



Appeal Decision

Site visit made on 5 February 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/N1540/W/23/3322981

Area of Grass Verge, Kingsmoor Road, Great Parndon, Harlow CM19 4JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Harlow District Council.
 - The application Ref HW/PNT/22/00539, dated 9 December 2022, was refused by notice dated 3 February 2023.
 - The development proposed is described as proposed 5G telecoms installation: H3G 15m 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) (the GPDO) for a proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at Area of Grass Verge, Kingsmoor Road, Great Parndon, Harlow CM19 4JB in accordance with the terms of the application Ref HW/PNT/22/00539, dated 9 December 2022, and the plans submitted with it.

Preliminary Matters

2. I have taken the site address in the banner heading above from the appeal form. Whilst different to the decision notice and application form, it still accurately reflects the location of the appeal site albeit I have removed the grid references.
3. During the appeal, the National Planning Policy Framework (the Framework) was revised. Its content in respect of the main issue has not been materially altered. Therefore, in this instance it has not been necessary to consult the parties on the revisions to the Framework.
4. The provisions of the GPDO, 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.
5. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require consideration of the development plan. I have had regard to policies PL1, IN4 and IN5 of the Harlow Local Development Plan (HLDP), only in so far as they are factors relevant to

matters of siting and appearance. In particular, these policies expect proposals to not result in unacceptable harm to the character and appearance of the area and demonstrate opportunities have been explored to share existing masts or sites with other providers. Similarly, the Framework is also a material consideration, in particular the section on supporting high quality communications.

Main Issue

6. Based on the above, the main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site consists of a grass verge adjacent to the footway with a narrower grass verge and highway beyond. The road is relatively straight and level in nature. The grass verge forms part of a fairly wide verdant boundary made up of vegetation, hedging and trees with the nearest dwellings located behind. The majority of buildings in the vicinity are typically of two storeys in height but there are also single and three-storey residential buildings found within the area. As a result of the topography, buildings to the north east sit at a higher level than those to the south west.
8. In addition to the verdant boundary closest to the appeal site, the surrounding street scene also includes, boundary fencing/hedging, traffic signs, lamp posts, mature trees and a bus stop. As such, there are vertical features close by the footway and which are also seen along the street.
9. The development would be located close to but set back from the junction. It would be sited between mature trees to either side and mature lower-level vegetation and planting at the rear. The monopole would be taller than the nearby mature trees on either side, which the Council indicate are 12 – 13 metres high.
10. The proposed monopole would reflect the vertical emphasis of existing street furniture in the vicinity including lamp posts and traffic signs, albeit greater in height. Due to its height and siting the proposed monopole would be perceptible in views along the road, including from the adjoining footpath, as well as in some limited views from the residential properties nearby.
11. However, in both longer distance views, as well as in closer range views, the structure would be viewed against the backdrop of, and reasonably well screened, by surrounding trees, particularly during the summer months. Nonetheless, even in winter, the branches of the trees would offer some screening. Consequently, the proposal would not be a visually intrusive or alien feature in the street scene and would integrate with the existing character of the area.
12. Moreover, the equipment cabinets as proposed would be sited close together in a line and would be of modest size and extent. As such, they would not result in an undue proliferation of street furniture or a visually cluttered street scene. Consequently, the proposal, even when viewed with the associated cabinets and infrastructure would not be a visually anomalous feature in the street scene and would integrate with the existing character of the area.

13. On the evidence before me, the appellant has appropriately followed the sequential approach, advocated by the Framework. The supporting information indicates, albeit expressed in broad terms, that no existing mast sites are capable of supporting additional equipment to extend coverage reach across the target area identified. I am satisfied, in this particular case that the appellant has explored other possibilities prior to a new mast location being sought.
14. The Council have suggested an alternative location close to the junction at Greygoose Park and Paycock Road. However, as I have found the appeal site would be acceptable with regards to siting and appearance there is no need for me to consider alternative sites.
15. Considering the above, I find that the siting and appearance of the proposed development would not harm the character and appearance of the area. Insofar as it is a material consideration, the proposal would not conflict with policies PL1, IN4 and IN5 of the HLDP. It would also accord with the provisions of the Framework in so far as it seeks to support high quality and reliable communications infrastructure and ensure development is sympathetic to local character.

Other Matters

16. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties and places of education. 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.
17. Given the slender form of the mast and the distance from nearby residential properties, the proposed development would not result in a harmful overbearing effect or harm outlook from nearby properties. Planning is concerned with land use in the public interest, therefore the protection of private interests such as the impact on the value of a neighbouring property would not be a material consideration.
18. No substantive evidence to demonstrate that the appeal proposal would harm highway safety has been provided. From the plans provided and my observations on sight, clear visibility at the junction would be maintained.
19. Matters related to the condition of other sites are outside the scope of this appeal, and there is no cogent evidence before me that the proposed scheme would not be completed to an acceptable standard.

Conditions

20. There is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

21. For the reasons given above, the appeal is allowed, and prior approval granted.

A Hickey

INSPECTOR