



Appeal Decision

Site visit made on 29 March 2022

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2022

Appeal Ref: APP/Z3635/W/21/3279081

Woodlands Parade, Littleton Common, Spelthorne TW15 1QD

- 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 Hutchison UK Ltd against the decision of Spelthorne Borough Council.
 - The application Ref 21/00652/T56, dated 18 April 2021, was refused by notice dated 17 June 2021.
 - The development proposed is 18m 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 the installation of 18m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works at Woodlands Parade, Littleton Common, Spelthorne TW15 1QD, in accordance with the application Ref 21/00652/T56, dated 18 April 2021, and the plans submitted with it, including plans: SPN16774_M001 Issue A 002 Site Location Plan, SPN16774_M001 Issue A 210 Proposed H3G Site Plan, SPN16774_M001 Issue A 260 Proposed H3G Elevation, SPN16774_M001 Issue A 303 Proposed H3G Antenna Schedule & Line Configuration, and SPN16774_M001 Issue A 305 Equipment Schedule & Support Structure Details.

Procedural Matters

2. 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 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. Since prior approval was refused the Government published the revised National Planning Policy Framework (2021) (the Framework) on 20 July 2021. Amendments have been made to Part 16 of Schedule 2 of the GPDO through SI 2022/278, coming into effect on 4 April 2022. I have given the Council and the appellant the opportunity to comment upon the implications of these matters.

Planning Policy

4. 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 to be had to the development plan. I have nevertheless had regard to the policies of the Core Strategy and Policies Development Plan Document (2009) (the CSP) and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal upon the safety and convenience of highway users.

Reasons

6. The appeal site comprises part of a deep verge or amenity grassland on the northern side of a footway and parking area for a parade of commercial and residential premises. Based upon the scaled plans the section of footway along the verge is approximately 3m in width, widening at the appeal site as the footway curves round with the kerb of the parking area. Based upon what I saw, I see no reason the plans are not reflective of the true footway width and there is no substantive evidence this is incorrect.
7. The proposed apparatus would be located on the grass near the boundary of the footway. As it is located off the pavement it would not unduly impede visibility of footway users during normal operation. The proximity may be a concern if there is insufficient room for users to pass when the doors are open and/or the apparatus is being maintained. The dimensions of the equipment are stated in the submissions. From this and the scaled plans the doors for the respective cabinets would be between approximately 0.6m – 0.95m in width opening outwards towards the pavement. There would be sufficient width with the cabinet doors open outwards allowing pedestrians including with buggies, disabled people, and cyclists to pass. I am not provided with standards suggesting to the contrary.
8. During certain construction and maintenance operations temporary barriers may need to be erected on the footway allowing working room. I have not been provided with substantive evidence suggesting this would be frequent, long in duration, or require a large amount of space, such that it would prevent pedestrians, including disabled persons passing along the footway.
9. The apparatus would be located on the far side of the parking area to the longest section of commercial outlets and dwellings and perpendicular but away from a shorter section of premises. Given the layout of the parking area and pedestrian routes the significant majority of customers and occupiers in cars would not need to park next to or walk past the apparatus to find a convenient route to the services, facilities, or dwellings.
10. The nearby cycle parking racks are unlikely to be sterilised at any time. There are footways on all four sides of the parking area, so in the unlikely event pedestrians could not temporarily pass the front of the appeal site alternative routes are available. For those needing to pass the site, the pedestrian footways along the shops, or dividing the grassland areas to the footway on Feltham Hill Road, provide a convenient diversion of a limited increased distance around the appeal site. The routes would not be significantly

detrimental to highway convenience, and I am not offered substantive evidence it would be detrimental to highway safety. Therefore, it would not prevent access to premises adjoining a footway.

11. The apparatus would be on the opposite side of a kerbed wide footway to the parking area where vehicles are at low speeds. Given the location of parking spaces and areas, vehicles have no need to manoeuvre onto that section of footway. The Highway Authority states it is doubtful an assessment for a vehicle or roadside restraint system would return a requirement for one. Overall, there is no substantive justification demonstrating an assessment is necessary, or that there would be harm to highway safety without a restraint system. The Council has not pursued a condition in this regard.
12. For the reasons set out above, the proposed siting and appearance of the development would not have a harmful effect upon on the convenience or safety of highway users. It would not conflict with Policies CC2 and EN1 of the CSP. Amongst other things, these state developments will only be permitted where it creates a safe environment, is compatible with transport infrastructure taking account of servicing needs, capacity, cumulative impact, and access, having regard to highway safety. I find no conflict with the Framework insofar as paragraphs 111 and 112 expect development to minimise the scope for conflict between highway users and should only be refused on highway safety grounds if there would be an unacceptable impact.

Other Matters

13. Paragraph 114 of the Framework states advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of communications networks, including next generation mobile technology (such as 5G). The proposal would deliver 5G coverage and increased capacity resulting in public benefits, which far outweighs any minor effect upon highway convenience. Having viewed specified other alternative locations, I do not disagree with the appellant's view of site suitability, and that the appeal site represents the most suitable location. Based upon the evidence before me the equipment is the minimum capable of meeting the appellant's requirements at this site.
14. The Council did not refuse prior approval due to the visual impact of the siting and appearance upon the character and appearance of the area. The monopole would be higher than nearby streetlamps and telegraph poles. However, these and some sizeable street trees along Feltham Hill Road and Approach Road, result in vertical features being prominent in the area. The trees and buildings provide some wider screening. The development would not be close to other kiosks or signage but is close to slimline bike racks and there is some street furniture and paraphernalia on the wider common layout. However, it would not result in a cluttered street scene and the effect of the siting and appearance to the character and appearance of the area is considered acceptable. The development would result in a small obstruction to the visibility of commercial premises. However, this would be small and fleeting to passing traffic, only from certain angles, so would not be likely to result in any detrimental effects upon local businesses.
15. The area has a good degree of natural surveillance and I have no substantive reason to believe this apparatus would be vandalised, or that this would not be adequately dealt with through law enforcement. Paragraph 118 of the

Framework is clear that applications must be determined on planning grounds only. The need should not be questioned for electronic communication systems, and decision makers should not seek to set health safeguards different from the International Commission guidelines for public exposure. The Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines has been provided. Therefore, there is no justification for dismissing this appeal on health or safety grounds.

16. The distance to neighbouring properties and profile of the development ensures it would not be overbearing or result in a harmful outlook to those properties. There is no substantive evidence demonstrating wider existing masts or this proposal would result in interference with television signals. The Planning Practice Guidance (Ref 21b-008-20140306) states the protection of purely private interests such as the impact on the value of a neighbouring property is not a material consideration, so could not be a reason to withhold consent.

Conditions

17. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in paragraphs A.2(2), A.3(9), A.3(11). These specify the development must, except to the extent that the Local Planning Authority otherwise agreed in writing, be carried out in accordance with the details submitted with the application, must begin no later than the expiration of 5 years of the date of approval, 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. Therefore, specific additional conditions suggested specifying commencement and the plans are not necessary.

Conclusion

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

Dan Szymanski

INSPECTOR