



Appeal Decision

Site visit made on 12 February 2024

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 21 FEBRUARY 2024

Appeal Ref: APP/C3810/W/23/3323256

Leverton Avenue street works, Leverton Avenue, Arun PO22 7RA

- 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 GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Arun District Council.
 - The application Ref FP/219/22/TEL, dated 7 December 2022, was refused by notice dated 1 February 2023.
 - The development proposed is "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) for the siting and appearance of "5G telecoms installation: H3G 15m street pole and additional equipment cabinets" at Leverton Avenue street works, Leverton Avenue, Felpham, Arun PO22 7RA in accordance with the terms of the application, Ref FP/219/22/TEL, dated 7 December 2022, and the plans submitted with it including those titled: 002 Site Location Plan, 251 Proposed Site Plan, and 265 Proposed Site Elevation.

Procedural matters

2. Because this is an application for prior approval, the provisions of the GPDO 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. This appeal will be determined on the same basis.
3. The address given on the application form has been used in the banner heading above, but part of the address given on the appeal form has been included in the Decision above for clarity.

Planning policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the Development Plan. I have had regard to the policies of the Development Plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Reasons

5. The main issue is the effect that the siting and appearance of the proposed development would have on the character and appearance of the surrounding area.
6. The appeal site is situated within a mainly residential area. The site is an area of adopted highway land within an irregular shaped grassed open space (green space) beyond the pavement on the roughly east side of Leverton Avenue. There is a similar wider but shallower green space with the Leverton Avenue pavement beyond it on the opposite roughly west side, which is crossed by a drive. The junctions of Naiad Gardens and Hinde Road with Leverton Avenue lie roughly north west and south west respectively on the opposite side of the road, and the short spur and turning head off Leverton Avenue and the footpaths edge the sides of the green space between those junctions on the same side. The nearby mostly detached 2 storey gable roofed and 2 storey asymmetrical roofed dwellings are set well back from the roads and footpaths by their mostly open plan front gardens and drives. So, in keeping with most surrounding streets, the local area has a spacious suburban character.
7. There are trees in the green spaces on both sides of Leverton Avenue. The street pole (mast) would be sited towards the west side of the green space on the east side of Leverton Avenue, so it would be sited away from the nearby dwellings. Most of the nearby trees, including the few in some nearby gardens, are characterised by their compact natural forms, so they provide a partial sylvan backdrop in some views, offer partial screening in others, and, along with the lamp posts in most nearby streets, their main stems offer moderate vertical emphasis in the Leverton Avenue street scene.
8. The mast would be as low as possible to fulfil its function, but it would be taller than the nearby trees, some of which are a little taller than the lamp posts, and it would be taller than the nearby rooftops. However, as the nearby dwellings are set well back from Leverton Avenue, the narrow mast would be seen in the same broad views as the green spaces and the nearby trees at any time of year, so in time it would become assimilated into its surroundings.
9. Due to the street scene openness by the site in the mostly curving Leverton Avenue, the mast would be more noticeable around Leverton Avenue's junctions with Naiad Gardens and Hinde Road when travelling north or south along the public highway close by, but as different townscape vistas would unfold in either direction beyond its site, the mast would have relatively little visual impact in those trips. Whilst the upper part of the mast would be seen from most surrounding dwellings and/or their gardens, its slim form would have little effect on the wider skyline views, and thus, it would have minimal effect on the landscape. So, due to its siting and appearance, the mast would respect the spacious character of the estate, and its colour would integrate with the greenery within its surroundings. Moreover, due to its distances from and relationships with the nearby dwellings, the mast would not be so overbearing or so oppressive that it would harm any of the nearby occupiers' outlook.
10. The appellant's evidence shows that there are few potential sites within the well-populated area, and it explains why other sites have been discounted, including 2 sites where the pavements are too narrow or unsuitable for the proposal. As Figures 1 and 2 in Appendix 1 of the appellant's statement show that Ceres Place is well beyond the preferred location for coverage, and well

outside the 100 m search area, I agree with the appellant's findings that there are no satisfactory alternative sites available. Thus, the proposal would satisfy Policy TEL DM1 of the Arun Local Plan 2011-2031 which aims to permit telecommunications infrastructure provided that it satisfies several criteria and Policy BT7 of the Felpham Neighbourhood Development Plan 2019-2031 which aims to support the roll out of 5G. As the mast is the least visually intrusive option available, it would satisfy the Framework which seeks good design. The highway authority has not raised concerns about highway safety, and I agree.

11. The proposal would be a change to the locality, but that change would be acceptable. Therefore, I consider that the siting and appearance of the proposed development would not harm the character and appearance of the surrounding area.

Other matters

12. The clear need for additional coverage in the area has been demonstrated by the appellant and it is not disputed by the Council.
13. Concerns have been raised about potential effects on health, but 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.

Conditions

14. The Council's suggested condition for the structure to be finished in a specific colour is not necessary because that colour is specified on the plans.
15. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. 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

16. For the reasons given, the appeal should be allowed.

J Reid

INSPECTOR