



Appeal Decision

Site visit made on 16 May 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/P5870/W/22/3306884

Brighton Road (Opposite Basinghall Gardens), Sutton SM2 5SN

- 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 the Council of the London Borough of Sutton.
 - The application Ref DM2022/01129, dated 16 June 2022, was refused by notice dated 4 August 2022.
 - The development proposed is a 5G telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and prior approval is granted for a 5G telecoms installation: H3G street pole and additional equipment cabinets at Brighton Road (Opposite Basinghall Gardens), Sutton SM2 5SN, in accordance with the terms of the application, Ref DM2022/01129, dated 16 June 2022, and the plans submitted with it.

Preliminary Matters

2. For the address in the banner heading, I have taken information from the application form and decision notice to help identify the site more clearly.
3. 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. Accordingly, the principle of development is established by the GPDO and is not a consideration. My determination of this appeal has been made on this 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 such policies only insofar as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative. The National Planning Policy Framework (the Framework) is a material consideration in so far as it is relevant to the development and prior approval matters.

Main Issues

5. The main issues are whether or not the siting and appearance of the proposed installation would cause harm to a) the character and appearance of the area; and b) highway and pedestrian safety.

Reasons

Character and Appearance

6. The proposal is for a 15m high street pole and associated equipment cabinets to be located on an existing footway on Brighton Road. Properties along this part of Brighton Road are generally two to four storeys in height and set well back from their site frontages. This, together with a combination of street trees and boundary planting helps to give the area a spacious and verdant character.
7. In addition to the trees, there are streetlights which offer some verticality within the street scene albeit many are concealed, particularly at this time of the year, by the trees and their foliage. Although the mast would be visible to those travelling north and south along Brighton Road, their views would also include the streetlights as well as features such as bus shelters, a post box and other street furniture in the vicinity.
8. From some viewpoints, the cabinets and lower part of the pole would be seen against the more solid background of the boundary to Trickett House and the building itself. The nearby trees and boundary planting would also provide some screening to some upper parts of the pole. Despite being taller and wider than the streetlighting columns, such installations are an increasingly common and an expected sight on footways along well used roads such as this.
9. Although functional in design, the antenna would be formed in a relatively compact, neat design at the head of the pole. The cabinets would have a height well below the boundary fence to Trickett House. Together with the small footprint of the combined elements of the proposed development, the overall visual effect is sufficiently mitigated to ensure that the proposal, although visible, would not appear unduly prominent or jarring in the street scene.
10. Given its height and position, the monopole would be visible from the properties near to the site, in particular Trickett House, which has both lounge and bedroom windows to the front of the building. However, given the separation distances and the relatively slim nature of the pole, it would not dominate or harm the outlook from these properties.
11. Overall, I do not find that the proposal would appear so unusual or unexpected within a context such as this, nor would it cause harm to the overall character and appearance of the area. Insofar as they are a material consideration, the proposal would comply with Policies 23 and 28 of the Sutton Local Plan which, amongst other things, support the delivery of digital connectivity infrastructure whilst ensuring development respects the local environment and so would not be harmful by reason of its siting or appearance.
12. The siting and appearance of the development would also be in conformity with the Framework's policies for supporting high quality communications and achieving well-designed places.

Highway and Pedestrian Safety

13. The proposed equipment would be sited to the north of the vehicular exit to Trickett House and set slightly away from its front boundary wall/fence. The Officer Report advises that Transport for London has confirmed the width of the resultant footpath to be acceptable. The Council's concern is therefore not that the positioning of the pole and cabinets would in themselves impede the use of the footpath but that their positioning would affect vehicles exiting Trickett House and so harm pedestrian and highway safety.
14. Brighton Road has a relatively clear and straight alignment at this point, curving slightly to the west further to the north of the site. Nevertheless, the boundary to Trickett House is such that any vehicle exiting the site at present would need to cross onto the footpath in order to have a clear sight of the road and any on-coming traffic.
15. Indeed, a car exiting Trickett House during the course of my site visit had to do exactly this. It gradually edged out of the site and was stopped on the footpath until there was a gap in the traffic to fully exit the site. I have no reason to suppose that this is not typical of how this vehicular exit generally operates.
16. Having regard to the proposed siting of the equipment, the existing context and road alignment, I am satisfied that the proposal would not impede the views of drivers exiting Trickett House and would not necessitate them having to pull out further, or any quicker, than they do already. Furthermore, the siting of the equipment would mean pedestrians are more likely to be walking in the centre of the footpath, rather than close to the Trickett House boundary. Being positioned centrally on the footpath would assist in making pedestrians visible to drivers as they exit the site.
17. Accordingly, I find that the siting of the proposal would not have an unacceptable effect on the exit of Trickett House and so would not cause harm to highway or pedestrian safety. As such, insofar as it is material, the proposal would comply with Policy 36 of the Sutton Local Plan which, amongst other things, seeks to ensure developments do not have adverse transport impacts.

Other Matters

18. I acknowledge concerns regarding the effect of the development upon health levels. The appeal documentation contains an International Commission on Non-Ionizing Radiation Protection declaration. Therefore, in line with the requirements of the Framework, I have no reason to believe that the proposed development would lead to an adverse effect upon the health of individuals. Planning decisions should not set health safeguards different from the International Commission guidelines for public exposure.
19. There is no substantive evidence demonstrating that this proposal would result in interference with television signals.
20. As I have found the proposal to be acceptable, it is not necessary for me to consider alternative sites, regardless of whether they have received approval from the Council.
21. The Framework is also clear, at Paragraph 118, that the need for an electronic communications system should not be questioned.

Conditions

22. 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

23. For the above reasons, the appeal is allowed, and prior approval is granted.

Stewart Glassar

INSPECTOR