



Appeal Decision

Site visit made on 6 February 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/L3625/W/22/3303118

Court Lodge Road, Horley RH6 8RT

- 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 Hutchison Networks (UK) Ltd against the decision of Reigate and Banstead Borough Council.
 - The application Ref 22/01009/TED, dated 29 April 2022, was refused by notice dated 16 June 2022.
 - The development proposed is describes as 'Proposed telecommunications installation: Proposed 'slim line' phase 8 monopole c/w wraparound cabinet at base, 3no. additional ancillary equipment cabinets and associated ancillary works.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is taken from the Council's Decision Notice. This is in the interest of clarity.
3. Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. However, a developer must apply to the LPA to establish as to whether the prior approval of the LPA is required as to the siting and appearance of the proposal. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Policies DES1 and INF3 of the Reigate and Banstead Local Plan Development Management Plan (2019) (LP) are material considerations as they relate to issues of siting and appearance. In particular, they seek to support high quality design, conserve and enhance the character and appearance of the area and ensure that proposals for new telecommunications apparatus (including masts) are sited and designed sympathetically. Similarly, the National Planning Policy Framework ('the Framework') is also a material consideration, and this includes a section on supporting high quality communications.
5. LP Policy NHE1 is also referenced by the Council, however this relates to landscape protection, and as such is of little relevance to the main issue.

Main Issue

6. The main issues are:

- the effect of the siting and appearance of the proposed installation 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 taking into account any suitable alternatives.
- whether the Civil Aviation Authority has been appropriately notified.

Reasons

Character and Appearance

7. The appeal site lies along Court Lodge Road, opposite the junction with Emlyn Road. Despite a leisure centre nearby and some three storey buildings further along Court Lodge Road, I observed that both roads, like the wider area, are characterised by two storey terrace or semi-detached properties. The site sits adjacent to the rear boundaries of properties sat on Gower Road.
8. The proposal would be of functional appearance, typical of telecommunications equipment seen in urban and suburban areas generally.
9. The monopole would be sited at the rear of the pavement next to the boundary fencing and hedging of the Gower Road properties. This includes some trees and there are streetlights also in the vicinity. However, whilst I recognise the height is required to clear surrounding clutter and achieve the appellant's operational requirements, the proposed monopole would be significantly taller than any of these existing vertical elements including the tree levels and roof level of the adjacent Gower Road properties. Whilst a slimline design, it would also have thicker elements at its top, drawing attention to its height.
10. I recognise that the proposal would not, amongst other aspects, impede pedestrian flow and is not sited within a statutory designated area such as a Conservation Area or near any Heritage Assets. However, the large size and utilitarian appearance of the proposed equipment would appear out of scale and overly prominent within its immediate residential setting and from some short and medium distance views, for example along Court Lodge Road and Emlyn Road. It would also be visually prominent to several properties on Gower Road, as well as Court Lodge Road and Emlyn Road. The roadside hedging would offer some screening and natural backdrop but not to sufficiently reduce the visual impact of the mast, given its size. It would, by virtue of its scale and position, appear as an unusual and incongruous feature within the street scene. This visual impact would not be mitigated by painting the equipment and monopole any particular colour.
11. I therefore find that the siting and appearance of the development would have a significant harmful visual effect on the character and appearance of the local area.
12. Paragraph 117c of the Framework requires evidence that the appellant has explored the possibility of erecting antennas on an existing building, mast or other structure. The requirement for the monopole and equipment within the immediate locality is clear as shown by the lack of 5G coverage in the area.

13. The Council does not dispute the appellant's assertion that opportunities for sharing have been investigated and exhausted and that there is an urgent requirement to install additional telecommunications equipment.
14. I appreciate that the operator undertook pre-consultation the Council, and has ruled out a number of alternative sites, which are discounted due to reasons such as potential visibility splay issues, overhead services, sewer location, proximity to a school and insufficient pavement width. However, whilst the wider area is residential, from what I observed, given the areas of wider verge within the vicinity without overhead facilities or any visibility splay issues and away from the school etc, I am not persuaded that there is not a reasonable availability of an alternative, less prominent location that would secure the required coverage within the target area.
15. Having regard to all of the above, there is not sufficient evidence before me to definitively rule out other sites and to conclude that the proposed development needs to be sited as proposed because the appeal site is the only feasible or least-worst option. In coming to this view, I have taken into account the constrained nature of the cell search area, although I note that the appeal site is some distance from the nominal, as shown in figures 1 and 2 of the appellant's appeal statement.
16. The Framework recognises that planning decisions should support the expansion of electronic communications networks and the subsequent economic growth and social well-being arising from reliable communications infrastructure. In addition, the government aims to increase coverage and 'level up' digital connectivity, and the appellant has provided the necessary evidence to justify the proposed development. However, although I recognise the benefits of the proposal and the need for improved coverage in the locality, in this case, I have found that the siting and appearance of the proposed installation would lead to significant harm to the character and appearance of the area. This harm would not be outweighed by the other material considerations of the identified need for the installation, or the alternative sites put forward.

Civil Aviation Authority

17. The proposed site is within the civil safeguarding area for Gatwick Airport. The Council raise the issue of consultation with the Civil Aviation Authority, and particularly whether evidence of this was submitted with the application, in accordance with paragraph A.3 (5)(d) of the Order.
18. However, given my findings on the first main issue, I have not considered this matter further because it could not lead me to a different overall conclusion that the appeal should be dismissed.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

B Phillips

INSPECTOR