



Appeal Decision

Site visit made on 1 December 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/C3105/W/22/3301284

Oxhey Hill, Cropredy, Cherwell OX17 1JW, 446705, 246923

- 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 Cherwell District Council.
 - The application Ref 22/00985/TEL56, dated 29 March 2022, was refused by notice dated 26 May 2022.
 - The development proposed is described as proposed telecommunications installation: Proposed 15.0m Phase 9 Monopole and associated ancillary works.
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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 a proposed telecommunications installation: Proposed 15.0m Phase 9 Monopole and associated ancillary works at land at Oxhey Hill, Cropredy, Cherwell OX17 1JW, 446705, 246923 in accordance with the terms of the application Ref 22/00985/TEL56, dated 29 March 2022, and the plans submitted with it including: 002 Site Location Plan CWL18533_M003 Issue C, 210 Proposed Site Plan CWL18533_M003 Issue C and 260 Proposed Elevation CWL18533_M003 Issue C.

Procedural Matter

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.

Planning Policy

3. Part 16 of the Order 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, Policy ESD15 of the Cherwell Local Plan 2015 and saved Policy C28 of the Cherwell Local Plan 1996 are material considerations as they relate to issues of siting and appearance. Similarly, the National Planning Policy

Framework (the Framework) is also a material consideration and this includes sections on supporting high quality communications and conserving and enhancing the historic environment.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the Cropredy Conservation Area.

Reasons

6. The appeal site lies close to but outside the boundary of the Cropredy Conservation Area (CA). The significance of the CA is primarily derived from its historic role as a village which relied on industry and commercial trade, its historic street pattern including narrow lanes in a figure-of-eight pattern and the range of period properties within the village.
7. The appeal site is separated from the CA by a relatively busy road where the junction of Oxhey Hill and Claydon Road meet. There are no formal pavements near the site, but wide grass verges allow for pedestrian use. On my site visit, I saw that street furniture was apparent in this area and included wooden poles with electrical transformers, a telegraph pole and various road signage. These are all elements which cumulatively contribute to the views in and out of the CA.
8. Notwithstanding the street furniture the area around the appeal site has a verdant character with trees and hedges forming nearby boundaries opening onto agricultural fields and residential properties to the east. The appeal site comprises an area of grass set back from the road. In the limited views of the site from the edge of the CA, it therefore reads as a wide grass verge with existing street furniture and makes very little contribution to the character or appearance of the CA.
9. Due to its slender form, the proposed mast would occupy a very small proportion of any views into and out of the CA. It would appear taller than other street furniture and existing trees. However, the existence of mature landscaping to the rear of the site would help soften the appearance of the mast whilst it would be read within the context of existing street furniture.
10. The presence of lower-level signage close to the appeal site means it is not viewed as open and free from built form. The footprint of the proposal would be small, meaning that most of the grass on site would be retained. As such, the appeal site would still have a greening effect amongst the proposed works. Whilst the cabinets would be visible due to their siting, height and bulk, they would not appear as an intrusive feature that adversely compromises the streetscene or views of the surrounding area. As such the proposal would preserve the character and appearance of the CA.
11. The siting and appearance of the proposal would not have a harmful effect. The proposal would be in accordance with Policy ESD15 of the Cherwell Local Plan 2015 and saved Policy C28 of the Cherwell Local Plan 1996 insofar as they relate to issues of siting and appearance and the Framework which seeks that proposals for telecommunications are sympathetically designed.

Other Matters

12. Interested parties have raised concerns over potential risks to health. However, the proposal is accompanied by a certificate confirming that it has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection ('ICNIRP'). The Framework advises that health safeguards different from the International Commission guidelines for public exposure should not be set. No substantive evidence has been provided to indicate that ICNIRP guidelines would not be complied with, or to demonstrate that a departure from national policy would be justified.
13. Concerns have also been raised by third parties in regard to noise and impact on nearby livestock. I have no specific evidence of how the proposal would impact livestock, nor is there any information on what unacceptable noise would be generated by the equipment particularly given its distance from the closest residential properties. Accordingly, I am unable to find any harm in this respect.
14. The proximity of the proposed apparatus to the road and parked vehicles obstructing road signage and damaging the grass verge has also raised concerns. However, there is no substantiated evidence to support this. This would reflect the findings of the Highways Officer who has raised no concerns in regard to these matters.
15. In finding no harm with regards to siting and appearance there is no requirement for me to make an assessment of alternative sites or the public benefits of the proposal.
16. I acknowledge that the Council responded to the pre-application submitted by the Appellant, to advise that it objected to the scheme. However, for the reasons set out above I have found no harm with regard to the siting and appearance of the proposal.

Conditions

17. The Order 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.

Conclusion

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

A Hickey

INSPECTOR