
Appeal Decision

Site visit made on 16 September 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2022

Appeal Ref: APP/K0425/W/22/3290511

Ashfield Barn Road, Ibstone HP14 3YA

- 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) Ltd against the decision of Buckinghamshire Council.
 - The application Ref 21/08037/PNP16A, dated 3 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is proposed 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.

Main Issue

2. The main issue is whether the proposal is permitted development.

Reasons

3. The site is located within Chilterns Area of Outstanding Natural Beauty (the AONB) which is Article 2(3) land in accordance with Schedule 1, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Paragraph A.1(8)(c) under Schedule 2, Part 16, Class A of the GPDO is clear that development is not permitted for radio equipment housing where on any article 2(3) land, or on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres.
4. The proposal, when adjudged as being a single development¹, would include cabinets² that exceed 2.5 cubic metres. As such, it is clear that the cabinets would not be permitted development. Whilst the permitted development status of the monopole in and of itself is not disputed, it cannot be functionally delivered without the cabinets. Consequently, the proposal as a whole could not be delivered as permitted development and therefore it is not clear that a separate judgement on each component is necessary or appropriate.

¹ Which it is on the basis each component is inextricably linked, delivered, and operated together

² Radio equipment housing for the purposes of the GPDO

5. Overall, based on the evidence before me, I am satisfied that the proposal as a whole could not be delivered as permitted development because in accordance with Paragraph A.1(8) under Schedule 2, Part 16, Class A of the GPDO development is not permitted for radio equipment housing where on any article 2(3) land, or on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres.

Other Matters

6. Given that I have found the proposal is not permitted development, it is not necessary for me to consider matters relating to prior approval, or any other procedural matters or disputes related therein, because it would not alter the outcome of the appeal.
7. The appellant states that the cabinets should not form part of the planning application process or this appeal as they are permitted development not requiring prior approval. However, it is not clear by what mechanism within the GPDO this would be the case.
8. Furthermore, there is no evidence in front of me, by way of lawful development certificate or otherwise, demonstrating that the cabinets benefit from permitted development rights other than what has been assessed under Paragraph A.1(8)(c) under Schedule 2, Part 16, Class A of the GPDO. As such, this matter has not been determinative in my decision.

Conclusion

9. For the reasons given above, the appeal is dismissed.

Liam Page

INSPECTOR