



Appeal Decision

Site visit made on 16 January 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2024

Appeal Ref: APP/Z2260/W/23/3316721

**Stirling Way, Opposite Junction of Rockstone Way, Ramsgate, Kent
CT12 6NE**

- 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 EE (UK) Ltd & Hutchison UK Ltd against the decision of Thanet District Council.
 - The application Ref TL/TH/22/1656, dated 7 December 2022, was refused by notice dated 2 February 2023.
 - The development proposed is telecommunications installation upgrade; proposed EE/H3G 18.0m High Phase 7 monopole complete with wraparound cabinet to replace existing 8.0m high lamp post pole on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GDPO), 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. The Council has referred to development plan policies in its decision notice. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies QD02 and QD07 of the Thanet District Council Local Plan 2020 (Thanet Local Plan) are material considerations as they relate to issues of siting and appearance. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.
4. The appellant has put forward that the proposed ground level cabinets do not require prior approval. Notwithstanding the positions set out, this is not for me to determine as part of the appeal. I have assessed the scheme based on the description of development and the plans submitted.
5. The Framework was updated in December 2023. The alterations do not substantively affect the content of the sections relevant to this appeal and as such no views were asked for from the main parties.

Main Issue

6. The main issues are:

- The effect of siting and appearance of the proposed installation on the character and appearance of the area.
- If any harm were to occur to the character and appearance of the area, whether it would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Siting and appearance

7. The appeal site is part of a grass verge running along the north side of Stirling Way. The verge separates the road from a footpath, beyond which there is another much wider grass verge where there are sporadic deciduous trees, with a cluster of 4 trees relatively close to the appeal site. In addition to the existing telecommunications installation, the verges also contain a range of street furniture, including street lighting columns, telegraph poles and various signage for motorists and a bus stop. To the north, set some distance beyond Stirling Way, are commercial/industrial buildings, a school, and a construction site. The south side of Stirling Way is characterised by two storey dwellings with some single storey houses near the junction with Rockstone Way. The flat topography, the long, straight form of Stirling Way and local pattern of development lend the area a very open character, enabling long views east-west along Stirling Way.
8. The current telecommunications installation comprises a lamp post style pole, with 3 cabinets immediately adjacent. The existing pole is shown on the drawings as being 8m high and is comparable to the heights of nearby lamp posts and telegraph poles. The proposed monopole, at around 18m in height, is significantly taller and has a greater diameter than the current pole. The 3 existing cabinets would remain, and the additional base cabinets would be similar in size to them.
9. Whilst I appreciate that in summer, there may be an element of screening from the trees, it would only offer screening in limited views of the site and the proposed pole would still be clearly visible in the long views from the east and west. The nature of the development to the north of the site, whilst taller than those domestic properties to the south, is set significantly distant from the appeal site and would not serve as mitigation or provide any meaningful screening.
10. The height and bulk of the pole would make it a highly visible, dominant feature in the streetscape with minimal screening provided by either landscape or built features. Given its height, the pole would be frequently seen against the skyline. As a consequence of its bulk, height and highly visible location, the pole would be harmful to the character and appearance of the area.
11. When considered cumulatively with the 3 base cabinets that would remain, the proposed base cabinets would be of a size, location and appearance that would have a limited visual impact on the street scene. This matter holds neutral weight in my determination of the appeal.

12. The proposed installation would have a harmful effect upon the character and appearance of the area. Insofar as they are material considerations, the proposed installation would be contrary to the relevant provisions of Policies QD02 and QD07 of the Thanet Local Plan. These policies, when taken as a whole, seek to deliver high quality design in development that has a positive visual impact. Similarly, paragraph 135c of the Framework seeks to ensure that developments are sympathetic to local character.

Need and availability of alternative locations

13. I fully accept there is a national and local need to expand existing telecommunications networks particularly with respect to 5G services, and that the nature of 5G and the network services it provides means that the equipment required is different. I have no reason to doubt that the height of the proposed pole is the lowest that will work effectively for the operator in this location, and that the cell search area is extremely contained. I note the support of the Framework for advanced, high quality and reliable communications, and that this is considered essential for economic growth and social wellbeing. The proposed installation would help to accommodate that need and as such would benefit economic growth and social wellbeing. These benefits, however, do not outweigh the harm that I have identified to the character and appearance of the area.
14. Paragraph 121 of the Framework requires that applications for telecommunications development, including prior approval, should be supported by necessary evidence to justify the proposal. This should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
15. The appellant has set out that they consider this to be an upgrade to an existing site and therefore no other standalone new facilities have been investigated. The appellant contends that given the current location was agreed to by the Council as a suitable location for telecommunications equipment when the original installation was approved, it has been established that this location would be acceptable in principle in terms of siting. Furthermore, other, discounted options were presented as part of the original planning submission and the appeal site is the only viable location.
16. The original installation was approved in 2000. It does not follow that an installation found acceptable over 20 years ago should indicate that an upgraded installation with a new, significantly taller, bulkier monopole, should be deemed appropriate in terms of its siting and appearance. I have no information before me in respect of any previous discussions around siting and the options explored at the time of the original decision. In the absence of clear and persuasive evidence as to why alternative sites have been discounted, I am unable to establish that the appeal scheme is acceptable in terms of its siting and appearance.

Other Matters

17. I note the concerns raised by third parties about potential effects 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 International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework 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.

18. I acknowledge that the appellant sought to undertake pre-application consultation with the Council and that no response was received. This is a matter between the parties and as such has no bearing on my decision. In any event, any advice given at pre application stage could not pre-determine the outcome of a subsequent application or appeal.
19. I note the appellant's case that the installation would not disrupt the ability of footway and road users to get around. This is not a matter that is disputed by the Council and I have no reason to disagree in this regard.

Conclusion

20. While I recognise that there are wider social and economic benefits that would arise from the proposal, the GDPO is clear that the only considerations should be the siting and appearance of the proposal. In this respect, the installation would have a harmful effect upon the character and appearance of the area. Insofar as it is a material consideration, the proposed installation would be contrary to the development plan taken as a whole. I am not convinced that less harmful alternatives have been properly explored and I do not consider that the need for the installation outweighs the harm it would cause. The appeal should therefore be dismissed.

L Francis

INSPECTOR