



Appeal Decision

Site visit made on 11 July 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/L5240/W/23/3316442

Highways land, High Street, Thornton Heath CR7 8YY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & 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 22/04644/PA8, dated 31 October 2022, was refused by notice dated 21 December 2022.
 - The development proposed is installation of 20m pole inc. antennas, ground based apparatus and ancillary development.
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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) for the siting and appearance of installation of 20m pole inc. antennas, ground based apparatus and ancillary development on highways land, High Street, Thornton Heath CR7 8YY, in accordance with the application ref: 22/04644/PA8, dated 31 October 2022, and the plans submitted with it including drawing numbers 002 Rev A (Site location plan), 210 Rev A (Proposed site plan) and 260 Rev A (Proposed site elevation).

Preliminary Matters

2. The address of the appeal site cited on the prior approval application form differs to that relied upon by the Council. However, from the site location plan I am satisfied that these relate to the same site. I have relied on the address on the former, as that is what was provided by the appellant.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. My determination of this appeal has been made on the same basis.
4. The Council's decision notice refers to policies of the Croydon Local Plan (2018) (CLP), the London Plan (2021), and the National Planning Policy Framework (2023) (the Framework). The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. Nevertheless, they have

informed my assessment where they relate to matters of siting and appearance.

Main Issues

5. The main issues raised by this appeal are:

- whether or not the size of the appeal proposal is appropriate to the appearance of its context; and
- whether or not the proposed siting is appropriate, with particular regard to the effect on neighbouring trees, the operation of other electronic devices and relationship to other street furniture.

Reasons

Appearance

6. The appeal site is located within a busy, urban High Street location. This is reflected by the generous width of the highway and pavements and the buildings, many of which are larger in scale than those on the subservient streets which join the High Street. The area contains a mixture of commercial, retail, entertainment and civic uses, whilst some buildings contain residential properties on the upper floors.
7. The appeal site is set back from the carriageway, on the rear edge of a pavement adjoining a public grass verge. The surrounding area has a variety of street furniture, some with vertical emphasis, including streetlights, street signs and phone boxes. Therefore, vertical structures are a common feature in this particular street scene.
8. The proposed design is utilitarian by virtue of its form and scale. The submitted evidence confirms that its relationship with surrounding buildings governs the height of the mast sought. Further technical requirements dictate the dimensions of the external antennae which would be fixed to the proposed pole. In this case it would be taller than these existing structures and the nearest buildings on the High Street.
9. The proposed street pole would be thicker in girth and taller in height than the adjacent streetlights, and would have antennae atop. However, given the presence of the many existing vertical structures, I am not of the view that the proposed monopole would appear alien or unexpected in such a context.
10. The proposal's siting adjacent to the mature trees located on the verge to the rear of the site would provide softening of the development especially in the months when the trees would be fully in leaf. Whilst I accept that the pole would extend above the existing trees, the pole and the associated equipment would be set back from the road amongst the trees and therefore would not be overly prominent and would be viewed in association with the existing street furniture. Concerns have been raised that the monopole would break the skyline and would be visible in long range views. Whilst this is accepted, I observed that the existing streetlights also break the skyline. Therefore, I am not of the view that the monopole would be harmful in this regard.
11. The proposed ancillary equipment cabinets would be of modest size and, as such, would not be visually dominant features in the context of the other nearby street furniture. In conclusion, the proposal would not appear overly

prominent or visually intrusive, and would not cause harm to the appearance of the area.

12. Consequently, the size of the appeal proposal is appropriate to the appearance of its context. As such, I consider that the appearance of the proposal would be acceptable.

Siting

13. The Department for Digital, Culture, Media & Sport's Code of Practice for Wireless Network Development in England (2022) requires that equipment housing installed near to a tree conforms to the guidelines in the current National Joint Utilities Group Ltd (NJUG) publication Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees - volume 4.
14. From my observations on site, I conclude that that the proposed installation would be outside the "red zone" required by those current standards. Crucially, the evidence before me does not indicate that the adjacent trees' roots would be adversely affected by the proposed siting of appeal proposal.
15. Due to the generous size of the footway, and grassed area surrounding the appeal site, I am satisfied that the particular siting of the appeal proposal would not result in an unacceptable proliferation of street furniture at this location.
16. In line with paragraph 117 of the Framework the appellant's Site Specific Supplementary Information demonstrates that the apparatus is licensed by OFCOM and will not interfere with other electronic devices in the area.
17. In conclusion, the proposed siting is appropriate, with particular regard to the effect on neighbouring trees, the operation of other electronic devices and relationship to other street furniture. Consequently, I consider that the siting of the proposal would be acceptable.

Other Matters

18. There is no substantive evidence before me to indicate that the particular appearance or siting proposed would attract graffiti and fly posting.
19. The appeal documentation contains an International Commission on Non-Ionizing Radiation Protection declaration. Therefore, in line with the requirements of the Framework, I have no reason to believe that the proposed development would lead to an adverse effect upon the health of individuals.
20. In the absence of finding any harm in respect to siting and appearance, the Council's reliance on decision APP/L5240/W/21/3287735 is of neutral consequence to the outcome of this appeal.

Conditions

21. Any 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 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.

22. The Council has suggested that additional conditions be imposed requiring the submission of the details and finish for external surfaces of the mast and equipment and a Construction Logistics Plan. However, as the GPDO does not provide any specific authority for imposing additional conditions beyond the above deemed conditions, and, in any event, I have found no harm in respect to appearance or siting that would justify these. Consequently, I have not imposed the suggested conditions.

Conclusion

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

B Pattison

INSPECTOR