



Appeal Decision

Site visit made on 27 June 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Appeal Ref: APP/U5930/W/22/3310635

Knotts Green, Leyton Green Road, London E10 6DQ

- 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 Waltham Forest London Borough Council.
- The application Ref. 222471, dated 21 August 2022, was refused by notice dated 12 October 2022.
- The development proposed is a telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works.

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 a telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works at Knotts Green, Leyton Green Road, London E10 6DQ in accordance with the terms of the application, Ref 222471, dated 21 August 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 based solely on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The main parties have referred to development plan policies in their evidence. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Therefore, I have had regard to the policies of the development plan drawn to my attention, and the National Planning Policy Framework (the Framework), only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issues

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

Reasons

6. The proposed installation would be located on Knotts Green, a relatively large area of open space in an otherwise built-up urban area through which the busy B159 Leyton Green Road passes. The number and variety of trees of varying age and height on both sides of Leyton Green Road are a defining feature of this area of open space. These help in creating a substantial pleasant verdant contrast to the hard edges to buildings surrounding Knotts Green, particularly when seen in conjunction with the nearby mature street trees around the junction with Lea Bridge Road.
7. The Council refer to Knotts Green being designated as a 'noted parkland'. However, no further information is provided about the status or purpose of that designation, and I have seen no reference to such designations in the extracts from the development plan or in other evidence provided by the Council. I am therefore unable to assess the extent to which this designation has any specific relevance, and I have determined the appeal having regard to the evidence provided.
8. The proposed 15m high monopole and associated equipment cabinets would be positioned on a level grassed area close to the back edge of the footway. The immediate vicinity of the site contains little street furniture or other structures apart from tall streetlighting columns, shown on the plans to be 10m high, and the installation would be located close to one of these streetlights.
9. The proposal would be visible to passing pedestrians, cyclists and drivers, in addition to occupiers of nearby residential properties which overlook Knotts Green. However, when viewed from multiple directions, including from residential properties, the monopole would be experienced amongst a significant number of mature trees, some of which are taller than the proposed monopole. For much of the year these trees would screen most views. Although the screening effect would diminish during winter months, the proposed monopole, and the associated cabinets, would continue to be seen within a backdrop of trees.
10. Although functional in appearance, the antenna would be formed in a relatively compact, neat design at the head of the slimline monopole, and the combined elements of the development have a relatively small footprint. Overall, the visual effect would be sufficiently mitigated, primarily by the trees, to ensure that the proposal would not appear unduly prominent, unusual or jarring in the street scene. Furthermore, views from the nearest dwellings would be largely restricted by the trees and, whilst parts of the installation may be visible above some of the trees, the backdrop provided by the remainder of Knotts Green would ensure that the proposal would not appear visually disruptive when viewed in this context.
11. The existing monopole mast located at the nearby Texaco petrol filling station is a low structure that appears to blend well in its context. The proposal would generally not be seen in views of that structure from any public vantage points. Mast sharing is not technically feasible in this case. Paragraph 115 of the

Framework expects the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. The proposal would create an additional mast, but it accords with the caveats given in the Framework.

12. The proposal would be in accordance with paragraph 130 c) of the Framework which is a material consideration since it requires development to be sympathetic to local character, including the surrounding built environment and landscape setting. It would also conform with Policy CS15 of the Waltham Forest Local Plan Core Strategy (March 2012) and Policy DM29, of the London Borough of Waltham Forest Development Management Policies Local Plan (October 2013) (the Local Plan) which are relevant to the siting and appearance of the proposal as they require development to respond positively to local context and character; reinforce and/or enhance local character and distinctiveness; and respond to their context in terms of scale and height. The proposal would be sited on an area of grass beyond the footway and, in this position, would not impede pedestrian movement. It would therefore also meet the expectations of Policy DM30 of the Local Plan in respect of inclusive design principles which is relevant in considering the siting of the proposal.
13. For the above reasons, I find that the siting and appearance of the proposed development would not harm the character and appearance of the area.

Other Matters

14. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties and a school. However, the appellant has provided a certificate to confirm that the proposal 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.
15. The proposal would be in accordance with Policy DM37 of the Local Plan, which is a relevant material consideration, since it would complete or improve telecommunications coverage, there are no site or mast sharing opportunities available in this case, and the appellant has confirmed compliance with guidelines published by the ICNIRP
16. I have no doubt that the green space provides a well-used and much valued amenity for residents, particularly those living in the nearby flats. However, given the relatively small area that would be taken up by the proposal, its location immediately adjacent to the footway and the overall size of Knotts Green, the proposal would not diminish to any significant extent the amount of green space available for public recreation and enjoyment. I have seen no substantive evidence that trees would be likely to be damaged, that drainage would be impeded, or that any significant disruption or pollution would arise during construction, or that adverse impacts on local wildlife would arise.

17. Slimline monopoles are a common feature in urban environments such as this, and it is unlikely that the proposal would create a significant unexpected distraction to drivers using the adjacent and nearby roads.

Conditions

18. 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. The Council has suggested a condition requiring development to begin within three years, however this would not accord with the provisions of the GPDO.

Conclusion

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

David English

INSPECTOR