



Appeal Decision

Site visit made on 17 June 2022

by Mr C J A Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/L3625/W/21/3284516

Victoria Road, Horley, RH6 7NQ

- 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 Reigate & Banstead Borough Council.
 - The application Ref 21/01836/TED, dated 16 April 2021, was refused by notice dated 23 August 2021.
 - The development proposed is described as '*Proposed 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 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 Proposed 15m phase 8 Monopole c/w wraparound cabinet at base and associated ancillary works at Victoria Road, Horley, RH6 7NQ in accordance with the terms of the application Ref 21/01836/TED dated 16 April 2021.

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 DES1, INF3 and NHE9 of the *Development Management Plan 2019* are material considerations as they relate to issues of siting and appearance. Similarly, the *National Planning Policy Framework* is also a material consideration and this includes section on supporting high quality communications.

Main Issue

5. The main issues are the effect of siting and appearance of the proposed installation on the character and appearance of the surrounding area.

Reasons

6. The area surrounding the appeal site is characterised by a mix of residential uses to the west, the central shopping area of Horley to the north, including public library, with a large supermarket, carparks, and train station to the northeast, east and southeast of the appeal site. The surrounding area is a typical urban area with common street furniture paraphernalia including streetlamps, traffic lights, road signs, keep left signs, cycle parking racks and phone connection boxes. There are also a number of roads which join at junctions near to the appeal site.
7. The proposal would be taller than the majority of structures and buildings in the area as can be seen on drawing RAB16751_M002 Issue B. However, telecommunication structures are common features in built up areas and the proposal, whilst being visible, would not necessarily be highly noticeable as it would blend in with similar structures such as street lighting and the taller buildings such as the nearby supermarket.
8. Moreover, the proposal would mainly have a vertical emphasis, which would be in keeping with similar structures in the near locality. The proposal would be visible. However, due to its siting, height and bulk, it would not appear as an intrusive feature that adversely compromises the street scene and surrounding buildings within this context.
9. My attention has been drawn to the nearby 'Massetts Road' Conservation Area and the potential impact the proposal might have on it. However, the appeal site does not lie within the Conservation Area – with it ending approximately along the boundary of the last dwelling on the south side of Russells Crescent as shown on the Council's map of the Conservation Area. As such it would be erroneous to undertake the statutory duties under s72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended.
10. In any case, I have found that the proposal would not adversely compromise the street scene. For similar reasons, and given the urban context of the appeal site, I do not find that it would cause harm to the setting of the conservation area.
11. The proposal would not have a harmful effect on the character and appearance of the surrounding area. The proposal would be in accordance with Policies DES1, INF3 and NHE9 of the *Development Management Plan 2019* and the *National Planning Policy Framework* which seeks proposals for telecommunications to have no significant adverse effect on the external appearance of the space in which they are located.

Other Matters

12. I have had regard to concerns raised from local residents 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.

Conditions

13. 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

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

C Parker

INSPECTOR