
Appeal Decision

Site visit made on 12 April 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2022

Appeal Ref: APP/D3640/W/21/3282698

Highway Verge North East of The Mytchett Centre, 140 Mytchett Road, Mytchett, Camberley, Surrey GU16 6AA

- 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 Surrey Heath Borough Council.
 - The application Ref 21/0758/GPD, dated 27 June 2021, was refused by notice dated 18 August 2021.
 - The development proposed is 15.0m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading of my decision has been taken from the Council's decision notice, which is more comprehensive. The appeal has been dealt with accordingly.
3. 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.
4. 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.
5. 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.

6. There is no evidence in front of me, by way of lawful development certificate or otherwise, demonstrating that the cabinets proposed benefit from permitted development rights. They have been assessed as part of the prior approval proposal accordingly.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area and highway safety and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed considering any suitable alternatives.

Reasons

8. The site is located along Mytchett Road, in an area with significant numbers of large mature trees and other utilitarian structures such as lampposts and street furniture. Altogether, there is appreciable verticality along the highway, and whilst there are open spaces nearby, views are generally constrained in a linear fashion without an overriding feeling of openness.
9. The proposal would introduce a 15.0m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works. Whilst this development would be appreciable in scale and extent, the appellant has demonstrated that the height of the monopole would not meaningfully exceed that of nearby trees.
10. Consequently, although it would be larger than other street furniture, such as lampposts, the prevailing vertical context of the highway corridor and dense backdrop would help mitigate its scale and soften long distance views. Furthermore, existing utilitarian structures would help the proposal assimilate into the character of the street scene.
11. Whilst views of the proposal might be available from dwellings nearby, the outlook of occupiers would not be unduly harmed in this context. Altogether, I cannot conclude that the proposal would look stark or incongruous.
12. The site is directly adjacent to a busy highway and in close proximity to two mini roundabouts. It is clear from the drawings provided by the Council, that the proposal would be erected within the required visibility splay and therefore, due to its scale and extent, would interfere with the ability of road users to navigate safely.
13. Whilst the appellant has made attempts to mitigate impacts on pedestrian safety, this is somewhat of a separate matter and my concerns over highway safety would remain.
14. It is acknowledged that the appellant has demonstrated there is a lack of other available sites in the area and that if there are shown to be no suitable alternative sites then the siting and appearance of the proposal needs to be assessed bearing in mind that such proposals are permitted development and have been accepted in principle.
15. In this context, the installation has to be sited somewhere within the target area and a lack of suitable alternatives could indicate that the proposal is the only option. Given the acceptance of telecommunications equipment within the GPDO this needs to be a strong factor weighing in favour of the proposal.

16. However, despite the proposal being acceptable in relation to its effects on the character and appearance of the area, it would have a harmful effect on highway safety.
17. The potential consequences of harming highway safety include serious public health impacts resulting from personal injury to road users, which in my mind carries the highest level of significance in balancing the considerations before me.
18. Consequently, in considering these factors, and without any countervailing technical evidence of a similar nature to satisfy my highway safety concerns, the overall balance is tipped against the proposal.

Other Matters

19. 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).
20. 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.
21. Whilst I acknowledge that the appellant may have engaged in comprehensive pre application discussions with the Council and others, this process would not predetermine the application outcome and the appeal has been considered on its own merits.

Conclusion

22. For the reasons given above, the proposal's siting would harm highway safety, and this harm would not be justified by an acceptable effect on character and appearance or lack of suitable alternatives. Consequently, the appeal is dismissed.

Liam Page

INSPECTOR