

Eastleigh Borough Council

Statement of Case of Local Planning Authority

Proposed 5G telecoms installation: 15m street pole and 3 additional ancillary equipment cabinets and associated ancillary works.

Area of Grass Verge, Chandlers Ford,
Eastleigh, Hampshire, SO53 3FJ

Appeal by: CK Hutchinson Networks (UK) Ltd

Planning Inspectorate Reference: APP/W1715/W/22/3312540

Eastleigh Borough Council Reference: PN/22/93378

April 2023

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Particulars of the application/appeal

This appeal relates to the refusal of the prior notification application for the proposed 5G telecoms installation: 15m street pole and 3 additional ancillary equipment cabinets and associated ancillary works which was made valid on the 8th July 2022.

The reasons for refusal

The application was considered and determined under delegated powers with the final decision being issued on 6th September 2022 (with an agreed time extension of 19 days from the statutory 56-day period) as set out at **Appendix 1**. Prior approval was refused for the following reasons:

- 1) The proposal, by reason of siting and appearance is considered to be visually dominant and intrusive, harmful to visual amenity and detrimental to the character and appearance of the area, contrary to Policies S4 (3e), DM1 and DM9 of the Eastleigh Borough Local Plan 2016-2036 and the contents of the National Planning Policy Framework (NPPF) (2021).
- 2) Based on the limited information received, the proposed development would damage the health of the existing mature cherry tree to which is an important and attractive feature within the locality and street scene. As such the proposal is contrary to DM11 of the Eastleigh Borough Local Plan 2016-2036 and the Trees and Development SPD (2022)

The appeal site and surroundings

The appeal site comprises a grassed area on a corner location where Belmont Road meets Wiltshire Road. Belmont Road is located to the south of the appeal site and Wiltshire Road is located to the east. It is surrounded by residential properties consisting mainly of 2 storey properties with a 3-storey development opposite to the south west. There are trees and minimal street furniture including lamp posts, telegraph poles, a bus stop, a litter bin and a public bench in the immediate vicinity.

The site is relatively small but in a fairly prominent position, given its corner siting. It is surrounded by vegetation and greenery and the site combined with the neighbouring areas of greenspace, make a positive contribution to the character and appearance of the area.

Planning history

There is no relevant planning history.

Relevant planning policies

The Development Plan

By Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, this Appeal must

be determined in accordance with the Development Plan unless material considerations indicate otherwise.

For the purposes of this appeal, the Development Plan comprises:

The policies of the 2016-2036 Eastleigh Borough Local Plan The most relevant policies are S1 (Delivering Sustainable Development), S2 (Approach to New Development), DM1 (General Criteria for New Development), DM9 (Public utilities and communications) and DM11 (Nature Conservation).

National Planning Policy

The National Planning Policy Framework (NPPF or 'Framework') sets out the Government's planning policies for England and how these should be applied. The latest iteration of the Framework was published in July 2021 and is a material consideration in the determination of this appeal.

High quality communications infrastructure is essential for economic growth (Paragraph 114) and applications should be supported by necessary evidence to justify the proposal (Paragraph 117). There is also a requirement, under Paragraph 115, that 'equipment should be sympathetically designed and camouflaged where appropriate'.

Paragraph 126 sets out how good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should ensure developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. Development should be sympathetic to local character and history (paragraph 130).

Legislation

The Town & Country Planning (General Permitted Development) (England) (Amendment) Order 2015, Part 16 of Schedule 2, Class A allows the installation, alteration or replacement of any electronic communications apparatus by an electronic communications code operator.

Under the above Act the developer must apply to the Local Planning Authority, before starting development, to determine whether the prior approval of the authority will be required as to the siting and appearance of the proposed development.

The reasons for refusal

The Council's reasons for refusal are set out within the decision notice and the justification is provided in the delegated officer report (see **Appendix 2**).

The following section provides additional detail in relation to specific matters raised within the Appellant's Statement of Case, in so far as these are relevant to this reason.

The LPA considered all the information provided by the appellant in detail during the consultation period and appropriate weight was afforded to the necessary considerations as required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The appellant states at paragraph 1.7 that they do not accept the premise that the proposal would have a *"significantly detrimental impact upon the street scene"* and that the decision issued *"took sufficient or due weight to the importance placed on enhanced and improved telecommunications infrastructure within Eastleigh Borough Local Plan 2016-2036, nor the National Planning Policy Framework"* (paragraph 1.8). It was felt that the visual impact and appearance of the proposal was not acceptable and the resulting harm would outweigh the need for the telecommunications infrastructure in this location.

The appellant refers to the site and surroundings in section 5.0 but the only reference made in relation to existing trees is how they would potentially reduce visual impact. The effect on these features has not been considered or assessed in the site selection process. The RPAs of the existing trees are not shown on any submitted drawings. The appellant notes at paragraph 5.2 of their Statement of Case that *"Pre-consultation was undertaken with the local planning authority; Eastleigh Borough Council on the 21st June 2022"* and the appellant was informed that arboricultural information should be provided as part of any application for prior approval as the proposal would be in close proximity to an existing mature cherry tree. No arboricultural information was provided with the prior approval application and no justification has therefore been provided as to the need to locate the apparatus in this specific location, given the potential impact on the tree.

The application for prior approval was submitted on 6/07/2023 before the outcome of the pre-application was provided (14/07/2023) or could have been taken into consideration. It is therefore unclear why a pre-application submission was made. The appellant was given the opportunity to provide the necessary arboricultural information during the course of the application, subject of this appeal, however this was not forthcoming.

The Council's tree officer maintains an objection the siting of the proposed street pole and cabinets on this basis. The proposal is therefore considered to have a detrimental impact on the health of the existing mature cherry tree which is an important and attractive feature within the street scene and locality contrary to local plan policy DM11 and the Trees and Development SPD (2021).

At paragraph 7.4 of the appellants Statement of Case, the appellant claims the existing trees would *"further reduce any visual impact"* and *"reduce any impact upon amenity and the character of the area"* however, as mentioned above, the impact on health of the existing trees has not been given any consideration in the formulation of

the proposal. The existing trees, being natural, are of a completely different form to the apparatus proposed and would also be lower in height and would not therefore add any screening to the higher sections of the proposed 15m street pole.

The proposed green colour of the street pole and cabinets is described as effort to “*assist with assimilation*” however, whilst the colour of the street pole could be secured by a suitably worded condition, the LPA consider this would not overcome the potential harm and the colour proposed is not sufficient to overcome the resulting urbanising effect contrary to national guidance as set out in the NPPF.

The appellant considers that the proposal would not be “*dominant or out of scale due to the presence of two storey flatted developments within the vicinity of the site*” however the proposed street pole would be approximately 10m higher than the nearest lamp post and approximately 8m higher than the closest two storey building and tree. It would be greater in diameter, particularly the upper diameter, than nearby lamp posts and telegraph poles. It would therefore result in a considerably higher, more significant structure, extremely noticeable above the nearest dwellings and vertical street paraphernalia. The proposed street pole would not relate well to or be in keeping with the existing group of smaller street trees, any screening would be limited, especially when nearby trees may not be in leaf.

The proposal is considered to result in visual clutter which would be out of keeping with the character of the area and would not therefore “*blend into the existing street scene*” as suggested at paragraphs 7.4 and 8.3 of the appellant’s statement of case.

Whilst it is agreed the appeal site is not within a Conservation Area, the area is characterised by residential built form with limited street furniture. The appellant states that the proposal would not “*materially harm the character and appearance of the street scene*” at paragraph 7.6 and the 15m street pole “*is considered in the context of its overall proportions given the presence in the immediate vicinity of trees and lampposts, is not overbearing or significantly demonstrably dominant*” at paragraph 7.8, but the proposed street pole would not visually integrate with the nearest street lighting due to the proposed height and diameter. It would be 200% higher than the nearest lamp post and 114% higher than the nearest building thus resulting in an incongruous feature within the street scene. The utilitarian and functional design of the proposal is uncharacteristic of the local surroundings and would therefore appear dominant and out of place against the existing street furniture.

Conclusions

The need for improvements to the existing telecommunications network have been considered and appropriate weight has been afforded to such benefits of the proposal.

The position of the street pole and the cabinets, as proposed, would impact on existing trees and the appearance of the apparatus would have a negative impact on the street scene. There would be material harm to the character and appearance of the area.

As set out within this Statement, there is a clear conflict between the proposals and the policies within the adopted 2016-2036 Eastleigh Borough Council Local Plan, in particular strategic policy S4 (3e), and development management policies DM1 and DM9 and DM11. As a result, it is clear that the proposal does not accord with the development plan for the purposes of Section 70(2) and 79(4) of the Town and Country Planning Act 1990 and Sections 38(6) of the Planning and Compulsory Purchase Act 2004. Prior approval should therefore be refused unless material considerations indicate otherwise. However, The Local Planning Authority consider there is no such material considerations in this case that indicate a decision otherwise, therefore a refusal should stand, and the appeal should be dismissed.

Should the Inspector be minded to grant prior approval, the Local Planning Authority would request that the conditions set out in **Appendix 3** be included as part of any approval.