



Appeal Decision

Site visit made on 21 September 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/Z5630/W/21/3287342

Jubilee Way, Tolworth, Kingston KT5 9NU

- 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 Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/02378/TEL, dated 23 July 2021, was refused by notice dated 16 September 2021.
 - The development proposed is described as the installation of a 20 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto.
-

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) (the GPDO) for the siting and appearance of a 20 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto at Jubilee Way, Tolworth, Kingston KT5 9NU in accordance with the terms of the application Ref 21/02378/TEL dated 23 July 2021, and the plans submitted with it including 002/A - Site Location Plan; 215/A - Proposed Site Plan; 265/A - Proposed Site Elevation.

Procedural Matters

2. The appellant has confirmed that the description of development set out on the application form is incorrect. While it refers to transmission dishes, the appellant states these are not proposed and should not be included in the description. The Council has not objected in this respect, and I do not consider that any party with a potential interest in the outcome of this appeal is disadvantaged by me accepting this correction to the description of development as set out in the banner heading above.
3. Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) of the GPDO 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.
4. Accordingly, the principle of development is not a consideration and the question of whether or not the proposal represents inappropriate development on Metropolitan Open Land does not arise. I have formulated the Main Issue in this appeal on this basis.

5. The relevant provisions of the GPDO also do not require regard to be had to the development plan. Accordingly, I have had regard to development plan policies only insofar as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.

Main Issue

6. The main issue in this appeal is therefore the effect of the proposed development on the character and appearance of the area, and if any harm is identified whether that harm would be outweighed by the need to site the installation in the location proposed.

Reasons

7. The appeal site forms part of the pavement which runs alongside Jubilee Way. The immediate area, on the same side of Jubilee Way, is undeveloped with trees forming a soft edge along the pavement. To the opposite side of the road, five storey mixed use buildings front the highway.
8. The proposed development would include the erection of a monopole with associated equipment. The proposed drawings show that the top of the monopole would measure 20 metres from ground level and would also be set back from the highway within the existing grass verge.
9. The drawings indicate that the development would be of functional design and taller than existing trees and vegetation situated on the same side of the road. Although of slimline design and to be sited in a general location well served by existing streetlighting infrastructure, it would be set against or near to street furniture and planting of comparatively low height. While larger buildings are opposite, the monopole would still be readily perceivable within short to medium range views and would contrast with the verdant qualities of the locality. This would be particularly so when travelling along Jubilee Way or when viewing from adjoining land.
10. I therefore find that the proposed development would cause some harm to the character and appearance of the area, to which I ascribe moderate weight.
11. Paragraph 114 of the National Planning Policy Framework (July 2021) (the Framework) states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology.
12. The importance of digital connectivity is further underlined by Ofcom's 2021 annual communications report and the Framework, at paragraph 118, indicates that the need for electronic communication systems should not be questioned when determining applications.
13. The rationale put forward for the proposal explains that the proposed telecoms equipment is necessary as the existing network in the area is overloaded and in need of further capacity. Additionally, to improve capacity the proposed development would provide supercharged 4G and a new 5G signal.
14. The appellant has provided evidence showing how a search area for the proposed development was identified. This exercise was in-part led by any new mast needing to be located away from existing installations, so as to avoid

likely interference. A site selection process was applied, and alternative options were discounted from within the search area for reasons that include high visibility from houses and insufficient height. The Council has not suggested alternative sites or challenged the appellant's site selection process.

15. Thus, from the evidence before me, the appellant has satisfactorily demonstrated that the proposed development is needed at this location to deliver significant network coverage improvements in the locality, which would provide service for individuals, industry, and other sectors such as the emergency services. The proposed development's public benefits, through enhanced digital communications networks attract substantial weight that outweighs the moderate degree of harm to the character and appearance of the area that I have identified.

Conditions

16. 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

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

N Praine

INSPECTOR