



Appeal Decision

Site visit made on 8 November 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8TH December 2022

Appeal Ref: APP/K0425/W/22/3298991

Holmers Farm Way, High Wycombe HP12 4TS

- 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 & 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 21/07864/PNP16A, dated 18 September 2021, was refused by notice dated 17 November 2021.
 - The development proposed is 16.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council amended the site address to 'Land Between 287 Cressex Road and Holmers Farm Way, High Wycombe, Buckinghamshire'. However, I have taken the site address from the application form as referred to in the banner heading.
3. The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order) Part 16 Class A Para A.2 (5A) states that "except in case of emergency, Class A development which consists of the installation, alteration or replacement of a mast on a civil safeguarding area or a defence safeguarding area is permitted subject (in addition to any other condition imposed by this paragraph) to the conditions that— (a) the developer notifies in writing—(i) the Civil Aviation Authority, in respect of development on a civil safeguarding area; (ii) the Secretary of State for Defence, in respect of development on a defence safeguarding area; (iii) the operator of the civil safeguarding area (if the operator is not the Civil Aviation Authority) or defence safeguarding area (if the operator is not the Secretary of State for Defence).
4. The Order Part 16 Class A Para A3 (6)(ab) states that for development which is subject to the condition in paragraph A.2(5A), the local planning authority must consult—(i) the Civil Aviation Authority, in respect of development on a civil safeguarding area; (ii) the Secretary of State for Defence, in respect of development on a defence safeguarding area; (iii) the operator of the civil safeguarding area (if the operator is not the Civil Aviation Authority) or defence safeguarding area (if the operator is not the Secretary of State for Defence).
5. Both parties agree that the site is located within 3 kilometres of the perimeter of an aerodrome. The Council has confirmed that the site is within a civil

safeguarding area and a defence safeguarding area and I have no reason to dispute this. The Council undertook consultations in accordance with the requirements of The Order Part 16 Class A Para A3 (6)(ab). In response to this consultation the Ministry of Defence raised no safeguarding objections and the operator of the aerodrome objected on grounds that the mast is too close to the obstacle limitation surface.

6. The Order Part 16 Class A Para A3 (7) states that when determining the application made under sub-paragraph (4), the local planning authority must not grant prior approval contrary to the advice of any person consulted in accordance with sub-paragraph (6)(ab). The proposal would conflict with the consultation response received from the aerodrome operator as the operator of the civil safeguarding area, consulted in accordance with The Order Part 16 Class A Para A3 sub-paragraph (6)(ab). Thus, prior approval cannot be granted.

Conclusion

7. For the reasons given above the appeal is dismissed.

Nichola Robinson

INSPECTOR