



Appeal Decision

Site visit made on 6 November 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH November 2023

Appeal Ref: APP/L5240/W/23/3322926

Grass Area by Green Lane, near to Hawthorn Avenue, Thornton Heath, CR7 8BJ

- 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 the Council of the London Borough of Croydon.
 - The application Ref 22/05126/PA8, dated 9 December 2022, was refused by notice dated 18 January 2023.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address on the application form, appeal form and decision notice is not accurate. With reference to the nearest dwelling to the appeal site and the Royal Mail's postcode finder service, I have corrected the site address in the banner heading above.
3. A prior approval appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. The principle of development is established through the grant of permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. The provisions of the 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, taking into account any representations received. My determination of this appeal has been made on this basis.

Main Issue

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

Reasons

6. The appeal site is located towards the eastern end of a trapezium-shaped area of grass on the southern side of Green Lane, near a tree. The grass appears to

be part of the pattern of development in this area, and to provide a recreational and aesthetic function for local residents and people passing through. The grass is surrounded by footpaths, with parking bays and grass verges next to the footpath along Green Lane, separating it from the carriageway.

7. Lampposts some 10 metres high are positioned in the grass verges at regular intervals along with the occasional small tree; a telegraph pole is located in the grass verge opposite Florida Street, serving the traditional, 2-storey, semi-detached dwellings on the western sides of the grass area. There are further, modestly sized trees in grass verges on the opposite side of Green Lane.
8. Green Lane itself is quite broad in the vicinity of the appeal site, with a central marked area separating the two single carriageways. Together with the largely open grassed space, this gives the area a spacious character. In addition to the semi-detached dwellings by the grass area, there are further, somewhat larger scale traditional dwellings on the eastern side of Green Lane.
9. The appeal development would be a 15 metre high telecommunications mast, together with three separate ancillary equipment cabinets, some 1 - 1.75 metres high and with associated paving slabs, to the southeast.
10. The size and design of the proposed mast and equipment cabinets are largely a consequence of their 5G telecommunications function and are not visually sympathetic to this landscaped, residential area. The cluster of cabinets and the mast would be positioned close to the footpath and not far from the carriageway of Green Lane, and so would be readily visible in most short-medium distance views.
11. Furthermore, whilst the mast is positioned near to a lamppost and semi-mature trees, it would still be substantially taller than anything else in the vicinity, almost twice as tall as the ridgelines of the roofs of the nearest semi-detached dwellings to the south and west.
12. Whilst the proposed black colour of the mast and cabinets would match the nearby lampposts, the design, scale, massing and position of the proposed development would still make it a visually prominent and obtrusive feature in the streetscene, which would detract from the character and appearance of the area.
13. The appellant states that they have followed a sequential approach to site selection and that no mast or site sharing opportunities or existing buildings or structures were identified, hence the proposed freestanding ground-based installation.
14. I note the evidence, including at Figure 4 of the Site Specific Supplementary Information and Planning Justification Statement (SSSI/PJS), which identifies the target search area and states that there are no schools or colleges within 200 metres of the target site. I also note the four discounted site options and the reasons they were discounted¹. However, this is not an extensive list and little detailed information has been provided to show these alternative sites and why they are unacceptable.
15. Neither options D2 nor D4 are shown to be in their stated locations on the map at Figure 2; D2 would be around 100 metres from Kensington Avenue, whilst

¹ Figure 2 and the Table on Page 12 of the Statement of Case

D4 would be around 40 metres from County Road. Furthermore, there is no evidence to show that option D2 would cause visibility concerns at the junction of Kensington Avenue / Green Lane. It is not explained why 'narrow pavements under 3 metres' are not suitable for the proposed equipment (option D1) or why given the pavement widths along Westminster Avenue, this would not apply to option D3 too.

16. I am also conscious of the inaccuracies in the address of the site given by the appellant on the application form and the appeal form, which I have corrected in this decision.
17. Whilst this is a predominantly residential area, where the location of telecommunications equipment would be difficult, there are two large backland grass fields very close to the target search area, which do not seem to have been considered. I also note there is a parade of shops some 175 metres to the south of the appeal site on the opposite side of Green Lane, with a forecourt area containing street furniture to the front. There is no indication this area has been considered either, yet it is partly within the identified target area and certainly closer to it than some of the identified options.
18. The cumulative effect of all these matters is to significantly reduce my confidence in the robustness of the appellant's approach to site selection in this case.
19. Although not part of my determination, I note that in so far as it relates to the matters contained under relevant parts of Schedule 2, Part 16, Class A of the GPDO, the proposal would conflict with Policy D3 (optimising site capacity through the design-led approach) of the London Plan 2021²; Policies SP4 (urban design and local character), DM10 (design and character) and DM33 (telecommunications) of the Croydon Local Plan 2018. The National Planning Policy Framework 2023 (the Framework) is a material consideration with regard to relevant parts of Schedule 2, Part 16, Class A of the GPDO and the proposed development would conflict with the Framework in this regard.
20. For these reasons, the siting and appearance of the proposed development would cause harm to the character and appearance of the area and I am not satisfied that the need for the installation to be sited as proposed has been demonstrated, taking into account potentially suitable alternative sites.

Other Matters

21. Reference has been made to various social, economic and environmental benefits and I note that the appellant has submitted a declaration of conformity with the public exposure guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP). A communication from the Department for Digital, Culture, Media and Sport has also been provided. However, these matters have not been taken into account in considering the matters of siting and appearance.

Conclusion

22. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin
INSPECTOR

² Spatial Development Strategy for Greater London