

Appendix A

Appeal by CK Hutchinson Networks (UK) Ltd

5G Telecom Mast at Inkersall Green Road, Inkersall, Chesterfield. CHE/21/00900/TEL

1. Planning permission was refused on 1st February 2022 for a 5G 20 metre high street telecom pole with three equipment cabinets on the highway verge at Inkersall Green Road. The reasons for refusal were:

The siting and appearance of the proposed installation would have a significant and adverse effect on visual amenity in the local area. The proposal would present itself as an intrusive and incongruous feature in the open aspect of Inkersall Green Road and surrounding village green harmful to the character and appearance of the area. The proposal is therefore contrary to the national guidance in NPPF and Policy CLP20 of the Chesterfield Local Plan 2018-35.

2. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, the inspector had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are factors relevant to matters of siting and appearance. In that regard, Policy CLP20 of the Chesterfield Borough Local Plan is a material consideration as it requires development to identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context.
4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and, 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.

Character and appearance

5. The appeal site is part of a grass verge located between the footpath and carriageway on Inkersall Green Road. The site is on the edge of a village green, a grassed open, green space containing a number of mature trees. Opposite the appeal site are the open grounds of Inkersall Primary School. The open nature of the site in combination with the village green, positively contributes to the appearance of the area. Notwithstanding that the site does not lie within a designated area, the green space enhances the character and appearance of the area.
6. The inspector commented that the verticality of the proposed street pole would reflect the nature of nearby trees, but it would be higher. It would also be substantially taller than the nearby lamp posts. Due to its height and the limited number and size of street furniture in the locality, the proposal would be an incongruous structure within the village green and its immediate surroundings. However, given the bend in Inkersall Road, the trees and the intervening buildings, the proposal would not be a prominent feature in more distant views.
7. The proposed equipment cabinets would be of modest size and extent. As such, they would not result in an undue proliferation of street furniture or a visually cluttered street scene. The inspector considered that the pavement on this stretch of Inkersall Green Road appears to be of sufficient width to accommodate the proposals without causing a significant obstruction to pedestrians using the footway.
8. The appellant advises that the equipment would be coloured green to assist with assimilation. However, the inspector was not persuaded that the visual impact arising from the design, height and siting of the structure could be mitigated if green in colour. For the above reasons, the inspector considered that the siting and appearance of the proposal would harm the character and appearance of the area. Accordingly, insofar as it is a material consideration, the proposal would conflict with the design aims of *policy CLP20*. The proposal would also conflict with guidance within the Framework, including in requiring equipment on new sites to be sympathetically designed.

Alternative sites

9. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G. The appellant had indicated that there is an acute need for a new base station to provide effective service coverage. This was not contested by the Council.
10. Paragraph 117 of the Framework also advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures. Whilst limited in detail the appellant provided adequate and persuasive evidence of its network coverage requirements, and its site selection process, listing a number of alternative sites that had been discounted. The Council did not dispute the rationale for discounting the alternative sites that have been considered. Furthermore, no compelling evidence has been provided to undermine the credibility of these submissions or the size of the search area. In light of the above the inspector was satisfied that the appellant has demonstrated that the appeal site is the least harmful location available and that this weighs strongly in favour of the proposed installation.
11. The inspector found that the siting and appearance of the proposal would have an adverse effect on the character and appearance of the area. Nonetheless, having regard to all relevant considerations, including national planning policy and the lack of available alternative sites, I consider that the operational and locational needs of the appellant and the enhancement of the local telecommunications network, would outweigh such harm.

Other Matters

12. The inspector had careful regard to the representations of Yorkshire Water and other interested parties raising concerns about the impact of the proposal on below ground infrastructure. However, as this does not relate to the siting and appearance of the proposal it is not a matter that is

determinative in this case. The inspectors attention had been drawn to a proposed development on the site of the former Inkersall Methodist Church and a possible road widening scheme. However, in the absence of details and confirmation of the status of such proposals they are not matters to which the inspector attached weight in making the decision. Concern had been expressed about the potential effects of the proposed installation on health. The appellant, however, had 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. The inspector also noted the concern that had been expressed regarding the implications of the proposal on highway safety. However, no objections had been received from the Local Highways Authority and in the absence of any firm evidence to the contrary the inspector had no reason to conclude that the proposal will cause harm to highway safety.

Conditions

Any planning permission granted for telecommunications apparatus under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.