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# Appeal Decision

Site visit made on 15 November 2022

**by Stewart Glassar BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 NOVEMBER 2022**

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**Appeal Ref: APP/L5240/W/21/3287735**

**Purley Way, Purley, Croydon CR8 2JQ**

- 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 the Council of the London Borough of Croydon.
  - The application Ref 21/04501/PA8, dated 24 August 2021, was refused by notice dated 18 October 2021. The development proposed is a 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.

## Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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 the same basis.
3. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the Croydon Local Plan (Local Plan) and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. The appellant's view is that the proposed cabinets do not require prior approval due to their size and function. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. I have determined the appeal on the basis of the scheme before me, which was the subject of the prior approval application and includes the proposed cabinets.

## Main Issues

5. The main issues are:
  - i) the effect of the siting and appearance of the proposed development on a) the character and appearance of the area; and b) highway safety, with particular regard to visibility and driver distraction; and

- ii) 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 alternative sites.

## **Reasons**

### *Character and Appearance*

6. The appeal site is located on a narrow grassed central reservation on Purley Way, near its junction with Highfield Road and Edgehill Road. At the point it passes the appeal site, Purley Way has two lanes of traffic heading north and three lanes heading south. Either side of the road are footpaths and beyond them small retaining walls. To the east the wall provides the base for a heavily planted verge. To the west, the land retained by the wall provides some boundary planting with there being a sports field beyond. Given the general absence of buildings in the vicinity of the site, and notwithstanding the nature of Purley Way, the trees and planting in and around the site help to soften the context and contributes to the distinctly suburban character of the area.
7. The cabinets and pole would be in a linear arrangement, with the cabinets to the south of the pole. The cabinets are not extensive in number, but the narrowness of the central reservation means that they would be readily visible, utilitarian structures with little options for screening. Indeed, their proximity to the road raises a consequential need to install armco barriers to protect the equipment. Even without the barriers, this element of the proposal would add visual clutter that would be a jarring feature.
8. I observed that there are many existing street lights along Purley Way and around the junction, which also accommodates what appeared to be a pole mounted traffic enforcement camera. Thus, there are vertical and tall structures within the street scene. For technical reasons the monopole needs to be of sufficient height to clear surrounding buildings and land. As a result, it would be much taller than these existing structures along this part of Purley Way.
9. Given the topography and road alignment, the monopole would be a conspicuous feature. When viewed from the north it would be readily apparent from long distances in the approach, and from the south, it would be a striking and very obvious feature as vehicles reach the brow of the hill and the traffic signals. Only the lowest parts would be seen against a more solid background. Within the area immediately surrounding the site, the mast would be readily visible, and somewhat unexpected and incongruous within the central reservation. As a result, there would be harm to the character and appearance of the area. A condition to finish the proposal in an alternative colour would not sufficiently mitigate the impact.
10. The reason for refusal makes reference to the outlook of No. 235 London Road being adversely affected. However, the Officer Report makes no such reference or identifies particular neighbours whose outlook would be harmed. Notwithstanding this, given the separation distance to, and position of, the nearest residential properties, the proposal would not directly harm the outlook from the nearest dwellings.
11. Notwithstanding the lack of harm to the outlook from nearby properties, the appearance and siting of the proposal would significantly impact on the character and appearance of the area. Insofar as they are a material

consideration, the proposal would also be contrary to the aims of Policies D3 and D4 of the London Plan and Policies SP4, DM10 and DM33 of the Local Plan which, amongst other things, seek to ensure that telecommunications equipment and its installation respects the local environment and would not be harmful by reason of its siting or appearance.

#### *Highway Safety*

12. The main contention is that by virtue of its appearance and siting, the proposal would harm visibility for drivers. Neither the Officer Report, nor the Transport for London (TfL) consultation response, are more specific beyond a general concern for visibility onto the junction for vehicular users. The TfL response also makes reference to driver distraction, in part because the equipment would be sited on the brow of a hill.
13. As part of my site visit, I drove along Purley Way in both directions towards the site. I recognise that my site visit represents a snapshot in time and the level of traffic and speed of vehicles would vary. Nevertheless, neither the monopole nor the cabinets would in my judgement interfere with driver visibility when approaching the junction from the south. The equipment would be beyond the junction and whilst the monopole would be visible as a driver approaches and passes through the junction, it would not hinder driver visibility of either the road ahead, other road users travelling in the opposite direction or pedestrians using the junction itself.
14. When approaching from the north, the road alignment and topography ensures that the pole and cabinets are readily visible as a driver approaches the junction. However, neither the profile of the monopole nor the heights of the cabinets would obscure the traffic signals, pedestrians using the junction or other road users travelling in the opposite direction.
15. Overall, I am satisfied that adequate visibility for drivers approaching the junction would be maintained.
16. The proposal would be a static feature, unlike say a digital advertisement, and notwithstanding the monopole's height, both it and the associated cabinets would clearly be identifiable for their function. Notwithstanding their proximity to the road, they would not therefore appear to form a distraction for drivers such as to materially compromise highway safety.
17. Accordingly, neither the siting nor appearance of the proposal would result in an unacceptable highway safety risk or harm to the free flow of traffic. As such, insofar as it is material, the proposal would comply with Policy DM29 of the Local Plan which, amongst other things, seeks to ensure development does not have a detrimental impact on highway safety.

#### *Alternative Sites*

18. The proposed equipment falls within the scope of permitted development, and as such the principle of the development, including the need for the facility, has already been accepted. However, I have found that, owing to its siting and appearance, the proposal would cause harm to the character and appearance of the area immediately around the site. It is therefore necessary to consider whether other, less harmful options may be available.

19. Paragraph 117 of the Framework requires that evidence is provided to justify the proposed development. In relation to a new mast, this justification includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. In this case the appellant has confirmed that there are no opportunities for sharing equipment with other operators.
20. The proposal is needed to improve digital capacity and provide 5G services to the surrounding area, which is congested. The Cell Search Area Map provided by the appellant shows the target area and the constraints to providing alternative sites. Whilst alternative locations for a new mast have been investigated, they have been rejected mainly due to the proximity of residential properties or other sensitive receptors. Some sites have been rejected due to limited space in which to install the equipment.
21. The information provided on alternative sites is somewhat limited, but it does not completely rule out the possibility of at least one of the alternative sites being deliverable. Whilst some of the alternatives may be technically more challenging than the appeal site, I am unconvinced that the appeal site is the only appropriate location within the search area or that the harm found on a site elsewhere would be greater than that which I have identified for the appeal site, even if this necessitated an increased height of mast elsewhere.
22. Having regard to all relevant considerations, including the Framework and the potential availability of alternative sites, I do not consider that the benefits of the installation in terms of the enhancement of the telecommunications network, including its contribution to economic growth and the operational and locational needs of the operators outweigh the significant harm arising to the character and appearance of the area.

### **Conclusion**

23. As a result, I conclude that the appeal should be dismissed.

*Stewart Glassar*

INSPECTOR