



Appeal Decision

Site visit made on 8 December 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/Z5630/W/21/3273768

Robin Hood Way (A3), Kingston Vale, London, SW15 3PW

- 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 (UK) Ltd & H3G against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/00246/TEL, dated 21 January 2021, was refused by notice dated 22 March 2021.
 - The development proposed is installation of a 20m Phase 8 monopole tower with wraparound cabinet at base and associated ancillary works.
-

Decision

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1), Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 20m Phase 8 monopole tower with wraparound cabinet at base and associated ancillary works at land at Robin Hood Way (A3), London, SW15 3PW in accordance with the terms of the application Ref 21/00246/TEL, dated 21 January 2021, and the plans submitted with it including plan nos. 002, 003, 005, 100, 150, 215, 266, 304 and 306.

Preliminary Matters

2. Because this is an application for prior approval the provisions of the 2015 Order 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. This appeal will be determined on the same basis.

Policies

3. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies CS8, DM5, DM10 and DM12 of the Royal Borough of Kingston-Upon-Thames Core Strategy (2012) are material considerations inasmuch they relate to issues of siting and appearance. In particular, they seek to ensure development proposals respect local character including in relation to Metropolitan Open Land. 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 the effect of the siting and appearance of the proposed installation on the street scene, on a designated Strategic Area of Special Character (SASC) and on an adjacent area of Metropolitan Open Land (MOL) and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed.

Reasons

6. The proposal is to replace a 15m high monopole with one 20m high some 6m to the south on the same stretch of highway verge between a footpath and a belt of trees. The site is to the eastern side of Robin Hood Way, a broad dual carriageway. A pedestrian footbridge crosses the road a little to the north connecting to shops and a residential area at Grasmere Road on the western side of the road. There is a 15m high monopole for Vodafone located in the same grass verge between the current installation and the footbridge.
7. The proposal would be seen in the context of high street lamps set in a long line along the central reservation to the dual carriageway. These are a little lower and of more slender profile than the proposed mast but nonetheless form a conspicuous vertical skyline feature within the broad open dual carriageway. By contrast, the proposed monopole would be sited in a less open setting and would be seen against the belt of trees as a backdrop when viewed from the west. The top of the monopole would exceed the height of the trees, but the trees would help to absorb much of the height.
8. The monopole would also be seen in association with the adjacent Vodafone monopole and the metalwork of the elevated footbridge. It would be noticeably higher than the Vodafone monopole, but this is necessary to help roll out 5G coverage, a public benefit, and to enable two operators to mast share and support the Emergency Services Network, as encouraged in the Framework.
9. The siting and appearance of the monopole would not be visually intrusive when viewed from commercial and residential receptors around Grasmere Road having regard to separating distances across the dual carriageway, the line of street lamps in-between and the backdrop of trees. The proposal would not result in an incongruous addition or create visual clutter in the street scene as it would replace an existing structure and two monopoles would still be seen together. The belt of trees would largely screen the proposal from the open fields to the east of the site designated MOL. The proposal would be located within the Kingston Hill/Coombe Hill SASC but is permitted development and of acceptable siting and appearance. Any harm to the SASC would be outweighed by the need for the installation as proposed.

Other Matters

10. Concerns have been raised about potential effects on health. The appellant has 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.

Conditions

11. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Rory MacLeod

INSPECTOR