
Appeal Decision

Site visit made on 7 September 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/Z5630/W/20/3254384

Victoria Recreation Ground, Victoria Avenue, Surbiton KT6 5JL

- 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 EE Ltd against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 20/00809/TEL, dated 3 April 2020, was refused by notice dated 29 April 2020.
 - The development proposed is the installation of 1No. 25m high swann column, with 3No. antennas, 2No. 0.6m dishes, 3No. BOBs, 2No. ground-based equipment cabinets, and ancillary development thereto. Installed on an 8m x 6m compound within 2.1m high palisade fencing.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. As an electronic communications code operator, the appellant benefits from deemed planning permission for telecommunications development under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) as amended, subject to prior approval by the local planning authority of siting and appearance.
3. The principle of development is established by the GPDO and the provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. In this context, I have had regard to development plan policies and the National Planning Policy Framework (the Framework) only insofar as they are relevant to the siting and appearance of the development.
4. Prior approval was refused by the Council as it considered that the proposal would be visually intrusive and detract from the character and appearance of the area.
5. Consequently, I consider the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site comprises a small area of open ground within a large suburban park. Located in the corner of the park, the appeal site is close to existing tennis

courts and the tall boundary trees that line the park's southern perimeter. Immediately beyond these trees is a railway line and embankment.

7. The park, the appeal site relates to, is characterised by expansive areas of grass, playing fields and tall mature boundary trees that separate it from the residential streets and railway line beyond. The built development within the park is low key and limited to a central single storey cafe building, while a children's play area and tennis courts, are located along the park's north west and north east boundaries respectively. The aforementioned courts and play area are both enclosed by wire mesh fencing. The park's verdant setting and expansive areas of undeveloped land combine to create an attractive environment within this suburban location.
8. The proposed development would be 25m in height with antenna and associated equipment mounted on the headframe, along with ground-based cabinets. The appellant indicates that the proposal is primarily required to provide mobile data coverage for train passengers travelling on the adjacent railway line, whilst helping train operating companies (TOCs) meet their obligations in terms of WiFi provision for their customers. It would also improve coverage in the surrounding area and form part of a telecommunications network for the emergency services.
9. The installation would be significantly taller than the adjacent boundary trees and the modest amount of built development within the park, whilst its industrial, manmade presence would contrast markedly with the softer appearance of the boundary trees. The expansive open areas within the park would allow for extensive views of the proposal which would look unduly prominent in its context. The exposed antennae and other equipment mounted on the headframe would also give the structure a disjointed and cluttered appearance that considerably detracts from the verdant character of the park.
10. I note that the appellant proposes to colour coat the proposed column fir green in order to reduce its impact and blend in with its surroundings. However, this would have a limited effect given that the upper portion of the installation would rise considerably above the boundary trees and draw attention to the proposal as a whole.
11. Consequently, as a result of its scale and appearance, the proposal would be highly visible within the park and would in my view, represent a discordant and dominant development that would adversely affect the character and appearance of the area.
12. Whilst the appellant notes that communication masts in urban areas are not uncommon, proposals need to be assessed on their individual circumstances and in this instance, although the site relates to a suburban area it would be within a verdant setting that would be more sensitive to the development proposed.
13. For the reasons set out above, the proposed development would cause significant unacceptable harm to the character and appearance of the surrounding area. It would fail to comply with Policies CS8 and DM10 of the Council's Core Strategy - Local Development Framework, adopted April 2012. These policies amongst other things, require a proposal to relate well and connect to its surroundings, while avoiding locating structures, including telecommunications equipment, where they will be visually intrusive and likely result in an adverse effect on the character and visual amenities of the local and wider area.

Other Matters

14. The Framework outlines the significance of high-quality telecommunications infrastructure including in relation to being essential for economic growth and

social well-being. The appellant has submitted documents¹ that also outline the significance of, amongst other things, the provision of a high-quality telecommunications network to meet the requirements of train operators, while compliance with health and safety regulations has been demonstrated. An assessment of alternative sites within a defined search area has also been submitted with reasons why those sites are not appropriate. These documents echo the content of the Framework. Such factors weigh strongly in favour of the proposal, however, for the reasons outlined above, I do not consider that either singularly or collectively, they outweigh the significant harm I have identified.

15. The proposal's height is required to overcome potential issues relating to interference with the trees along the adjacent boundary to the railway line. However, in doing so, the scale and appearance of the proposal would have a harmful effect on the character and appearance of the area, and I have found that this matter does not weigh in favour of the proposal.
16. The appeal site is located adjacent to the Victoria Avenue Conservation Area (CA). The CA derives its significance from the historic and uniform appearance of residential properties facing Victoria Avenue, and it is from within the street that its special qualities are most clearly appreciated. The proposal would not be clearly seen from this location and would not, therefore, harm the setting of the CA. Moreover, it would be located an acceptable distance away from residential properties, so as not to harm their living conditions. Despite the lack of harm in relation to these matters, this would not overcome my concerns in relation to the proposal's effect on the area's character and appearance.
17. I note the concerns that the Council did not work with the appellant in a positive way prior to submitting the application. Yet, this relates to a procedural matter rather than to the planning merits of the proposal which are the substantive matters relevant in this appeal.

Planning Balance and Conclusion

18. I do not consider that the public benefits of the installation, in terms of the enhancement of the telecommunications network, its contribution to economic growth and social well-being, compliance with health and safety guidelines, and the operational and locational needs of the operator, outweigh the significant harm I have identified to the character and appearance of the area. I have also found that these unacceptable impacts conflict with the development plan.
19. For the reasons given above, I therefore conclude that the appeal be dismissed.

R. E. Jones

INSPECTOR

¹ Pages 57-61, National Infrastructure Commission report – Connected Future, 2016; and Declaration of Conformity with ICNIRP Public Exposure Guidelines, dated 12th March 2020