



Appeal Decision

Site visit made on 13 June 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2023

Appeal Ref: APP/Z5630/W/22/3299272

Area of grass verge lying off Malden Way close to junction with South Lane, London, KT3 5QX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref 22/00100/TEL, dated 14 January 2022, was refused by notice dated 9 March 2022. The development proposed is the installation of an 18-metre-high monopole, 4 no. equipment cabinets and development work ancillary thereto.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the erection of the mast and equipment on the character and appearance of the local area and street scene.

Reasons

Background

3. The appeal site comprises a small area of highway verge which lies on the corner of South Lane and the Kingston by-pass (Malden Way) (A3). The surrounding area is generally residential in character with mainly two storey properties although the impact of the busy dual carriage is ever present. There are a few trees and a hedge along the front garden of the nearest property (No.171) together with the steps, railings and gangway of a pedestrian underpass.
4. Schedule 2, Part 16, of the GPDO¹, in general terms, allows the installation of electronic telecommunications equipment by an operator as 'permitted development' where planning permission has already been granted, but specified elements of this are subject to the 'Prior Approval' process to consider the siting and appearance of the development.
5. The proposal also needs to be considered in the context of Government advice as set out in section 10 of the National Planning Policy Framework where it is recognised that communications infrastructure is essential for economic growth and social wellbeing. In general terms, where new sites are needed the guidance says in paragraph 115 that the equipment should be sympathetically designed and camouflaged where appropriate.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Moreover, the Planning Practice Guidance indicates that the 'Prior Approval' procedure is a light touch process where the principle of the development has already been established.

Visual impact

6. The proposed equipment at ground level would be seen in the context of the existing hedge around the front garden of the nearest property together with the railings of the subway and would not appear prominent or out of place locally.
7. However, the proposed street pole would be 18m high including the antenna at the top. The site elevation plan shows that the roof level of the adjoining house is 7m above ground using the same datum. The proposed mast would therefore be over 2.5 times the height of the nearest adjacent property and sited relatively close to its front elevation. Moreover, the mast would be considerably taller than the few trees that exist locally. At the site visit I also noted the existing street furniture where there are lamp posts along both sides of the A3 and taller lamp posts located in the central reservation.
8. Taking all of these factors into account I find that the height and position of the mast proposed would have a very prominent and imposing impact on the local townscape and would visually dominate the residential environs of neighbouring residential properties. Its height and form have not been shown to be sympathetic to its setting or camouflaged in any way. This imposing visual impact means that the proposal would significantly harm and not respect the suburban character of the area.

Other Matters

9. Some local people raise objections to the proposal on health and related grounds. Nevertheless, the appellant has certified that the equipment would meet the safeguards/guidelines set by the International Commission on Non-Ionising Radiation Protection (ICNIRP) and therefore under present national guidance I do not need to consider this aspect further.
10. It is also claimed that the proposal would give rise to accidents at the junction and would harm children going to school, however there is no evidence submitted to substantiate these concerns and I am unable to place much weight on them.

Planning balance

11. On the main issue I have found that the proposed mast would have a significantly harmful visual impact on the amenity of this suburban residential area. This effect has to be balanced with other considerations. I have taken account of the operational requirements set out in the appellant's evidence, and in particular the difficulty in finding an alternative site. I have also borne in mind the general economic and social benefits that would arise from the further roll-out of 5G infrastructure, especially close to a main transport corridor. However, in this case I find that these benefits do not outweigh the specific harm that would arise with the siting and appearance of the mast proposed in this suburban area.

Conclusion

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

David Murray

INSPECTOR