm. As a result, the site's setting would enable the mast to integrate well with the local pattern of street furniture and built development.

9. The proposal would not significantly contribute to street clutter being located within a gap of existing features and would be beyond the footway, where it would not impede pedestrian flow. The mast would be slim, and its antennas would be fitted close to the pole, which would minimise its overall bulk. As such, the mast has been sympathetically designed, as sought by the Framework, to integrate well with its surroundings.
10. The proposed mast would be assimilated into views of the local street furniture and result in a negligible impact on the character and appearance of the area.

Highway safety

11. The Council identifies Cherry Hinton Road as a busy thoroughfare with a high volume of cyclists and motorised traffic. The site is between two traffic light-controlled junctions and opposite an on-street bus stop. The site is also close to a bus lay-by and within a section of road that would occupy vehicles that would queue at the lights in front of the site. In noting the identified hazards, I am cognizant that a maintenance van parking within the carriageway, would cause some highway disturbance to the free flow of traffic. This would be especially problematic for cyclists who may come into conflict with vehicles that might seek to pass buses that have stopped opposite the site.
12. However, the section of highway in front of the site includes double yellow parking restrictions. This would discourage a maintenance van from stopping in the highway, preventing conflict with other traffic. Further, the frequency of maintenance vans, making visits to the equipment, would be likely to be extremely limited. Therefore, unsafe parking would cause, in a 'worst case' scenario, only infrequent and short-term interruptions to the free flow of traffic.
13. There are no designated parking bays in front of the site, although the adjacent grass verge is of sufficient width to occupy a maintenance van if required. If this ad hoc parking arrangement was undesirable and became unavailable, I am satisfied that nearby roadside and off-street parking options are available.
14. On this basis, the siting of the proposed mast would not materially harm highway safety.

Alternative sites

15. As I have found that the siting of the mast would not harm the character and appearance of the area or highway safety, there is no need to consider whether alternative sites would present a less harmful option.

Other Matters

16. Interested parties have objected to the proposal, and I have taken these submissions into account. Most objections relate to matters of siting and appearance, which I have considered above. Due to the separation distance of the mast from nearby residential windows, the effect on the outlook of nearby residents would be minimal. Furthermore, concerns raised with respect to the impact on wildlife and trees have been noted, but do not alter my findings on the main issues.
17. Concerns have been raised about the potential effects of the mast 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 ICNIRP. In

these circumstances, the NPPF 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. Furthermore, although the issuing company of the Certificate has now been acquired by the Appellant it was 'self-certified' by Three UK Limited, and while they may no longer exist, there is no reason to infer that the installation would no longer comply with this certificate.

Conditions

18. Any planning permission granted for the 18m street pole and additional equipment cabinets 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 not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and 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

19. For the above reasons, the appeal is allowed.

Ben Plenty

INSPECTOR