
Appeal Decision

Site visit made on 3 March 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04/04/2023

Appeal Ref: APP/P3610/W/22/3298858

Upper High Street, Epsom and Ewell KT17 4TA

- 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 Epsom & Ewell Borough Council.
 - The application Ref 22/00052/T56, dated 13 January 2022, was refused by notice dated 9 March 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 17m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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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 Paragraph A.3(4) of Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, considering 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 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 policies in the development plan and the Framework insofar as they are material considerations relevant to making a planning judgement on matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area. Furthermore, 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

5. The site is located on a grass verge at the north side of Upper High Street and the junction with Church Road and Alexandra Road. It is predominantly a residential area comprising two storey and three storey buildings. There is a small amount of commercial development in the locality, but this does not change the prevailing residential context to any significant extent.
6. The site is adjacent to the highway and not directly in front of residential buildings. The scale and extent of other utilitarian infrastructure along the highway is modest. For example, there are lampposts of modest height and a limited number of low lying utility cabinets that are inconspicuous in the street scene. As such, the utilitarian context is limited.
7. There are very few trees of any significant scale along the highway corridor in the immediate vicinity of the site. Consequently, there are limited opportunities for any form of effective natural screening.
8. The proposal would deliver a 17m high street pole c/w wrap-around cabinet and 3 further equipment cabinets. The pole in and of itself would be very significant in height compared to surrounding features. As such and given the corner location of the site at a junction, it would be highly visible in the street scene despite its slimline design.
9. The lack of existing utilitarian infrastructure of any particular scale or extent would mean that the pole would present as an incongruous and harmful addition. The lack of natural screening, by way of trees or otherwise, means that the harmful effect of the proposal on the street scene would not be mitigated.
10. I acknowledge the cabinets are more significant in terms of footprint. However, they are limited in height to the extent that their impact would not be significant. This is something acknowledged by the Council in their submissions and not disputed under the appeal.
11. For the purposes of undertaking the planning balance, I have accepted the appellant's best case scenario, that there is a lack of other available sites in the area without suitable alternatives, which is not something disputed by the Council.
12. As such, given the acceptance of telecommunications equipment within the GPDO and associated public benefits¹ this needs to be a strong factor weighing in favour of the proposal and I attach great weight to it in the planning balance.
13. 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 harm to the character and appearance of the area would be significant in the context of the residential setting, limited pre-existing utilitarian infrastructure and limited natural levels of screening. This significant harm would generate overriding weight that tips the overall balance against the proposal.

¹ Whilst also acknowledging communications from the Department for Digital, Culture, Media and Sport.

Other Matters

14. The site is adjacent to Pikes Hill Conservation Area. The statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, because the site is not within the conservation area and only within its setting. As such, because the Council are not disputing the effect on the setting of the conservation area, and I am dismissing the appeal on the basis of character and appearance in general terms, it is not necessary to consider the matter in any further detail.
15. It is acknowledged that the appellant has sought to balance competing objectives, work within a set of technical constraints and conform to guidelines established by the International Commission on Non-Ionizing Radiation Protection, among other things. It is also acknowledged that the proposal has been designed to avoid impacting on nearby footpaths and that the appellant has entered pre application discussions with the Council in good faith. However, these matters do not otherwise mean that the proposal is acceptable when dealing with the main issue.

Conclusion

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

Liam Page

INSPECTOR