



Appeal Decision

Site visit made on 16 February 2023

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/Z5630/W/22/3297858

Land at junction of Chadwick Place and Balaclava Road, Surbiton KT6 5JL

- 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 EE Limited against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/00355/TEL, dated 4 February 2022, was refused by notice dated 1 April 2022.
 - The development proposed is the installation of 1No. 12m Alpha8-17 street pole, 1No. trisector antenna, 1No. GPS Node and 3No. ground-based equipment cabinets and ancillary development thereto.
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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) (the GPDO) for the siting and appearance of the installation of 1No. 12m Alpha8-17 street pole, 1No. trisector antenna, 1No. GPS Node and 3No. ground-based equipment cabinets and ancillary development thereto at land at the junction of Chadwick Place and Balaclava Road, Surbiton KT6 5JL in accordance with the terms of the application, Ref 22/00355/TEL, dated 4 February 2022, and the plans submitted with it, subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

Preliminary Matters

2. In accordance with the provisions of Article 3(1) and Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development.
3. The provisions of Paragraph A.3 of Part 16, Class A of Schedule 2 to the GPDO 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.
4. The relevant provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to the policies and guidance drawn to my attention only insofar as they are a material consideration

relevant to matters of siting and appearance. They are not, in themselves, determinative.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

6. The proposed street pole would be 12 metres tall and, along with the associated equipment cabinets, would be located on a generally level grassed highway verge adjacent to a large roundabout linking the busy Balaclava Road with Chadwick Place, a modern residential area comprising large mostly two and three-storey blocks of flats and houses. Balaclava Road wraps around Victoria Recreation Ground (the Park), a large mostly grassed public park which includes marked out playing pitches, tennis courts, an equipped children's play area and a centrally located single storey café building. The Park is bounded by a dark coloured steel palisade fence running along Balaclava Road and there are several mature trees and shrubs alongside this boundary feature. A railway line runs in an elevated position along another boundary to the Park. The appellant indicates that the main purpose of the proposal is to provide mobile communications coverage for train passengers which will help train operating companies meet obligations regarding the provision of WiFi on their services.
7. The roads approaching the roundabout junction are lit by regularly spaced tall lighting columns, with a greater number of closely spaced lighting columns at the roundabout. The tall mature trees to the Park boundaries would help in ensuring the proposal would be reasonably well screened from most views, including on the approaches to the roundabout. The proposed mast, which is a relatively slim structure, would not appear as being significantly taller than many of the trees. Whilst the proposal would clearly change the appearance of the immediate area, colouring of the mast, which the application for prior approval describes as olive brown, would assist in limiting its visual effect.
8. Having regard to the height of the nearest buildings at the entrance to Chadwick Place, the height and number of nearby light columns, the presence of a range of other street furniture nearby including various highway signs and a bus shelter, the relatively modest height and slim profile of the proposed mast and the size and positioning of equipment cabinets, the development would not appear significantly out of scale or out of place in this location.
9. The positioning of the mast and equipment cabins would result in the loss of a small area of grass verge. However, when seen in context with the backdrop of trees and shrubs along with the palisade fencing that surrounds the Park, and, noting the extent of the remaining grass verges adjacent to the site, the proposal would not appear as incongruous clutter and it would not be unduly harmful to the openness of the public realm.
10. The National Planning Policy Framework (the Framework) is a material consideration. This advises at Paragraph 114 that '*advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections*'. I attribute

significant weight to this expectation. In addition, although not determinative, I am satisfied that the proposal accords with Policies CS8 and DM10 of The Royal Borough of Kingston-upon-Thames Local Development Framework Core Strategy (April 2012) (the Core Strategy) which require that development relates well to its surroundings.

11. I conclude that the siting and appearance of the proposal would not harm the character and appearance of the area and it would accord with the provisions of the Framework.

Other Matters

12. The Council's reason for refusal refers to Policy DM12 of the Core Strategy. That policy relates to development in conservation areas and development affecting heritage assets. I have been provided with the text of the policy, but no further information in respect of any heritage asset or conservation area. Accordingly, I have no reason to have further regard to Policy DM12.

Conditions

13. The GPDO 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

14. For the reasons given above the appeal is allowed and prior approval is granted.

David English

INSPECTOR