



Appeal Decision

Site visit made on 8 November 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/K3605/W/22/3299571

Sandy Lane, Clarendon Park, Oxshott, KT11 2EP, 513307, 161382

- 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 Hutchinson Networks (UK) Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3871, dated 4 September 2021, was refused by notice dated 22 December 2021.
 - The development proposed is Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
-

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 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works at land at Sandy Lane, Clarendon Park, Oxshott, KT11 2EP in accordance with the terms of the application Ref 2021/3871, dated 4 September 2021 and the plans submitted with it including: ELM19265_M001 Rev A 002 Site Location Plan, ELM19265_M001 Rev A 100 Existing Site Plan, ELM19265_M001 Rev A 150 Existing Elevation A, ELM19265_M001 Rev A 210 Proposed Site Plan, ELM19265_M001 Rev A 211 Vis Splay Plan, ELM19265_M001 Rev A 260 Proposed Elevation, ELM19265_M001 Rev A 303 Proposed Antenna Schedule & Line Configuration, ELM19265_M001 Rev A 305 Equipment Schedule & Support Structure Details.

Preliminary Matters

2. This is an application for Prior Approval. Therefore, the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. Matters of energy use fall outside the scope of this decision. This appeal will be determined on this basis.

Planning Policy

3. Part 16 of the GPDO 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 DM2, DM16 of the Elmbridge Local Plan Development Management Plan April 2015 and Policy CS17 of the Elmbridge Core Strategy July 2011 are material considerations as they relate to issues of siting and appearance. Together these Policies seek to permit the installation of telecommunications where there is no significant adverse effect on the visual amenities of the area and require that all new development should achieve high quality design, appropriate to local character. Similarly, the National Planning Policy Framework July 2021 (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.

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 occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site is a mainly grass verge on the corner of Sandy Lane and The Ridings with a pavement which terminates on the corner. There is an existing pole and cabinet on the site and street lights nearby. There are trees and hedges along the boundary with 2 The Ridings although their height and level of screening varies.
7. The Ridings is a domestic road characterised by generous detached two storey dwellings. Along Sandy Lane properties appear larger, but still mainly two storey, with more substantial landscaped front gardens many with trees along the road. Along with the lack of a footpath, this gives this road a more rural but nevertheless residential character. Sandy Lane is a busy through route, and the junction where the appeal site is located is on an incline. Overall there is a sense of openness with modest height residential development in a leafy, green setting.
8. The proposed monopole would be a utilitarian feature close to existing street furniture. However, the height and bulk of the installation would be considerably greater than any of the features nearby, and taller than the surrounding housing. As such it would be harmfully dominant and incongruous in these regards. Consequently, it would be harmful to the modest height, domestic character of the area in these respects.
9. The proposed development is needed for Three UK to provide 5G coverage and improved connectivity. A 'cell search area' has been identified where coverage is required. Within this search area alternative sites have been investigated and discounted for reasons including. insufficient space, proximity to residential properties, underground services, pavement width or obstructing tree canopy.
10. Some of these sites are similarly constrained in terms of their character and proximity to residential properties. Therefore although there may be alternatives, the effects would be comparable. Consequently, there are no other more suitable sites in this search area. Taking into account the limited areas of non-private land and the developed nature of the surrounding area, the likelihood of more suitable sites being reasonably available is low.
11. Although I identify harm with regard to the effect of the proposed development on the character and appearance of the area, I nevertheless find that the site

proposed is the most suitable to provide the service required. Taking into account the acceptance of telecommunications equipment by the GPDO this is a strong factor in favour of allowing the appeal. Consequently, this outweighs the visual harm in this case.

Other Matters

12. The junction is around the top of a slope and the road is used by parents and children accessing Reeds School. However, the proposed development would retain the footpath on this corner and in this location Sandy Lane is straight and the turning into the Ridings is not especially tight. The proposed barrier would be slender and low in height and as such would not obscure vehicles or pedestrians and the proposed cabinets would be set back from the edge of the road. As such the appeal scheme would retain appropriate intervisibility between users of this junction.
13. The Armco barrier included in the submitted drawings does not meet the BS standard as required by the County Highways Authority. However, I am not provided with detail as to the need for a barrier between the installation and the highway in this location and I do not have persuasive evidence that the nature of the road here would be particularly likely to lead to drivers colliding with the equipment. Consequently, the siting and appearance of the proposed monopole would not be harmful to highway safety. Nor would it be positioned in a location with high biodiversity value. As such the siting and appearance would be acceptable in this regard.
14. Concerns have been raised about potential effects on health. However, the appellant has provided a declaration 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

15. The GPDO 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.

Conclusions

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

H Miles

INSPECTOR