



Appeal Decision

Site visit made on 25 January 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal Ref: APP/T3725/W/21/3283036

Lillington Avenue, Lillington, Royal Leamington Spa CV32 5UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Warwick District Council.
 - The application Ref W/21/1153, dated 6 June 2021, was refused by notice dated 6 August 2021.
 - The development proposed is 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and 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 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works at land at Lillington Avenue, Lillington, Royal Leamington Spa CV32 5UN in accordance with the terms of the application Ref W/21/1153, dated 6 June 2021, and the plans submitted with it including 210 Proposed H3G Site Plan WWK16056_M002 B; 260 Proposed H3G Elevation WWK16056_M002 B; 302 Proposed H3G Antenna Schedule and Line Configuration WWK16056_M002 B; and 305 Equipment Schedule and Support Structure Details WWK16056_M002 B.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

Reasons

5. Lillington Avenue is a tree lined residential road. Pavements are separated from the road by grass verges in which individual mature trees are positioned at intervals, creating a rhythm in the street scene. Together with lampposts which are positioned at larger intervals than the trees, there are numerous vertical structures along the road.
6. Houses are set back behind mature planting or trees. Immediately behind the site is a row of evergreen trees and vegetation, behind which is an access road and houses. Houses that face towards the appeal site there are largely screened by intervening vegetation and trees. On the opposite side of the road to the appeal site is a row of two storey residential houses on Dereham Court. These are set back from the road behind a low wall, a strip of trees and vegetation, and an area of grass.
7. Given the extensive tree cover behind the appeal site and in the immediate vicinity, the appeal site is likely to be in shade for much of the day, helping to limit the visibility of the proposal from the surrounding area. The proposed cabinets would be painted dark grey which would ensure they do not appear unduly prominent in views from passing vehicles, pedestrians or other road users. Though taller than nearby lampposts, the scale of the mast at 15m would not appear excessively large in the context of an area with numerous vertical features. Moreover, given the site's location on a relatively busy main road and close to a roundabout, views of the proposal would often be transitory from people passing the site, rather than it being a focal point in the locality.
8. Although there are gaps in the tree cover in front of houses on Dereham Court, particularly in winter months, a considerable proportion of the mast would be seen against the backdrop of evergreen trees. I see no reason to indicate that those trees would be damaged or to question their longevity. Given their location away from residential gardens and passing vehicles I consider that they are unlikely to be subject to accidental damage. Moreover, street trees that were without leaves on my winter site visit would provide increased screening from their tree canopies when in leaf.
9. In conclusion, the proposal would not appear overly prominent or visually intrusive, and would not unacceptably harm the character and appearance of the area. Insofar as they are a material consideration, the proposal would comply with Policy BE1 of the Warwick District Local Plan 2011-2029 (September 2017) (Local Plan) which seeks to ensure proposals make a positive contribution to the character of their locality through good design and layout.
10. It would also comply with Policy BE3 of the Local Plan which seeks to avoid unacceptable adverse impacts on nearby residents. It would further comply with policy BE6 of the Local Plan which supports electronic communication developments subject to certain considerations, including the impact on amenity and the surrounding area.

11. Consequently, I consider that the siting and appearance of the proposal would be acceptable. As I have found no harm in respect of the siting and appearance of the proposal, it is not necessary for me to go on to consider the suitability of alternative locations.

Conditions

12. 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

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

Rachel Hall

INSPECTOR