



Appeal Decision

Site visit made on 31 October 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 NOVEMBER 2022

Appeal Ref: APP/L5240/W/21/3283110

Godstone Road, Kenley, Croydon, London CR8 5JD

- 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 Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/03672/PA8, dated 3 July 2021, was refused by notice dated 2 September 2021.
 - The development proposed is a 20.0m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name and address of the applicant on the application form and the name and address of the appellant on the appeal form are inconsistent. The appellant has confirmed that the inconsistency arose due to an administrative error and that the applicant and the appellant are the same - CK Hutchison Networks Ltd. I have used this information in the banner heading above.
3. A prior approval appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. The principle of development is established through the grant of permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. The provisions of the GPDO, 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 this basis.

Main Issue

5. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the nearby Site of Special Scientific Interest (SSSI); and,

- highway safety.

Reasons

Character and appearance

6. The appeal site is located next to the vehicular access/egress to the Optical Surfaces factory on the northern side of Godstone Road, near to the junction with Hayes Lane to the south. The access leads to a surface car park and to the entrance to the factory some 50 metres from Godstone Road, within a partly quarried elevation of a hill.
7. This hill is said to form part of the Metropolitan Green Belt and the Riddlesdown SSSI and comprises mature woodland, hedges and extensive grassland that extends for several hundred metres along the northern side of Godstone Road on either side of the appeal site. Away from the factory car park, the terrain slopes steeply upwards from the road and there are gated pathways leading to the hill to the southeast and northwest of the access.
8. On the southern side of the road, to the east of Hayes Lane, is a small surface car park in front of a 3-storey late 20th century building containing a small local supermarket. Further east, and somewhat closer to Godstone Road is a parade of 2-storey buildings from the early 20th century, with shop-type uses at ground floor. There are some small lampposts serving the car park and there is a pedestrian crossing of Godstone Road by its entrance, connecting with a bus shelter on the northern side of the road.
9. On the southern side of Godstone Road, at the western corner of the junction with Hayes Lane, is a large Scots Pine tree. There are further mature trees and bushes to the west, within the grounds of a primary school, which is set back from Godstone Road and at a lower elevation. A broad footpath runs along the southern side of the road.
10. Whilst there are tall lampposts on the northern side of Godstone Road, including near to the factory access, where a telegraph pole is also located, the land on this side of the road has a largely rural character dominated by the partly wooded hill. In views from the south, including along Hayes Lane, the prominence of the proposed mast would be limited by the hill and the tall Scots Pine tree, but where visible, the design, size and bulk would still make it a visually obtrusive feature against the largely natural background. Colouring the proposed mast a different colour would not overcome this harm.
11. Furthermore, the size and bulk of the proposed mast would be significantly taller than any nearby trees, buildings or lampposts and means it would be highly prominent and incongruous in views along Godstone Road to the southeast and northwest.
12. From the evidence the appellant has followed a sequential approach to options and site selection and various alternative sites nearby have been considered and rejected. However, this is not an extensive list and little detailed information has been provided to show the alternative sites and why they were considered unsuitable.
13. Some of the wording in the appellant's evidence is also contradictory in places, such as the description of the area containing the appeal site. The site is said

to be located in a densely packed residential area¹; this is not a description that I recognise from my observations on site.

14. Furthermore, in paragraph 3.15 of the Grounds for Appeal document, which concerns the Appeal Site / Context, reference is made to land owned by The Chalk Hills Academy. This is not mentioned on the site specific supplementary information document or by the Council and does not seem to be relevant to this proposal.
15. The cumulative effect of this is to reduce my confidence in the robustness of the appellant's approach to site selection in this case.
16. Although not part of my determination, I note that in so far as it relates to the matters contained under relevant parts of Schedule 2, Part 16, Class A of the GPDO, the proposal would conflict with Policies SP4 (urban design and local character) and DM10 (design and character) of the Croydon Local Plan 2018. The National Planning Policy Framework 2021 (the Framework) is a material consideration with regard to relevant parts of Schedule 2, Part 16, Class A of the GPDO and the proposed development would conflict with the Framework in this regard.
17. For these reasons the siting and appearance of the proposed development would cause harm to the character and appearance of the area and I am not satisfied that the need for the installation to be sited as proposed has been demonstrated, taking into account potentially suitable alternative sites.

SSSI

18. SSSIs are designated by Natural England under the Wildlife and Countryside Act 1981. The appeal site would be outside the SSSI but the Council states that it would be adjacent to it, whilst the appellant states it would be within close proximity. Without understanding the precise extent of the SSSI I cannot be certain of its position relative to the appeal development.
19. The Council has not addressed the SSSI beyond noting its existence next to the appeal site, whilst the appellant asserts that the location outside the SSSI means it would have no impact on the ecological designation.
20. However, the Framework states that *development on land ... outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest*².
21. Without understanding the reason why Riddlesdown has been designated a SSSI, I cannot be certain what the effects of the proposed development would be on it, or whether these would be likely to be adverse. The location of the proposed development outside the SSSI would not mean that there would be no adverse effects.
22. The appellant has submitted a declaration of conformity with the public exposure guidelines of the International Commission on Non-Ionising Radiation

¹ Page 9 Site Specific Supplementary Information

² Paragraph 180b)

Protection (ICNIRP). In these circumstances, the Framework advises that public health safeguards are not something which a decision-maker should determine. However, compliance with the ICNIRP requirements for human health does not address the potential effects on the natural environment.

23. From the evidence before me, it is unclear whether the proposed development would be likely to adversely affect the Riddlesdown SSSI. Given the importance of SSSIs, which are statutory designations, a precautionary approach is justified in this case.
24. For these reasons I am not satisfied the proposed development would not adversely affect the Riddlesdown SSSI and so would conflict with the Framework in this regard.

Highway safety

25. Godstone Road is a busy single carriageway road and a designated red route with regularly spaced lampposts by its side. In the vicinity of the appeal site is the junction with Hayes Lane and an access to the local supermarket to the south, a pedestrian island within the carriageway to assist the crossing of Godstone Road, and a bus stop on the northern side of the road to the east.
26. A broad footpath runs along the southern side of the road on either side of the appeal site, whilst on the northern side there is a narrower footpath to the east. The Optical Surfaces Ltd. factory entrance has a visibility splay to the west, from which a narrow fenced footpath rises towards the Riddlesdown hill. Beyond this area there is no footpath by Godstone Road to the west of the appeal site.
27. The Council did not receive comments from its Transportation team or from Transport for London with regard to the proposal. However, an objection to the proposed development from Optical Surfaces Ltd. was received that stated that the submitted drawing showing a 43 metre unobstructed visibility splay for the Optical Surfaces Ltd. access/egress was inaccurate.
28. As a result, the objection noted the proposed development would be positioned in the western visibility splay serving the factory, thereby blocking views of traffic approaching from the west for vehicles leaving the site. A concern was also raised that vehicles needed for the construction and maintenance of the proposed development would need to park in the visibility splay, given the red route designation and the very limited space for vehicles to park.
29. From my observations on site, I agree with the objector that the submitted drawing entitled '211 VIS SPLAY PLAN', which shows the 43 metre visibility splay, does not accurately show the area. Beyond the existing visibility splay there is no footpath on the northern side of Godstone Road to the west, yet a footpath of more than one metre width is clearly shown and included in the 43 metre visibility splay for the proposed development.
30. With reference to the timber fence by the footpath to Riddlesdown Hill and the nearby lamppost to the west of the appeal site, the carriageway of Godstone Road extends further north than shown. The proposed development would consequently be positioned within the visibility splay blocking views of traffic approaching from the west.

31. It is difficult to see how an error of this magnitude could have been made by the appellant. It is even more difficult to see how this was not addressed by the Council, in light of the objection made about this issue. Given the serious potential consequences for highway safety, this reflects very poorly on both main parties.
32. With regard to preventing vehicles from parking in the visibility splay during construction and maintenance, this could potentially be controlled by suitably worded conditions, were the proposal otherwise acceptable. However, that is not an issue in this case.
33. For these reasons the proposed development would cause unacceptable harm to highway safety and would conflict with the Framework in this regard.

Other Matters

34. Reference has been made to various social, economic and environmental benefits but these have not been taken into account in considering the matters of siting and appearance.

Conclusion

35. For the reasons given above, and taking into account all relevant matters, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR