



Appeal Decision

Site visit made on 8 August 2023

by **J Gunn DipTP, DipDBE, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th August 2023

Appeal Ref: APP/C3105/W/22/3307743

Area of Grass Verge, Peregrine Way, Langford Village, Bicester, Oxfordshire OX26 6XB

- 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 & 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 Cherwell District Council.
 - The application Ref 22/02000/TEL56, dated 4 July 2022, was refused by notice dated 21 August 2022.
 - The development proposed is 5G telecoms installation: 16m street pole and 3 additional ancillary equipment cabinets and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has referred to development plan policies and the National Planning Policy Framework (the Framework) in its decision notice. However, the principle of development is established by the GPDO, and the provisions of Schedule 2, Part 16, Class A of the GPDO does not require regard be had to the development plan. I have had regard to the policies of the development plan and the Framework only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

3. I am satisfied that the proposal complies with the relevant limitations and restrictions set out in the GPDO. However, development under Part 16, is subject to a condition that the prior approval of the Council must be sought for the siting and appearance of the development. The Council withheld its approval on the basis that the proposal would cause harm to visual amenity, and the outlook and amenity of nearby residential properties.
4. Consequently, the main issue in this appeal is the effect of the proposal on the character and appearance of the area and the living conditions of the occupants of neighbouring residential properties with regard to outlook.

Reasons

Character and appearance

5. The appeal site is located along a circulatory road that serves a modern housing estate, comprising of predominantly two storey dwellings. It lies close

to a local centre which provides a range of services and facilities for the residents of the estate. Whilst urban in character, the built environment along Peregrine Way is softened by vegetation located within residential gardens, on highway verges and on a nearby traffic island. Street lights, measuring approximately 7.5m in height, are located at regular intervals around Peregrine Way

6. There are long clear views along Peregrine Way with the low level planting and the backdrop of the dwellings providing only very limited visual mitigation to the proposed mast. However, given its height, the mast would still project well above the surrounding dwellings, and be seen clearly against the skyline. I am in no doubt that that it would be seen as a prominent feature by local residents, road users and pedestrians.
7. The mast would consist of a 16m high Phase 8 street pole, which the appellant indicates is designed to fit alongside street furniture. In addition, they would paint it grey 'in an effort to assist with assimilation of what is recognised as functional, but essential telecoms infrastructure installation.' Nonetheless I find that mast would be much taller and bulkier than the lamp columns which lie nearby. Its height would set it apart from other street furniture. Consequently, I find that the proposed mast would appear as an intrusive feature and would harmfully detract from the character and appearance of the area.
8. I have taken into account the appellant's desire to improve digital wireless, mobile coverage within the area, with new equipment that facilitates 5G coverage. In this regard I note that the Council has not disputed the appellant's need for improved coverage and indicate that they are fully supportive of the technology. I see no reason to take a different stance.
9. I also note the support in the Framework for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. In this regard, I recognise that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
10. In order to facilitate this improvement, the appellant has identified a number of alternative sites, which they have considered and discounted for various reasons. The Council, in their officer report, refer to the alternative sites that were considered by the appellant and for their part they have not contested the area of the search, the alternatives considered, or made alternative suggestions. However, they have indicated a willingness to discuss other sites to explore whether any constraints may be overcome. That said, from what I have seen and read there appears to be no obvious alternative sites that might be suitable and available.
11. For the reasons set out above, I do not consider that the appeal proposal has been sympathetically designed as required by the Framework. Moreover, I have concluded above that the development would be harmful to the character and appearance of the area, and do not consider that harm to be outweighed by the support in the Framework for high quality communications, when weighed against the development plan harm and the wider requirements of the

Framework.

12. Insofar as they are material considerations, the proposal would be contrary to the aims of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 (the Local Plan), saved policies C28, C30 and C39 of the Cherwell Local Plan 1996 (the Saved Policies) and paragraph 126 of the Framework. These policies require, amongst other matters, new development to be well designed so as to respect the character, identity and context of the area.

Living conditions

13. The proposed development would sit on the grassed verge of Peregrine Way. It would be a short distance from the closest residential properties, 1 Falcon Mead and 19 Partridge Chase, with the intervening space occupied by a footpath, a landscaped verge and a high boundary wall. Whilst the flank walls of Nos 1 and 19, which face directly towards Peregrine Way, have no windows, there are a number of windows serving habitable rooms in their rear elevations. I also noted on my site visit a small number of properties within Merlin Way, which lie on the opposite side of Peregrine Way, which have rear gardens that face towards the appeal site. The properties had windows, at ground and first floor level, in their rear elevations, which faced towards the appeal site.
14. The proposed mast would be clearly visible from the ground and first floor windows in the rear elevations of Nos 1 and 19. Whilst I acknowledge that landscape features in the rear gardens of these properties would screen the lower part of the proposed mast, the top portion would be clearly visible from within the properties and their rear gardens, at close range, and would appear as a prominent and incongruous feature on the skyline. Consequently, the proposal would be harmful to the occupants outlook.
15. The impact on outlook from properties within Merlin Way would be more limited due to the greater distances involved. Nonetheless, the proposed mast would be visible, against the skyline, when viewed from their rear facing windows and their respective gardens. As a result, the proposed mast would be harmful to the outlook of the occupants of those properties.
16. Insofar as they are material considerations, the proposal would be contrary to the aims of Policy ESD15 of the Local Plan and paragraph 130 of the Framework. These policies require, amongst other matters, new developments that add to the overall quality of the area, whilst providing a high standard of amenity, not just for the short term, but over the lifetime of the development.

Other Matter

17. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties. 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.

Conclusion

18. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Gunn

INSPECTOR