
Appeal Decision

Site visit made on 3 May 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2022

Appeal Ref: APP/M1595/W/21/3283177

Area of Grass Verge, Lancaster Road, Thurrock, Essex, RM16 6ED, 559687, 178353

- 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 Thurrock Borough Council.
 - The application Ref 21/01204/PNTC, dated 1 July 2021, was refused by notice dated 13 August 2021. The development proposed is erection of a 15 metre high slim line Phase 8 H3G street pole c/w wrap around cabinet and 3no. cabinets with ancillary works - to be coloured green.
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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 erection of a 15 metre high slim line Phase 8 H3G street pole c/w wrap around cabinet and 3no. cabinets with ancillary works - to be coloured green at Area of Grass Verge, Thurrock, RM16 6ED in accordance with the terms of the application, Ref 21/01204/PNTC, dated 1 July 2021, and the plans submitted with it including THK15072_PLANNING_REVB 002 B; THK15072_PLANNING_REVB 100 B; THK15072_PLANNING_REVB 150 B; THK15072_PLANNING_REVB 215B; THK15072_PLANNING_REVB 265B

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.

Planning Policy

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 CSTP22 and PMD2 of the Thurrock Local Development Framework, Core Strategy and Policies for Management of Development 2015 (CS) are a material consideration as these policies relate to issues of siting and appearance. They seek to require development to demonstrate that proposals are designed to respect the distinct positive characteristics of areas within Thurrock and contribute positively to local views and townscape. Similarly, the National Planning Policy Framework is also a material consideration and this includes a section on supporting high quality communications.

Main Issue

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

Reasons

6. The appeal site comprises highway land adjacent to Lancaster Road with other street furniture in close proximity. Directly opposite the appeal site is a block of residential flats, separated by Lancaster Road and the area is predominantly residential and urban in character.
7. The notable form and scale of the surrounding development compared to the street pole means that the latter would not appear overly dominant within its surroundings, despite its greater height. The verticality of the nearby buildings, the street lighting columns and existing trees means that the street pole would not appear incongruous within its surroundings and being within an urban area, the proposal would not be unexpected.
8. The street pole would be greater in height than the existing vertical structures already present and would be greater in thickness. However, given the presence of the many existing vertical structures, I am not of the view that the proposed street pole would appear alien or unexpected in such a context and the proposal would not be overly dominant within wider views to be considered harmful to the character and appearance of the area.
9. Whilst I accept that the street pole would extend above the existing vegetation, the street pole and the associated equipment would not be overly prominent and would be viewed in association with the existing street furniture. The proposal has been designed to minimise clutter by aligning the pole and cabinets and therefore I am satisfied that the appellant has taken steps to ensure that the equipment has been sympathetically designed.
10. Due to its height, the street pole would be visible from the surrounding residential properties. However, given the separation distance to such properties and the existing vegetation along Lancaster Road, the proposal would not unacceptably harm the outlook of the surrounding properties. Nor would it be overly dominant or result in any loss of light or privacy to existing occupiers.
11. The Framework states that for a new mast, evidence should be provided that shows the possibility of erecting antennas on an existing building, mast or structure has been explored. The appellants' submissions refer to other sites that have been considered but discounted for various reasons. Therefore, I am satisfied that the appeal scheme would be the only viable solution to ensure an appropriate service for the area.

12. The development would provide enhanced signal coverage in an area where there is an identified deficiency. The Framework indicates that planning decisions should support the expansion of electronic communications networks and I have had regard to the benefits of the scheme in terms of the improved service to all of its users.
13. Therefore, for the reasons given, the proposal would not cause unacceptable harm to the character and appearance of the area and would accord with policies CSTP22 and PMD2 of the CS.

Other Matters

14. 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). 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.
15. Although concerns are raised about the loss of property values that may result from the proposal being installed, there is no evidence to suggest that would indeed be the case and in any event, planning is concerned with land use in the public interest. As such the protection of private interests such as property values are not relevant to the consideration of such cases.
16. I am aware of the strength of local objection and the matter of these concerns, some of which have been addressed within the main section of this decision. Concerns have also been raised about the mast being subject to vandalism or provide a hiding place for anti-social behaviour. With no specific or substantive evidence before me to suggest anything to the contrary, I do not consider that the mast would result in any increase in anti-social behaviour.
17. Furthermore, although some disruption to the cycle path may occur during the construction period, this would not result in any concerns to highway safety as any works within the highway would have to be overseen by the Highway Authority.
18. It has been suggested that underground installations should be considered, however the requirements of the mobile technology would not lend itself to that type of provision.

Conditions

19. 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.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 agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 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.

Conclusion

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

G Pannell

INSPECTOR