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# Appeal Decision

Site visit made on 13 February 2024

**by L Clark BA(Hons) DIPTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 April 2024**

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**Appeal Ref: APP/T5150/W/23/3326766**

**Area of Grass Verge, Harrow Road Street Works, Harrow Road, Brent HA9 6QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 the Council of the London Borough of Brent.
  - The application Ref 23/0773.
  - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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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) (GPDO) under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3 require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking account of any representations received. My determination of the appeal has been made on the same basis.
3. The principle of development is established by the GPDO, and the provisions therein do not require regard to be had to the development plan. I have nevertheless had regard to Policies DMP1 and BGI2 of Brent's Local Plan 2019-2041 and the National Planning Policy Framework (the Framework), in so far as they are a material consideration relevant to matters of siting and appearance.
4. The application form refers to the site being at Harrow Road Street Works, Harrow Road, Brent HA9 6QH. However, this is misleading and I have therefore used the address taken from the decision notice.
5. In their statement, the appellant refers to the proposed mast being Phase 9, however, the officer report refers to it being Phase 8. It is clear from the appellant's submission that the proposal is for a Phase 9 mast, and I have determined the appeal on this basis.
6. In their statement, the appellant refers to alternative sites. These differ from the sites outlined in the 'Pre-Application Consultation' submitted to the Council and appear to be outside the search area. I have therefore assessed the

proposal alongside those alternative sites outlined within the 'Pre-Application Consultation' which were deemed closest to the preferred location.

### **Main Issue**

7. The main issue is the effect of the siting and appearance of the proposed installation on the street scene of Harrow Road and whether any identified harm is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

### **Reasons**

8. The appeal site is a grass verge which runs parallel to Harrow Road. The road immediately adjacent to the site is dualled with a grassed central reservation. This is different to the reservation further along the road, which is narrower and hard-landscaped. The surrounding areas either side of Harrow Road are predominantly composed of a mix of 3-storey flats and 2-storey semi-detached houses. There are several young trees within the grass verge and elsewhere in the vicinity, which I am told belong to the Council. The trees, whilst young, contribute positively to the character and appearance of the area, softening the large expanse of highway and acting to screen the nearby flats from the busy Harrow Road.
9. The submitted plans show the proposed equipment cabins set within close proximity to one tree, and the Council argues that the cabinets would fall within its defined root protection area. There has been no arboricultural impact assessment, or any information provided to show the depth of the foundations required for the installation of the mast or the additional equipment cabinets. It is therefore not possible to make an informed assessment on whether or not the proposed development would have an impact on this tree, or on the root protection areas of any other trees within the vicinity. Given the importance of the trees to the character of the area, I therefore conclude that the siting of the proposed development would have the potential to cause material harm to the character and appearance of the area through loss of, or damage to, an important street tree. It is therefore necessary to consider whether there are any alternative, preferable sites that the antennae could be located.

### *Suitable alternatives*

10. The purpose of the installation is to provide the appellant with new 5G coverage, thereby facilitating significantly improved connectivity. The Framework supports the provision of high-quality and reliable communications. Paragraph 118 states that planning decisions should support the expansion of electronic communications networks, including next-generation mobile technology (such as 5G) and full-fibre broadband connections. Paragraph 121 states, amongst other things, the application for a new mast or base station should be supported with evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
11. According to the appellant all alternative suitable sites have been explored. However, the evidence supplied fails to satisfy me that a thorough review of possible options within the search area has been conducted, or that potential alternatives were discounted on reasonable grounds. For example, the grass verge on St Michaels Avenue (option D2) was discounted as the appeal site was considered closer to the nominal location with a higher likelihood of planning.

However, the grass verge in this location is wider and whilst trees are present, they are spaced further apart with larger sections of verge. Other reasons for sites being discounted include visibility splays and conflict with residential properties.

12. I find the level of information for each alternative site somewhat limited and the reasons for dismissing them lack detailed justification.
13. On this basis, I conclude that the evidence does not robustly demonstrate that less harmful alternative sites are not available.

### **Planning Balance**

14. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. However, national policy also recognises that trees make an important contribution to the character and quality of urban environments. The trees in this area contribute to its character and provide a verdant screening between the residential accommodation and the busy and wide transportation route of Harrow Road. In the absence of evidence to persuade me that the appeal site is the least worst option of those available, I find that the harm to trees outweighs the benefits of the proposed development.

### **Conclusion**

15. For the reasons set out above, I conclude that the appeal should be dismissed.

*L Clark*

INSPECTOR