
Appeal Decision

Site visit made on 16 March 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13/04/2022

Appeal Ref: APP/L5240/W/21/3280677

Shirley Road, Addiscombe CR0 7ER

- 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) Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/02519/PA8, dated 8 May 2021, was refused by notice dated 7 July 2021.
 - The development proposed is 15m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed, and prior 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 15m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works at Shirley Road, Addiscombe CR0 7ER in accordance with the application Ref 21/02519/PA8, dated 8 May 2021, and the details submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), 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, considering any representations received.
3. My determination of this appeal has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits, I have not taken these matters into account. The benefits have effectively already been recognised by the grant of permission under Article 3(1) of the GPDO.
4. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan. I have only had regard to the policies in the development plan and the National Planning Policy Framework (the Framework) insofar as they are material considerations relevant to making a planning judgement on matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

6. The site is located along Shirley Road on highways land within a largely commercial area and away from most other residential dwellings. It is directly adjacent to a fuel station and forecourt, whilst there are shops opposite. This section of Shirley Road includes significant street furniture, including lamp posts and fuel station signage, shop signage and appreciable numbers of large trees. Altogether, the street scene presents itself as having a busy commercial appearance.
7. The appellant has concluded that the site is required in this location to maximise future telecommunications coverage. In coming to this conclusion, they have undertaken an assessment of sites elsewhere within the coverage area. Consequently, I am satisfied about the likelihood of other suitable sites not being reasonably available. Therefore, a new mast on this site is required as a departure from the preferred option of erecting one on an existing building, mast or other structure.
8. The proposal would deliver a 15m phase 8 monopole with a C/W wraparound cabinet at base with associated ancillary works. The height of the monopole is not significantly greater than surrounding vertical features, such as lamp posts, buildings, and mature trees and its slimline design would minimise its appearance within the street scene. The cabinets and ancillary works would be of much smaller scale and insignificant within the street scene. In terms of colour and finish, the proposal would be muted and utilitarian, comparable to other street furniture.
9. Altogether, even if nearby trees offered limited screening, the proposal would still assimilate into the street scene and would not appear incongruous amongst other street furniture or against the largely commercial backdrop of the location.
10. Even if limited views of the proposal are available from dwellings in the area, including any flats above the shops opposite, such views would be taken in an appropriate context without detriment to the outlook of occupiers.
11. Longer distance views may exist but there is no firm evidence that these views would not be taken in a similarly appropriate context, and in any event would be limited to a small portion of the monopole's upper extent where the potential for harmful effects would be negligible.
12. Overall, due to the proposal's siting and appearance it would assimilate with other street furniture and the commercial nature of the street scene and would not have a harmful effect on the character or appearance of the area.

Other Matters

13. Concerns have been raised about potential effects on health. However, 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).

14. In these circumstances, Paragraph 118 of 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.
15. Whether or not additional masts may be required in the future is not a matter for me to consider under the appeal and would be a matter for the Council in the first instance.

Conditions

16. Any prior approval granted under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 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 agrees in writing, be carried out in accordance with the details submitted with the application, must begin no later than the expiration of five 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.
17. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Consequently, conditions such as those suggested by the Council cannot be imposed and would not be necessary in any event given my findings on the main issue.

Conclusion

18. For the reasons given above, the appeal is allowed, and prior approval is granted.

Liam Page

INSPECTOR