



Appeal Decision

Site visit made on 15 August 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/Z5630/W/22/3305031

Church Road Street Works, Church Road, Kingston Upon Thames KT4 7RW

- 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 Mr Gallivan (CK Hutchison Networks (UK) Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/01769/TEL, dated 26 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is a 5G telecoms installation: H3G Phase 8 high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 5G telecoms installation: H3G Phase 8 high street pole c/w wrap-around cabinet and 3 further additional equipment cabinet to be positioned at Church Road Street Works, Church Road, Kingston upon Thames KT4 7RW in accordance with the terms of the application Ref 22/01769/TEL dated 26 May 2022, and the plans submitted with it, including drawings (all numbered KUT13038_KUT0079_71347_KT0053_GA_REV_A) and titled: 002 Location Plan; 215 Proposed Site Plan and 265 Proposed Site Elevation.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), 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 principle of development is established by the Order and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard be had to the development plan. I have had regard to the policies of the Kingston Core Strategy 2012 (KCS) and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters 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.

Reasons

5. The proposed location for the monopole and cabinets would be on a roundabout junction of Church Road and The Manor Drive. The equipment would be sited at the back of the pavement on the outside corner of the roundabout. The proposed installation would be set against a backdrop of substantial trees and hedges.
6. The pole would be of functional design. This is necessary for operational reasons. However, it would still be relatively slender. I accept that the installation would be taller than existing street furniture and some of the trees behind it and would be clearly visible in the locality. Its visibility would, however, not make the proposal harmful to the character and appearance of the surrounding area. The monopole and cabinets would be set back from the edge of the carriageway. As a result, cabinets at ground level would not be unduly prominent when viewed from either direction along Church Road or The Manor Drive and would be set against a substantial backdrop of vegetation.
7. Although the cabinets would be within the footpath, the local highway authority has raised no concerns regarding their siting causing obstruction. I also note that the highway authority does not consider the pole would cause a visual distraction. I have no reason to reach a different view on these matters.
8. Whilst I appreciate that the trees may be removed or pruned at some point in the future, I have no reason to suspect either is imminent, planned or likely. Furthermore, I have no substantive evidence before me that the installation would cause harm to the existing vegetation in this location. I have in any event determined the appeal on the evidence before me, including my observations of the site and its surroundings during my visit.
9. For the reasons set out above, I am satisfied that the proposal has been sited and designed in such a way as to minimise its visual impact, which I find to be acceptable and would avoid harm to the character and appearance of the surrounding area. Insofar as they are a material consideration, the proposal would comply with the aims of KCS Policies CS8 and DM10 which seek to ensure that new development relates well to its surroundings and avoid locating structures such as telecommunications equipment where they will be visually intrusive and likely to result in an adverse effect on the character and visual amenities of the local and wider area. The proposal would also be consistent with the aims of the Framework in this respect.
10. The Council have cited KCS Policy DM12 in their reason for refusal. As the appeal site is not in a Conservation Area and is not affecting the setting of heritage assets, this policy has not been relevant in my consideration of the appeal.

Other Matters

11. Given the orientation, separation distances and intervening landscaping between nearby houses and the proposal, there would be no harm to the outlook of occupiers of these properties.
12. Concerns have been raised about potential effects on health. 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.

13. Paragraph 118 of the Framework is clear that decision makers should not question the need for electronic communication systems. Whilst mast sharing, and the use of existing buildings, should be considered in preference to new sites, the appellant has demonstrated in their SSSI that such alternatives have been considered. Given the absence of the harm in this case, the availability of other sites has not been a determinative issue in reaching my decision.

Conditions

14. 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), which 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 no 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 communication purposes and the land restored back to its condition before development took place. The Council have not suggested any additional planning conditions be imposed should approval be granted, nor do I consider any further conditions to be necessary.

Conclusion

15. For the reasons given, I consider that the siting and appearance of the proposal would be acceptable. The appeal should therefore be allowed, and prior approval should be granted.

K L Robbie

INSPECTOR