
Appeal Decision

Site visit made on 13 February 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/N1540/W/23/3323128

Edinburgh Gate street works, Edinburgh Gate, Harlow CM20 2LQ

- 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 Harlow District Council.
 - The application Ref HW/PNT/22/00529, dated 25 November 2022, was refused by notice dated 20 January 2023.
 - The development proposes a 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 Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at Edinburgh Gate street works, Edinburgh Gate, Harlow CM20 2LQ in accordance with the terms of the application, Ref HW/PNT/22/00529, dated 25 November 2022, and the plans submitted with it.

Preliminary Matters

2. As this is an application for prior approval, the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) require the Council to assess the proposed development solely on the basis of its siting and appearance. This appeal has been determined on the same basis.
3. The principle of development is established by the Order and s38(6) of the Planning and Compulsory Purchase Act does not require me to have regard to the development plan. Nevertheless, I have taken into account Policies PL1, IN4 and IN5 of the Harlow Local Development Plan 2021 (HLDP) and the provisions of the National Planning Policy Framework (the Framework) insofar as they are relevant to matters of siting and appearance. The Framework was revised in December 2023; however, as the changes to the Framework do not affect the main issues, the parties have not been invited to comment further.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and, if harm would be caused, whether there are any preferable sites or designs available.

Reasons

5. The appeal site comprises part of a highway verge near the junction of Edinburgh Way and Edinburgh Gate. The area in the vicinity has a mixed character. To the northern side of Edinburgh Way are a variety of commercial and residential uses. These are often in relatively large buildings and include office accommodation, hotel, restaurant, Harlow Town train station, multi-storey car park and multiple large modern flat blocks. Conversely, to the south of Edinburgh Way is Harlow Town Park. This is a mixed greenspace formed of formal and informal parklands, fields and trees. Edinburgh Way forms a clear division between these two character areas.
6. Edinburgh Way is a major arterial route through the town. It is relatively straight and open along this section with reasonably wide verges to either side. As a consequence, the appeal site is visible from fairly long distances.
7. Due to this open vista, the mast and antennae array would be visible in views along Edinburgh Way and from within Harlow Town Park. Some screening would be provided in mid to long distance views by the trees along Edinburgh Way, in the centre of the roundabout with Edinburgh Gate and within the park. However, the proposed mast, at 15 metres in height, would project above the canopies of these trees. It would therefore be visible, even when the trees were in full leaf. There are regularly spaced lighting columns along all the roads in the vicinity, but these differ from the proposed mast by being much lower in height and slender in profile.
8. The proposed equipment cabinets would be modest in size and similar to other such cabinets used by a variety of infrastructure providers to house electronic equipment. They are commonly seen on highway verges and would be unobtrusive. However, the proposed mast and antenna array, because of its height and girth, would be prominent and would cause a degree of harm to the character and appearance of the area. It is therefore necessary to consider whether there are any alternative, preferable, sites where the antenna could be located.
9. The siting of the mast is constrained by the need to provide coverage for the target area, and also by the technical limitations of the cellular network of which it would form part. The appellant has provided information on the location of existing base stations, which shows that the cellular network is already a dense one, giving only limited scope for the siting of new antennae.
10. I have not been made aware of any existing masts in the immediate area that could be shared. Building mounted options are also limited given the predominantly lower buildings in the area. The flat blocks along Edinburgh Gate and Station Approach may be taller but are residential in nature. As far as alternative sites for a new mast are concerned, the appellant has provided a list of sites that were considered but rejected in favour of the proposed location. These sites are mainly located on nearby highway verges with a comparable visual impact or immediately adjacent to residential areas. They would therefore give rise to similar visual impacts to that of the proposed site.
11. No alternative sites for the antennae have been suggested by the Council or interested parties, nor has any party indicated that any of the alternative sites investigated by the appellant would be preferable to that proposed. No suggestions for an alternative design have been proposed.

12. Having regard to all these matters, none of the alternative options or locations that have been drawn to my attention are obviously more preferable to that proposed by the appellant. I therefore conclude that the proposed installation would be no more intrusive than would be the case elsewhere in terms of its siting and appearance, within the technical limitations of the existing network.

Other Matters

13. I have had regard to neighbour comments regarding health concerns about the proposed mast. These matters are, however, not under consideration in this appeal and in any case the submitted documentation includes a declaration which confirms conformity to guidelines on exposure of the general public to electromagnetic fields as set out by the International Commission on Non-Ionizing Radiation Protection.
14. I have also had regard to the recent appeal decision provided by the Council; however this site was in a markedly different location with separate issues and constraints relating to it.

Conclusion

15. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and supports the expansion of electronic communications networks, including the introduction of 5G.
16. In this case, I have identified that a degree of visual harm would be caused due to the proposed installation in the street scene along Edinburgh Way. There would therefore be a conflict with policy PL1 of the HLDP. I have, however, also determined that the location is no more intrusive than any of the reasonable alternatives that are before me. I conclude that the economic and social benefits accruing from the provision of an advanced, high quality and reliable communications network outweighs the visual harm that may be caused.
17. Therefore, for the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

Conditions

18. There is no authority in this type of case to apply any conditions beyond those set out in the relevant part of the Order. These conditions specify that the development must be carried out in accordance with the details submitted with the application, begin within five 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 with the land being restored to its condition before the development took place.

Nick Bowden

INSPECTOR