



Appeal Decision

Site visit made on 6 June 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2022

Appeal Ref: APP/L3625/W/21/3276913

Area of Grass Verge, Brighton Road, Horley, Surrey RH6 7JE (Easting 528224, Northing 143672)

- 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 William Comery (Hutchinson 3G (UK) Limited) against the decision of Reigate and Banstead Borough Council.
 - The application Ref 21/00882/TED, dated 31 March 2021, was refused by notice dated 21 May 2021.
 - The development proposed is a 5G telecoms installation for a 15m high 'slim line' Phase 8 H3G street pole complete with wrap around cabinet and 3 no. cabinets with 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 a 5G telecoms installation for a 15m high 'slim line' Phase 8 H3G street pole complete with wrap around cabinet and 3 no. cabinets with ancillary works in an area of grass verge, Brighton Road, Horley, Surrey RH6 7JE (Easting 528224, Northing 143672), in accordance with the terms of the application Ref 21/00882/TED, dated 31 March 2021 (with colour amended to Moorland Green BS12B21), and the plans submitted with it, including 002 site location plan RAB14596_PLANNING_REV_B¹; 100 existing site plan, 150 existing site elevation; 215 proposed site plan, 265 proposed site elevation, 304 proposed configuration antenna schedule and 307 equipment schedules & dependencies.

Preliminary Matters

2. The Council requested that if the appeal was allowed, the external colour of the mast and cabinets should be 'Moorland Green BS12B21', not 'Green RAL 6003'. The appellant agreed to amend these details of the proposal. Both colours are green and the physical nature of the development would be unaltered. Having regard to the 'Wheatcroft Principles'², I consider that no party would be prejudiced. I have, therefore, made my decision on the basis that the mast and cabinets would be coloured Moorland Green BS12B21.

¹ All plans referred to hereinafter include the drawing number 'RAB14596_PLANNING_REV_B'

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982, P37]

3. Because this is an application for prior approval, the provisions of the Order require the local planning authority to assess the proposed installation having regard to its siting and appearance, taking into account any representations received. I have determined the appeal on this same basis.
4. The principle of the development is established by the Order and its provisions do not require regard to be had to the development plan. Nevertheless, Policies DES1, INF3 and NHE1 of the Reigate & Banstead Local Plan Development Management Plan 2019 refer to matters relevant to siting and appearance of development, including for telecommunications. The National Planning Policy Framework (Framework) includes a section on supporting high quality communications and on achieving well-designed places. I have had regard to these policies only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and
 - if any harm would be caused, whether this is outweighed by the need to site the installation in the location proposed, taking into account any suitable alternatives.

Reasons

6. The proposal is for a new installation comprising a 15m monopole and four equipment cabinets between 1.4m and 1.7m high, one enclosing the base of the monopole. It is needed to remedy a gap in coverage in the local area for the appellant's 5G high-speed mobile telecommunications network. The monopole, antennae and cabinets, including dimensions, would be the minimum necessary to provide the required coverage.

Character and appearance

7. The appeal site is a section of a 2m wide grass verge between a pavement and the A23 Brighton Road carriageway. This straight, busy main road corridor includes 2 or 3 storey buildings in retail, commercial and residential uses. The streetscene also includes a row of tall, 12m high street lighting columns at regular intervals on the appeal site side of the road, bus stop signs and a shelter, road signs and traffic lights, a post box, safety railings, equipment cabinets, a hedgerow 1.8m high along the back edge of the pavement and individual or short rows of trees along parts of both sides of the road up to 18m high. Behind the hedgerow is a grassed open space and dwellings in Chequers Drive.
8. The monopole would be appreciably higher than most of these features and be sited slightly closer to the roadside edge than the lighting columns. However, it would not be disproportionately taller (or the shaft overly wide) compared to the lighting columns and, in particular, it would be significantly shorter and narrower than some nearby trees and canopies. In views from both directions along Brighton Road, the effect of perspective would mean that even the tallest and bulkiest top 5m section of the monopole (antennas and dishes) would be partially screened by, or seen in the context of, the lighting columns and trees,

including trunks and branches when not in leaf. Moreover, the light Moorland Green BS12B21 colour would match the colour of the lighting columns and generally recede against the sky. The position and vertical profile the monopole would, therefore, be assimilated into this linear pattern and sequence of roadside lighting columns and trees. As a result, it would not be incongruous in these more distant longitudinal views.

9. Shorter distance and upward views include lateral views from either side of Brighton Road, the open space and parts of Chequers Drive (though not Lumley Road which connects to Brighton Road at an angle facing away from the appeal site). The monopole would stand more alone in these views, between the more apparent wider spacing of lighting columns and trees as seen from these directions. Despite its colour, its immediacy and isolation would render the monopole a more dominant and imposing structure, particularly the top 5m section. Though it would not be incompatible in this urban, main road setting, it would nonetheless be more conspicuous and detract from these views.
10. The cabinets would be different sizes and face the road in plain sight, especially in shorter distance lateral views from one side. However, they would all be broadly similar in appearance and methodically sited in a closely spaced row along the verge. In more distant views from up and down Brighton Road, mostly only the narrow end of a cabinet would be seen. In any view they would be seen in the context of the grass verge and against the backdrop of the taller hedgerow. The light green colour of the cabinets would be subsumed against this planting and the hedgerow would restrict meaningful views from the open space (there is no evidence that the hedgerow is on private land or that it would not endure, including at its present height). Consequently, while sited close to the road edge, the cabinets would not appear as cluttered or stand out as unusual or unexpected features of a main road corridor such as this part of Brighton Road.
11. Taking all of the above into account, I find that in shorter distance lateral views, the siting and appearance of the monopole would cause harm to the character and appearance of the area.

Alternative sites

12. The appellant has considered potential mast and site sharing, including at locations operated by the appellant, as well as existing buildings or structures. None are close enough, or suitable, to support additional equipment to extend the appellant's 5G coverage in and around the Chequers Drive and Brighton Road area or would be affected by interference. The appellant has also explained why some other locations in, or near, a clearly defined preferred 100m target area are constrained. This evidence is not, therefore, 'limited' or 'vague' and, moreover, the Council does not dispute the appellant's conclusions in these regards. While the appeal site is situated beyond the edge of the target area, so not an optimal location for extending the 5G coverage, it is nonetheless not subject to similar constraints.

Other Matters

13. Reference has been made to various social and economic benefits of the proposal. These have effectively already been recognised by the grant of

permission under Article 3(1). I have not, therefore, taken these into account in considering prior approval and the matters of siting and appearance.

14. 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. There is no evidence to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified in this case.
15. Having regard to the width of the pavement and the proposed siting of the cabinets, including door openings, the proposal would not unduly obstruct pedestrian movement even during maintenance work. Windows in nearby dwellings would not face directly towards the proposed installation. While it would be possible to see the monopole and cabinets in some sideways views, even the closest dwellings would be sufficiently distant that the installation would not be unduly prominent or overbearing in outlook.

Planning Balance

16. In some public views the monopole would have an adverse effect on the character and appearance of the area. The extent of harm would be limited, but nonetheless a negative factor against the proposal. I therefore give moderate weight to this consideration.
17. I have assessed the siting and appearance of the proposal mindful that it is permitted development and has been accepted in principle. It would meet a need to site the installation in this general location to provide 5G coverage. There is no evidence of a more suitable and reasonably available alternative site within the relevant search area. These are significant factors in support of the appeal. As such, I give substantial weight to these considerations.
18. Accordingly, the benefits would outweigh the harm.

Conditions

19. Any planning permission granted for 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). These specify that the development must be carried out in accordance with the details submitted with the application (in this case, as amended so that the colour of the mast and cabinets would be Moorland Green BS12B21), begin within 5 years of the date prior approval was given 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

20. For the reasons set out above, I conclude that the appeal should succeed and prior approval be granted.

Robin Buchanan

INSPECTOR