



Appeal Decision

Site visit made on 9 August 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/Q3820/W/23/3314980

Overdene Drive, Gossops Green, Crawley RH11 0JP

- 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 Crawley Borough Council.
- The application Ref CR/2022/0574/TEL, dated 2 September 2022, was refused by notice dated 27 October 2022.
- The development proposed is telecommunications installation: proposed 15.0m Phase 9 slimline Monopole and associated ancillary works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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, 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 provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have had regard to the policies of the development plan as well as the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.
4. Nevertheless, policies CH2 and CH3 of the Crawley Borough Local Plan 2015-2030 (LP) and the Urban Design SPD¹ are material considerations as they relate to issues of siting and appearance. In particular, they state that development proposals will be required to respond to landscape character and that all proposals will be required to be based on a thorough understanding of the distinctiveness of the site. Similarly, the Framework is also a material consideration, and this includes a section on supporting high quality communications.

¹ Urban Design Supplementary Planning Document, Supporting the Crawley Borough Local Plan 2015-2030, October 2016

Main Issues

5. The main issues are:

- (i) whether the appeal proposal meets the requirements of Schedule 2, Part 16, Class A of the GPDO 2015, and
- (ii) the effect of the siting and appearance of the proposed installation on the character and appearance of the area and the living conditions of residents of 390, 392 and 394 Ifield Drive, with regard to outlook and, if any harm would occur whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Conformity with GPDO 2015

- 6. The appeal site is located within a civil safeguarding area. Under section A.3(5d) of Schedule 2, Part 16, Class A of the GPDO 2015, the application must consequently be accompanied by evidence that either the Civil Aviation Authority, the Secretary of State for Defence or the operator of the civil safeguarding area, as appropriate, has been notified of the proposal.
- 7. The appellant has indicated that both the Civil Aviation Authority and Gatwick Airport were consulted, it is their contention that the Civil Aviation Authority did not respond, and Gatwick Airport raised no objection. Gatwick Airport was consulted as part of the determination of the application by the Council. Although the appellant has stated within the Site Specific Supplementary Information that the Civil Aviation Authority/Secretary of State for Defence/Aerodrome Operator has been notified, I do not have a copy of this notice. The Council also contend that a copy of this notice was not provided during the determination of the application. Therefore, there is no substantive evidence that the relevant authority was notified by the appellant.
- 8. As such, based on the evidence before me, the application was not accompanied by evidence that either the Civil Aviation Authority, the Secretary of State for Defence or the operator of the civil safeguarding area had been notified of the proposal. Whilst some consultations in this regard were carried out by the Council, these occurred after the application was made. A local planning authority is obliged to turn away a procedurally incorrect application under section 327A of the Town and Country Planning Act 1990, and in this case grounds for deviation from this rule have not been demonstrated. Thus, the appeal proposal would not meet the requirements of Schedule 2, Part 16, Class A of the GPDO 2015.

Character and appearance

- 9. The appeal site is located within a wide grass verge, adjacent to a petrol station and near a vehicle showroom, school, train station and several residential properties. Whilst it is near a large amount of built development the wider area is characterised by tall trees, wide grass verges and mature vegetation which provide a verdant setting.
- 10. The proposed installation would be more than twice as tall as the petrol station canopy and would therefore extend significantly above it. As such, only the lower sections of the proposed installation would blend with the canopy.

Although the proposed installation has been designed to be slim, its height and siting uphill from properties on Ifield Drive would mean that it is visible in wider views.

11. The Council accept that prior approval is not required for the proposed cabinets, and they were therefore not subject to the Council's determination of the application. Nonetheless, the proposed mast alongside the cabinets would create a cluster of development within the grass verge which would disrupt the verdant character of the area.
12. It is acknowledged that the appellant is willing to negotiate the colour of the proposed installation. Notwithstanding this, the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. The galvanised steel appearance as detailed within the Site Specific Supplementary Information would contrast with the verdant setting and would amplify the harmful effect on the character and appearance of the area.
13. It is the appellant's contention that this type of development would not be unusual in this setting next to tall commercial properties. However, the proposed installation is sited next to the road, in front of the established building line and would appear separate to nearby commercial properties. In this instance, it would lead to the introduction of built development within a verdant area.
14. It is also noted that due to the surrounding topography and intervening development and vegetation the proposed installation would be screened from several properties. Nevertheless, it would be visible from some properties on Ifield Drive and for road users at the junction between Ifield Drive and Overdene Road.
15. LP Policies CH2 and CH3 are material considerations. The proposed installation would conflict with the policies which indicate that development proposals will be required to respond to landscape character and all proposals will be required to be based on a thorough understanding of the distinctiveness of the site.
16. Overall, the proposed installation would have a harmful effect on the character and appearance of the area. Given the relatively modest scale of the proposed installation and the fact it would be partially screened, I ascribe moderate weight to the harm caused.

Living conditions

17. Due to its height the proposed installation would be visible from nearby residential properties. However, there are several large trees in the vicinity of the proposed installation and nearby properties. Therefore, the proposed installation would be largely screened other than within views from 390, 392 and 394 Ifield Drive.
18. Whilst the proposed development is sited uphill from these properties, there is a significant amount of intervening development including a relatively busy road junction. The distance to the proposed installation and activity associated with the road would reduce the prominence of the installation when viewed from nearby properties. As such, the proposed installation would not appear dominant or visually imposing to the occupiers of Nos. 390, 392 and 394.

19. For these reasons the proposed installation would not have a harmful effect on the living conditions of the residents of Nos. 390, 392 and 394 Ifield Drive, with regard to outlook.

Need for siting

20. The rationale for the proposed installation is to provide improved coverage and capacity, most notably in relation to 5G services.
21. The appellant has provided evidence showing how a search area for the proposed installation was identified. A site selection process was applied, and 6 alternative options were dismissed as they are closer to residential development and therefore more likely to affect the living conditions of residents than the proposed installation. The Council has suggested alternative sites within their ownership may exist but have not identified any specific sites. During my site visit I did not observe any locations where the proposed installation could be sited that would have less of a harmful effect than the proposed siting. Without substantive evidence, I have no reason to dispute the appellant's site selection process or its findings.
22. Therefore, from the evidence before me, the appellant has satisfactorily demonstrated that there is a need for the installation to be sited as proposed taking into account any suitable alternatives.

Other Matters

23. Whilst it is submitted that the proposal would not adversely affect surrounding trees, this would be a neutral effect which consequently does not attract weight in my determination.
24. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conclusion

25. The need for the installation to be sited as proposed weighs in favour of the proposal, outweighs the moderate degree of harm which would be caused to the character and appearance of the area. Regardless, the requirements of Schedule 2, Part 16, Class A of the GPDO 2015 have not been met, in terms of providing evidence that the relevant authority has been notified of the proposal.
26. Thus, for the reasons given, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR