
Appeal Decision

Site visit made on 20 January 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2023

Appeal Ref: APP/T0355/W/22/3303604

Area of grass verge adjacent to Trevelyan School, Wood Close, Clewer New Town, Berkshire SL4 3LL

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/01162, dated 28 April 2022, was refused by notice dated 23 June 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Procedural 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, considering any representations received.
3. My determination of this appeal has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits, I have not expressly taken these matters into account. The benefits have effectively already been recognised by the grant of permission under Article 3(1) of the GPDO.
4. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan or the National Planning Policy Framework (the Framework). I have only had regard to the policies in the development plan and the Framework insofar as they are material considerations relevant to making a planning judgement on any matters of siting and appearance.
5. There is no evidence in front of me, by way of lawful development certificate or otherwise, demonstrating that the cabinets proposed benefit from separate permitted development rights. They have been assessed as part of the prior approval proposal accordingly.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposal 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 considering any suitable alternatives.

Reasons

7. The site is located adjacent to Trevelyan School at a grass verge along Wood Close in a leafy area with open space behind. There are very few utilitarian structures in the immediate vicinity and those that do exist are limited in scale. This is indicative of the site's suburban location away from more urban thoroughfares which may have greater propensity for utilitarian structures.
8. The proposal would deliver a utilitarian structure of significant scale that would look incongruous in this particular suburban location. Whilst there is a degree of screening provided by nearby trees, due to the proposal's scale it would rise above the tree canopy. Consequently, views of the proposal would remain and the incongruity within the street scene would be significant and clearly apparent from a range of locations in the immediate area.
9. The appellant refers to three and four storey buildings nearby, contending that these would help mitigate the scale of the proposal. However, it is clear from the evidence before me, and my site visit, that the immediate context of the site is informed by two storey residential development. Altogether, the proposal would harm the character and appearance of the area.
10. For the purposes of undertaking the balancing of issues, I have accepted the appellant's best case scenario¹ and that there is a lack of other available sites in the area without suitable alternatives. As such, given the acceptance of telecommunications equipment within the GPDO and the associated public benefits this needs to be a strong factor weighing in favour of the proposal.
11. However, even after taking the appellant's best case scenario and apportioning the maximum benefit in favour of the proposal and accepting that there are no suitable alternatives, the significant degree of incongruity in this particular case would generate overriding weight that tips against the proposal in the prior approval balance.

Other Matters

12. The Council disputes whether an appropriate declaration has been made in relation to the International Commission on Non-Ionizing Radiation Protection (ICNIRP) standards.
13. However, whilst there is template guidance on declarations it is not clear whether this is a prescriptive format that must be followed, and that the appellant's declaration should be regarded as deficient.
14. Given that I am dismissing the appeal for other reasons alone, it is not necessary to come to a definitive view on this matter as it would make no difference to the outcome of my decision.

¹ Notwithstanding some of the Council's contentions relating to the reliability of the site search.

15. Whilst I acknowledge that the appellant sought to engage in comprehensive pre application discussions with the Council, this process would not predetermine the application outcome and the appeal has been considered on its own merits.

Conclusion

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

Liam Page

INSPECTOR