



Appeal Decision

Site visit made on 25 November 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/W0340/W/22/3296477

Fiddlers Lane, East Ilsley, RG20 7LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under r 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 West Berkshire District Council.
 - The application Ref 21/03111/TELE56, dated 30 November 2021, was refused by notice dated 28 January 2022.
 - The development proposed is described as 'Proposed 16.0m 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), 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 and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require that regard be given to the development plan. I have had regard to the policies of the West Berkshire Core Strategy 2006 – 2026 (adopted 2012) (the Core Strategy), and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effect of the siting of the proposal on highway safety and, if any harm would occur, whether it is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternative sites.

Reasons

Highway Safety

5. The appeal site is a grass verge on the edge of Fiddlers Lane. It is located west of the village of East Ilsley, beyond a bridge serving the A34 trunk road. Fiddlers

Lane connects to and from the A34 via slip roads. The position of the site is near a large sweeping bend in the highway, which is set on a gradient, and subject to the national speed limit of 60mph. The site is also located adjacent to an existing sizeable road-sign and broadly opposite the junction of Ballpit Road as it joins Fiddlers Lane.

6. The proposed development would comprise a 16m high monopole to which antennas would be attached, along with several associated ground level equipment cabinets. It has been put to me that the installation of the ground level cabinets alone would constitute permitted development under Part 16, Class A of the GDPO and therefore do not require prior approval. Nevertheless, as it stands, the proposal before me relates to the whole installation and I have therefore also considered the impacts of the cabinets. Indeed, it is reasonable to assume that the installation of the cabinets is intrinsically linked to the function of the proposed mast and that the works would not be carried out in isolation of one another.
7. Concerns have been raised by the local highway authority (LHA) regarding the position of the development on the inside bend of the road, and its impacts on forward visibility for drivers of vehicles approaching from the north. Manual for Streets (MfS) explains that forward visibility is the distance a driver needs to see ahead to stop safely in the road. The minimum forward visibility required is equal to the minimum stopping sight distance (SSD).
8. Utilising the approach promoted by MfS, the LHA has calculated the SSD for vehicles travelling around the bend to the north of the site as being 78.46m. Essentially, a vehicle approaching the bend in the road to the north of the appeal site should therefore have a 78.46m clear view above a height of 0.6m to provide an appropriate SSD.
9. I note that in calculating the SSD, the LHA has used the 85th percentile of the speed limit along this section of Fiddlers Lane (i.e. 45mph) due to an absence of speed survey data for the road. In this instance, I consider this approach to be appropriate.
10. Based on the required SSD the LHA has demonstrated that there are already deficiencies in the visibility splays along this section of Fiddlers Lane. This is likely to be further obstructed by the siting of the proposed equipment, exacerbating existing sub-standard visibility for drivers along the bend. The proposal is therefore likely to increase the risk of vehicle collision should pedestrians, vehicles or other obstructions be in the road.
11. No robust evidence has been submitted that dispute the highway safety concerns raised by the Council, or to demonstrate that the proposal could be constructed without interfering with the visibility requirements.
12. Consequently, based on the evidence before me, I deem that the siting of the proposed development will have a significant harmful effect on highway safety. Insofar as they are a material consideration, the proposal would also be contrary to Core Strategy Policy CS13, which amongst other matters seeks to promote safe travel. Likewise, insofar as it is a material consideration the proposal would also conflict with the policies of Section 9 of the Framework, in respect of ensuring development does not have unacceptable impacts on highway safety.

Availability of Alternative Locations

13. Paragraph 117 of the Framework requires that applications for telecommunications development, including prior approval, should be supported by necessary evidence to justify the proposal. This should include, for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. Due to the potential harm to highway safety, it is important that an appropriate search of alternative sites has been undertaken to justify the proposal.
14. The appellant indicates that opportunities for the sharing of sites have been investigated but discounted based on there being no suitable structures or properties in the designated search area to host the proposal. However, no information has been provided detailing those existing structures or properties that were investigated. Although the alternative sites put forward appear to have been discounted for legitimate reasons, each of the discounted options presented by the appellant appear to be limited to ground level sites within the public highway.
15. Whilst it is recognised that the cell search area for the proposal is highly constrained, there is little information before me to establish how the alternative sites were selected. Additionally, the appellant has indicated that often proposals must be pulled marginally outside the cell search area due to a variety of constraints. However, it is again unclear from the submitted evidence whether such options have been fully explored. I am therefore not convinced that the information before me demonstrates that an exhaustive examination of potentially suitable sites has been undertaken. Accordingly, I am not persuaded that less harmful alternative sites are not available.

Other Matters

16. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The Council has not highlighted concerns regarding the impact of the proposed development upon the character and appearance of the area, including the AONB. From my own observations on site, I am satisfied that due to its relatively localised impact and its position alongside the A34 trunk road, the proposal will not harm the special qualities of the AONB. It would therefore conserve the landscape and scenic beauty of the AONB.
17. The appellant has also emphasised that the siting and appearance of the proposal would not cause harm to the character and appearance of the area or the amenity of any nearby residents. Even so, this is to be expected of the proposal and does not overcome the concerns in relation to its siting and impacts on highway safety.
18. The appellant has referred to a lack of response to its pre-application enquiry and that the local planning authority (LPA) did not suggest any alternative sites for the proposal. It is unclear whether the appellant undertook a formal pre-application enquiry, however, the submitted application form indicates otherwise. In any case, I do not consider the lack of a response impacts on the merits of the appeal proposal.
19. Concerns have been raised about the proposed development's potential effects on health. However, the appellant has provided a certificate 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.

Planning Balance and Conclusion

20. The need for an installation to provide enhanced coverage in the area weighs significantly in favour of the appeal scheme. However, the siting of the proposal would result in harm to highway safety, this is a matter to which I attach substantial weight. Furthermore, there is insufficient evidence to demonstrate that there are not any more suitable alternative sites for the proposal.

21. For the reasons given above, the appeal is dismissed.

Lewis Condé

INSPECTOR