



Appeal Decision

Site visit made on 11 May 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/L5240/W/22/3305012

Land on the western side of Upper Shirley Road (south of its junction with Oaks Road), Shirley, Croydon CR0 5HA

- 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 London Borough of Croydon.
 - The application Ref 22/01964/PA8, dated 11 May 2022, was refused by notice dated 5 July 2022.
 - The development proposed is described as the installation of a 17-metre-high monopole supporting 6 no. antennas, 4 no. equipment cabinets at ground level and development works ancillary thereto.
-

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) (GPDO) for the installation of a 17-metre-high monopole supporting 6 no. antennas, 4 no. equipment cabinets at ground level and development works ancillary thereto, at Land on the western side of Upper Shirley Road (south of its junction with Oaks Road), Shirley, Croydon, CR0 5HA, in accordance with the terms of the application, Ref 22/01964/PA8, dated 11 May 2022, and drawing Nos. 002 Site Location Plan Rev A; 215 Proposed Site Plan Rev A; and 265 Proposed Site Elevation Rev A.

Preliminary Matters

2. The provisions of the 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. My determination of this appeal has been made on the same basis.
3. The Council's decision notice refers to policies of the Croydon Local Plan (CLP) (2018), the London Plan (2021), and the National Planning Policy Framework ('the Framework') (2021). The principle of development is established by the GPDO, and its provisions do not require regard to be had to the development plan or the Framework. Nevertheless, such policies and guidance are material considerations where they relate to issues of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including on the openness of the Metropolitan Green Belt.

Reasons

5. The appeal site is within a wide grass verge running alongside Upper Shirley Road, in front of its pavement, and close to a bus stop. Starting at the back of the pavement are mature trees comprising an extensive area of woodland, with mature trees also framing the opposite side of the road. Together they act as a soft transition point, creating a verdant character in comparison with the suburban residential area immediately to the north. The site lies within Metropolitan Green Belt and a Site of Nature Conservation Importance.
6. The monopole would be 17m high. At close range, the comparable height of the adjacent trees would act as a mitigatory backdrop for the proposal's impact in the streetscene. The cabinets are typical of the form of structures seen on roadsides, and while numerous, would not appear as unduly incongruous features or create undue visual clutter due to the juxtaposition against the height and spread of the trees. I also accept that the form of the monopole to a large extent must reflect its utilitarian function.
7. I note that a residential development has been permitted opposite the site. However, those future residents would view it directly against the backdrop of high trees such that it would not appear obtrusive, including due to its dark green colouring.
8. This section of Upper Shirley Road is relatively straight, which allows for long range views along the carriageway. However, at a higher level the extensive and high tree cover at the back of the footpath extends a significant number of branches forwards and over the verge all along this stretch of the road. In the same stretch of verge as the appeal site there are also two trees closer to the carriageway than the proposed monopole, with branches which hang over the road. Along with the road's sloping topography along this section, this vegetation would assist in obscuring the height and mass of the monopole in long range views, even accounting for seasonal cover changes. The monopole would thus not unduly break the skyline or impact on openness.
9. Overall, I find that the siting and appearance of the proposed installation would not result in harm to the character and appearance of the area or to the openness of the Metropolitan Green Belt.
10. Insofar as the development plan policies are material considerations, I find that the proposal would align with Policies SP1, SP4, SP7, DM10, and DM26 of the CLP, Policies D3 and G2 of the London Plan, and the Framework. These seek to achieve well-designed places, to protect and safeguard the extent of the Metropolitan Green Belt and its openness, and require development to be of high quality design which respects and enhances the local character, including that 5G equipment is sympathetically designed and camouflaged.

Other Matters

11. The main parties agree that there would be minimal harm to the site's biodiversity value and no significant impact on the Site of Nature Conservation Importance due to the existing maintained grassed state of the verge. I see no reason to take a different conclusion.
12. Interested parties have raised concerns over the proposal's safety. However, the appellant has provided a certificate to confirm that it has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conditions

13. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These specify that the development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the Local Planning Authority received the application, and must 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.
14. The Council has suggested as an additional condition that the materials and colour shall be as specified on the plans. However, the GPDO 2015 does not provide any specific authority for imposing additional conditions beyond the deemed conditions mentioned above, and in any event, this condition would duplicate one of the standard conditions outlined above. I have therefore not imposed it on the permission.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and prior approval is granted.

L Hughes

INSPECTOR