



## Appeal Decision

Site visit made on 6 September 2023

**by C Carpenter BA MA MRTPI**

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

**Decision date: 9<sup>th</sup> October 2023**

**Appeal Ref: APP/R5510/W/23/3317554**

**Highways land, Warley Road, Hayes UB4 0QJ**

- 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 the Council of the London Borough of Hillingdon.
- The application Ref 77709/APP/2022/3647, dated 24 November 2022, was refused by notice dated 19 January 2023.
- The development proposed is installation of 15m pole including antennas, ground based apparatus and ancillary development.

### **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), 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies D4, D8 and SI6 of the London Plan 2021 (LP), Policy BE1 of the Hillingdon Local Plan: Part 1 Strategic Policies 2012 (HLP1), and Policies DMHB 11, DMHB 12 and DMHB 21 of the Hillingdon Local Plan: Part 2 Development Management Policies 2020 (HLP2) are material considerations as they relate to issues of siting and appearance. In particular, they support effective use of rooftops and the public realm to accommodate well-designed and suitably located mobile digital infrastructure; seek development that enhances local distinctiveness and takes account of the established townscape character; and require telecommunications development to be sited and designed to minimise visual impact. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.

## Main Issues

5. The main issues are:

- i. the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding area;
- ii. the effect of the siting of the proposed installation on the living conditions of neighbouring residents, with particular regard to outlook; and
- iii. 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

### *Character and appearance*

6. The appeal site is at the intersection of two residential streets in a suburban area of mainly two-storey houses. The streets and footways are wide, giving the neighbourhood a spacious and open character. The intersection, which includes a roundabout, is generously laid out with an area of communal green space at each corner. There are no fences or bollards around these spaces and few existing items of street furniture within them, which contributes to their open appearance. The trees within these spaces are generally comparable in height to the nearby houses. Other vertical structures include modestly sized lampposts and street signs on the footway. There are some taller telegraph poles further down each of the streets, some distance from the intersection.
7. The proposed installation would be sited within one of the four communal green spaces, close to the boundary with the footway. The row of cabinets would interrupt the openness of this corner, creating an imbalance with the other three. The monopole would be significantly taller than nearby street furniture and trees, and wider than the lamp- and signposts. Given it would not be aligned with or close to structures of comparable height, it would be very prominent and would look out of place within the roundabout's open layout. Overall, the installation's dominant presence would detract significantly from the spacious and open character of the street scene.
8. I acknowledge the proposed equipment has been reduced in size and scale as far as technically possible for this location. However, this would be insufficient to mitigate the harm from the prominent siting of the proposal.
9. For the above reasons, I conclude the siting and appearance of the proposed installation would have a harmful effect on the character and appearance of the surrounding area.

### *Living conditions*

10. The installation would be highly visible from the principal ground and first floor front windows of houses opposite on both Warley Road and Balmoral Drive. These houses currently have an outlook across the open street scene described above. I accept the new structure would be sited as far away as possible from these dwellings, taking into account the need for visibility for users of the road junction. Nevertheless, the installation's size and unconcealed presence would

dominate the outlook from these windows to an extent that would be overbearing.

11. For the above reason, I conclude the siting of the proposed installation would have a harmful effect on the living conditions of neighbouring residents, with particular regard to outlook.

*Alternative sites*

12. The proposed installation is necessary to provide additional capacity and fill holes in the operator's existing 3G/4G network and to provide new 5G coverage in a suburban area.
13. Given the harm I have found to the character and appearance of the area and to the living conditions of neighbouring residents, the other options that might be available are an important consideration. In addition, paragraph 117 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.
14. I accept the cell search area is limited to meet a very specific technical requirement. The appellant states there are no existing masts available to share and no tall buildings suitable in the search area. However, there is little before me to show the extent of the search area, or the location of existing masts and taller buildings in relation to this. There is also little evidence about which other masts have been considered and the reasons they would not be viable options.
15. The supporting information refers to several alternative options for the proposed development at ground level. Reasons given for discounting these include greater impacts on residential amenity and footway width than the appeal site, and issues with underground services, overhead wires or visibility splays. Nevertheless, the reasons given are brief, not specific to individual sites, and unsupported by sufficient evidence to show why they would be less suitable or would not be viable. In addition, from the evidence before me, sites suggested by the Council's Digital Connectivity Team do not appear to have been considered.
16. Therefore, in the absence of clear and persuasive evidence about the area of search and the reasons alternative options have been discounted, I am unable to establish whether more suitable sites might reasonably be available. Consequently, I am not satisfied that suitable alternatives have been properly explored, nor that the requirements of paragraph 117 of the Framework have been met.

*Conclusion*

17. In summary, I find the siting and appearance of the proposed installation would have a harmful effect on the character and appearance of the surrounding area; and that its siting would have a harmful effect on the living conditions of neighbouring residents, with particular regard to outlook. Given suitable alternatives have not been properly explored, these harms are not outweighed by the need for the installation to be sited as proposed. Insofar as they are a material consideration, the proposal would also be contrary to the aims of Policies D4, D8 and SI6 of the LP, Policy BE1 of HLP1 and Policies DMHB 11,

DMHB 12 and DMHB 21 of HLP2. For these reasons, I find the siting and appearance of the proposed development to be unacceptable.

### **Other Matters**

18. I recognise that there are wider social and economic benefits that would arise from the proposal, but these have not been taken into account in considering the matters of siting and appearance.
19. Whether or not pre-application advice was sought from the Council, I have considered this appeal on its merits based on the evidence before me.
20. I have considered the other appeal decisions put forward by the appellant. In the case of appeal reference APP/B5480/W/20/3251086, the Inspector considered the proposed mast would be only partly visible against a largely wooded backdrop and would be more discreet than the installation it was proposed to replace. As a result, the Inspector found its siting and appearance would not harm the character and appearance of the area or on the living conditions of neighbouring occupiers.
21. In the costs award for appeal reference APP/G5180/W/16/3151769, the Inspector found the Council had given insufficient consideration to the need for the installation to be sited as proposed taking into account any suitable alternatives. In the current appeal the Council did take account of the alternative sites suggested.
22. Therefore, the circumstances in both of these previous appeal decisions were different from those before me. I have determined this appeal on its merits.

### **Conclusion**

23. For the reasons given above, I conclude that the appeal should be dismissed.

*C Carpenter*

INSPECTOR