



Appeal Decision

Site visit made on 19 June 2023

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/G3110/W/22/3303993

Land at Barton Lane, Headington, Oxford

- 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 Oxford City Council.
 - The application Ref 22/01096/T56, dated 6 May 2022, was refused by notice dated 4 July 2022.
 - The development proposed is described as "slim line phase 8 monopole c/w wrapround cabinet at base, 3 no additional ancillary equipment cabinets and associated ancillary works".
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Decision

1. The appeal is dismissed.

Reasons

2. The application was submitted pursuant to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A. The provisions grant deemed planning permission for development by, or on behalf of, an electronic communications code operator for the purpose of the operator's electronic communications network, subject to conditions and limitations.
3. Condition A.3(4) requires that the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development, before beginning the development. Before making the application, the developer must give notice of the proposed development to the landowner. Paragraph A.3(2) sets out what that notice must contain; (a)(iii) states that a description of the proposed development (including its siting and appearance which includes the height of any mast) must be provided.
4. The Council states within its reasons for refusing the prior approval application that the developer failed to comply with paragraph A.3(2) of the GPDO 2015 as the notice served on the Highways Authority, as the landowner, did not state the height of the proposed mast. A copy of the notice dated 29 April 2022, that was given to the landowner, has been supplied with the appeal documents.

5. The notice describes the proposed development as follows: - Proposed telecommunications installation "Proposed 'slim line' phase 8 monopole c/w wrapround cabinet at base, 3no. additional ancillary equipment cabinets and associated ancillary works". The height of the proposed mast is not stated.
6. The appellant has not responded to this matter in their appeal statement. There is no information before me to show that the relevant information was provided to the landowner in the format required by the conditions of the deemed consent. Therefore, I find that condition A.3(2) has not been complied with. Consequently, the permitted development rights conferred by Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 2015 do not apply and prior approval cannot be granted. In view of the above, matters of siting and appearance do not fall to be considered.

Conclusion

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

D Moore

Inspector