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# Appeal Decision

Site visit made on 17 July 2024

**by G Sibley MPLAN MRTPI**

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

**Decision date: 13<sup>th</sup> September 2024**

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**Appeal Ref: APP/H0520/W/23/3326904**

**High Street, Street Works, Huntingdonshire PE28 3PG**

- 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) (GPDO).
  - The appeal is made by Gallivan, CK Hutchison Networks (UK) Ltd against the decision of Huntingdonshire District Council.
  - The application Ref is 23/00268/TELDET.
  - 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 GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority, and therefore the Secretary of State, 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 principle of development is established by the GPDO and 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 therefore had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.

## Background and Main Issue

4. There is a dispute between the main parties whether the site is located within the Earth Conservation Area (CA). However, based on the Conservation Area plan provided by the Council the appeal site is within the CA.
5. Therefore, the main issues that are relevant to this appeal are:
  - the effect of the siting and appearance of the proposed installation upon the character and appearance of the area
  - whether the siting and appearance of the proposal would preserve or enhance the character or appearance of the CA; and

- if any harm were to occur, whether this would be outweighed by the need for the installation to be sited as proposed, considering any suitable alternatives.

## **Reasons**

### *Character and Appearance*

6. The site is located on the High Street pavement at the edge of Earith. The buildings nearest the site are set back from the highway edge with boundaries marked by hedges and fences, however, most buildings are closer to the road. Along High Street there are telegraph poles and streetlights, although these do not continue beyond the edge of the village where the site is located. Opposite the site are trees and low-level signage. On the side of the road where the scheme is proposed, other than the trees within the garden next to the site, there is only low-level street signage. Beyond Earith there is open countryside and areas of woodland found beyond. These characteristics give the area around the appeal site a verdant and semi-rural character and appearance.
7. The scheme would see the installation of a 15-metre-tall street pole and additional equipment cabinets sited within the pavement along High Street. The pole would be significantly taller than the nearby street furniture, trees, and buildings. As a result of this it would be visible for a considerable distance both from within Earith and when approaching it.
8. Whilst there is street furniture in the area, there is nothing of the scale of the development proposed. Given its height the scheme would dominate the area and it would be visible for a considerable distance. The design of this apparatus would be seen as an obtrusive piece of street furniture and appear unusual and incongruous within this semi-rural setting and would thus harm the character and appearance of the area.
9. I therefore conclude that the siting and appearance of the proposed installation would have an adverse effect upon the character and appearance of the area. The development would therefore conflict with the requirements of the Framework which seeks to ensure developments are sympathetic to local character, including the surrounding built environment and landscape setting.
10. Insofar as they are material considerations, the proposal would be contrary to the aims of Policies LP11 and LP12 of the Huntingdonshire's Local Plan 2036 (LP). These state that wherever possible proposals should enhance features that contribute positively to the area's character, appearance and setting as well as ensuring proposals respond positively to its context.

### *Earith Conservation Area*

11. The duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special attention to the desirability of preserving or enhancing the character or appearance of the CA. The Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to their conservation.
12. The Conservation Area Character Statement for Earith (2008) identifies the historic importance of the landscape around Earith and the agricultural character of the settlement which is focussed on High Street. The approach to the village, where the appeal site is located, is identified in the Character

Statement as an important positive view. It identifies that High Street is Earith's main thoroughfare and its approach from Bluntisham has a very soft green setting of trees and vegetation. There is a field to the west of the site, identified in the Character Statement, that has important historic significance for the area. This is due to its high saturation which meant it would regularly freeze over in the winter months and is the birthplace of the game of 'Bandy'.

13. Given the size and location of the proposed equipment it would be visible for a considerable distance both from within Earith and when approaching it from Bluntisham.
14. Given that this approach to Earith where the equipment is proposed is identified as an important positive view, the utilitarian design and scale of the equipment would appear stark alongside the soft green setting of the trees and vegetation outside of the village. The equipment would also be seen within the backdrop for the field where 'Bandy' was first played, and the design of the proposed equipment would harmfully detract from this notable historic backdrop. Given that the trees in the area are located within the fields next to the road, they would not substantially screen the proposal when approaching the site along High Street. Additionally, it would be significantly taller than the surrounding trees thus limiting the possible screening the trees may provide from alternative viewpoints. Overall, the size and appearance of the proposal would not be sympathetically designed and camouflaged and thus fail to assimilate into its semi-rural setting.
15. For the reasons given above, the proposal is located close to an area which makes a positive contribution towards the significance of the historic and natural environments of the CA. Given the size and appearance of it, it would harmfully diminish how these historic and natural environments are experienced and thus cause harm to the significance of the CA as a whole. As such, the siting and appearance of the proposal would not preserve the character or appearance of the CA.
16. Paragraph 205 of the Framework advises that, when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to say that any harm to, or loss of, the significance of a designated heritage asset from its alteration should require clear and convincing justification.
17. In this case, the harm would be less than substantial but nevertheless of considerable importance and weight. In these circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. I will return to this in the heritage balance.

#### *Alternative Sites*

18. The purpose of the proposed equipment would be to provide 5G coverage in Earith and the surrounding area. On the basis of the evidence before me, I am satisfied that the appellant has demonstrated that there is an identified need for the proposed equipment to be located somewhere in the search area.
19. I have found that the proposed equipment, through its siting and appearance, would cause harm to the character and appearance of the area and the CA for the reasons given above. The other options that might be available are therefore an important consideration. In addition, Paragraph 121 of the Framework requires that, for a new mast, evidence be provided that the

applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.

20. The supporting information refers to several discounted alternative options for the proposed development. Reasons are given as to why they have been discounted and these include insufficient space, proximity to housing and visibility splay issues. However, the reasons are brief and unsupported by any further evidence to suggest why they would be more harmful than the appeal scheme, or are not viable.
21. Limited detail has been provided setting out why the alternative sites would be more harmful to the character and appearance of the area or the designated heritage asset. This is insufficient evidence to support the case that nearby buildings would not be suitable to support the telecommunications equipment.
22. The search area provided by the appellant shows that it covers an area encompassing both built up and open spaces that have not been assessed. In the absence of clear and persuasive evidence as to why alternative sites have been discounted, I am unable to establish that the appeal scheme is the most suitable in its siting and appearance.
23. For the reasons given above I am not satisfied that, based on the evidence, the appeal scheme represents the least harmful option, nor that the requirements of Paragraph 121 of the Framework have been met.

### **Other Matters**

24. The appellant has referred to an appeal that was allowed in Walworth in London<sup>1</sup>. Whilst I have not been provided with a copy of this decision, based on the information before me that site was not within a CA. Furthermore, that appeal was located in a different area that had its own unique context, and as such has limited bearing on my consideration of this appeal. I have therefore assessed the appeal on its own merits based on the evidence before me and my own observations.
25. The Council state that the site is located close to a Site of Special Scientific Interest, the Royal Society for the Protection of Birds Ouse Fen, and the Great Ouse Valley corridor. However, as the appeal is dismissed for other reasons, I do not need to give the effects on these areas' further consideration.

### **Heritage Balance**

26. As mentioned earlier, Paragraph 208 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
27. The Framework advises that significant weight should be placed on the need to support economic growth and productivity. Additionally, it identifies that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Decisions should support the expansion of electronic communications networks. I note that the pole is the minimum height necessary, and the proposed installation would provide 5G mobile connectivity to the area and this would be a benefit to the settlement of Earith and the surrounding area, including residents, businesses, and

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<sup>1</sup> APP/A5840/W/20/3254830

educational services. Overall, the public benefits of the scheme attract significant weight in the balance.

28. Therefore, when giving great weight to the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the Conservation Area, I find that the harm that arises from the proposal would not be outweighed by its public benefits. Accordingly, there would be a conflict with Paragraph 206 of the Framework as harm to the designated heritage asset would not have clear and convincing justification.
29. Insofar as they are material considerations, the proposal would be contrary to the aims of Policies LP11, LP12 and LP34 of the LP. These state that proposals within or affecting the setting of a Conservation Area should preserve the character or appearance of it.

### **Conclusion**

30. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*G Sibley*

INSPECTOR