



Appeal Decision

Site visit made on 26 February 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2024

Appeal Ref: APP/V1505/W/23/3326748

Park Drive Street Works, Basildon SS12 0NL

- 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) Limited against the decision of Basildon Borough Council.
 - The application Ref is 23/00235/TEL.
 - The development proposed is a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
-

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 a 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at Park Drive Street Works, Basildon, SS12 0NL in accordance with the terms of the application Ref 23/00235/TEL, and the plans submitted with it.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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 a development plan policy in its decision notice. However, the principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the

Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issue

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and the outlook of occupiers of the neighbouring properties and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site is part of a wide grass verge located between a footpath alongside Nevendon Road and the boundaries of several residential properties. The grass verge is open and largely unobstructed containing only a dustbin, a post box and several trees on the boundary. There is also a lamppost adjacent to the road which the appellant indicates is approximately 8 metres in height. The proposed mast, at a height of 15 metres, would be located adjacent to the existing trees, said to be between 10 and 15 metres in height. The equipment cabinets would be positioned adjacent to the mast in a single line near to the footpath.
7. Due to the location of the proposed mast, adjacent to a relatively busy road, it would be a highly visible addition within the streetscene and from surrounding viewpoints. It would also be considerably higher than the surrounding street furniture, including the lamppost and most of the trees, and more prominent due to its bulky and top-heavy design. Due to its significant height and prominent appearance, along with the relatively low height of the surrounding buildings, the proposed mast would be a visually dominant addition to the surrounding area.
8. Whilst the proposed cabinets have been set back from the pavement and positioned in a single line to avoid a cluttered appearance, their cumulative size and bulky design would make them a highly noticeable feature within the streetscene. Therefore, the presence of these large structures would be an incongruous addition to this residential area.
9. However, it is noted that telecommunications equipment of a similar scale and appearance is not uncommon within built-up areas such as this one and that the proposal has been designed to ensure that the colour matches the existing street furniture. Nevertheless, due to their dominant and incongruous nature, the proposed mast and cabinets would have a moderately harmful impact on the character and appearance of the area.
10. The Council indicate that the proposal would be in close proximity to an existing flat development at Wilson Court on Kershaws Close and the existing residential garden of 8 Park Close. The proposed cabinets would have limited visibility to the occupiers of the neighbouring buildings but the proposed mast would be a highly visible addition. Nevertheless, due to the slim line design of the mast, the proposal would not significantly impede the outlook from any of these surrounding properties or result in a loss of daylight to the neighbouring occupiers when in their gardens or dwellings.
11. Paragraph 117 of the Framework states that applications for electronic communications development (including applications for prior approval under

the GPDO 2015) should be supported by the necessary evidence to justify the proposed development. The appellant has identified a requirement to provide 5G network coverage in the area and has stated that the erection of a new ground-based mast in the street environment would be the only viable route to ensure the delivery of the necessary service, as opposed to site sharing or use of an existing building or tall structure. The Council do not contest this matter.

12. The appellant has stated that the intended target area around Park Drive and Nevendon Road has a radius of approximately 100 metres. As well as the appeal site, five other sites have been considered to accommodate the proposed development. However, these were discounted for various reasons relating to unsuitable pavements, the impact upon visibility splays and location in front of residential housing. Again, this analysis has not been disputed by the Council and I can see that there is clear and persuasive evidence for discounting these alternative sites. Therefore, it is unlikely that a more suitable site may reasonably be available to fulfil the identified need. As such proposals are permitted development and have been accepted in principle, this need is given significant weight.
13. For the reasons set out above, the proposed installation would have a moderately harmful impact on the character and appearance of the area. However, as it is unlikely that a more suitable site would be available to achieve the identified need of providing 5G network coverage in this area, the need for the installation would be given significant weight which, in this instance, outweighs the harm that I have found. Therefore, on balance, I find the siting and appearance of the proposed installation acceptable.

Other Matters

14. Concerns have been 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.
15. Concerns have also been raised in relation to the potential impacts on wildlife, anti-social behaviour in the area, the proximity of the proposal to the gas mains and the conduct of the appellant. However, these are not considerations under Schedule 2, Part 16, Class A of the GPDO 2015 and therefore I cannot consider these matters as part of this appeal.

Conditions

16. The order 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

17. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

E Grierson

INSPECTOR