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# Appeal Decision

Site visit made on 18 January 2022

**by C McDonagh BA (Hons) MA MRTPI**

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

**Decision date: 24 February 2022**

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## **Appeal Ref: APP/B3438/W/21/3282443**

### **Ellastone Road, Cotton, Cauldon Lowe ST10 3BW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Staffordshire Moorlands District Council.
  - The application Ref DET/2021/0025, dated 5 June 2021, was refused by notice dated 5 August 2021.
  - The development proposed is a 20.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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## **Decision**

1. The appeal is dismissed.

## **Preliminary Matters**

2. Although the mast is referenced in the appellant's appeal statement as 18 metres (m) in height, this is confirmed to be 20m in the submitted plans, planning application form and the Council's decision notice. It was clearly assessed as a proposal with a height of 20m, and I have proceeded on the same basis.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require an assessment of the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
4. While quoted by the appellant in their appeal statement and the Council in the reasons for refusal, the relevant provisions of the GPDO do not require regard to be had to the development plan. Nevertheless, I have had regard to these policies and related supplementary guidance only in so far as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.
5. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the

operator's electronic communications network is permitted development. Therefore, the principle of the development proposed is acceptable.

### **Main Issue**

6. The main issue is the effects of the siting and appearance of the mast on the character and appearance of the area.

### **Reasons**

7. The appeal site is a road verge located adjacent the junction of Ellastone Road and the B5417, occupying an elevated position surrounded by an expanse of open countryside in a rural area. There is little in the way of built form, with only isolated farmsteads visible in the vicinity. The appeal site is located within the Churnet Valley, which is described in the supporting text of Policy SS11 of the Staffordshire Moorlands Local Plan (LP) (adopted September 2020) as an area of significant landscape value.
8. Due to its significant height, the mast would be prominent in the area from most vantage points, notably the aforementioned roads on approach. It would also be considerably taller than the nearby trees of the plantation which, due to their distance from the appeal site, would not 'backdrop' the mast and do little to screen its prominence. Although I understand that in general, masts must be taller than nearby 'clutter' in order to operate efficiently, I saw no evidence of such objects in the area which could negatively affect the mast in this regard.
9. Although the appellant makes reference to the area being urban and the scale of nearby 'street furniture', from my observations on the site visit I did not see anything of this nature in the area, which has a particularly rural appearance and character. In this open and largely undeveloped area, the prominent siting and utilitarian appearance of the mast would appear as an alien feature in the landscape. This would appear as a highly intrusive addition to the landscape and cause significant harm in this respect, despite the appellant's willingness to agree to a condition to control the colours of the equipment.
10. I therefore conclude that the siting and appearance of the proposal would have a harmful visual effect on the character and appearance of the local area, which is of local significance for its intrinsic scenic beauty. Insofar as they are material considerations, I have also had regard to Policies SS10, SS11, DC1 and DC3 of the LP. The proposal would conflict with the requirements of these policies which state, among other things, that all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape. The proposal would also be contrary to the Framework insofar as it seeks to ensure that where new sites are required (such as for new 5G network), equipment should be sympathetically designed.

### **Other Matters**

11. I have found that the proposal would harm the character and appearance of the local area. This carries substantial weight against the proposal, regardless of whether the area is within a designated landscape such as Article 2(3) land.
12. Nevertheless, paragraph 115 of the Framework recognises the need for telecommunications equipment to be sympathetically designed and camouflaged where appropriate. There is clear need for, and importance of, the rollout of the 5G network. The Framework is clear in paragraph 114 that the

provision of high-quality communications infrastructure is essential for economic growth and social well-being. I have had regard to the public benefits of this technology to local residents, visitors and rural businesses in the area. Cumulatively, these factors and public benefits weigh in the scheme's favour.

13. The appellant has pointed to a lack of alternative available sites, in particular due to a lack of wide footpaths able to accommodate the mast and ancillary equipment. However, the information that I have in this regard is of a limited nature, especially as to whether alternative locations would be as prominent. I accept transmitters for the 5G network cannot be placed on existing masts which transmit older wireless signals and that there are constraints to placing antennae on buildings. But the Framework is clear in paragraph 117 that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. In this case, such evidence is lacking as regards alternative sites.
14. Although telecommunications equipment may be a common feature of the built environment, in the context of this proposal I disagree that the proposal would not be unusual in the area.
15. I have had regard to the appellant's statement of case including comments that the proposal would not have an adverse effect on the living conditions of occupiers of nearby dwellings. The Council do not take issue with this matter and the absence of harm is neutral in the planning balance rather than weighing in favour.
16. It is argued the cabinets could be erected without the need for planning permission. Be that as it may, I have assessed the proposal as it is presented to me and to my knowledge a Certificate of Lawfulness has not been applied for. Moreover, it would appear unlikely cabinets would be installed without a mast. As such I attribute this fallback position limited weight.
17. I have had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, which was not forthcoming. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

## **Conclusion**

18. For the foregoing reasons, and having taken account of all relevant material considerations, I conclude that the appeal should be dismissed

*C McDonagh*

INSPECTOR