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# Appeal Decision

Site visit made on 10 October 2023

**by B Pattison BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 December 2023**

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**Appeal Ref: APP/K3605/W/22/3309579**

**Lushington Drive Street Works, Lushington Drive, Cobham KT11 2LX**

- 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 Elmbridge Borough Council.
  - The application Ref 2022/2006, dated 25 June 2022, was refused by notice dated 19 August 2022.
  - The development proposed is proposed 5G telecoms installation: H3G street pole and additional equipment cabinets.
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## 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), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposal 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies CS10 and CS17 of the Core Strategy (2011) and Policies DM2, DM6 and DM16 of the Development Management Plan (2015) are material considerations as they relate to issues of siting and appearance. In particular, they expect telecommunications equipment to be sited to achieve operational efficiency, taking account of the existing and planned future networks and that there should be no significant adverse effect on the external appearance or the visual amenities of the area.
4. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and this includes a section on supporting high quality communications.

## Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the effect on trees 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**

6. The appeal site is located within a mixed residential and commercial suburban area. The site, which is not within a conservation area, is positioned on a small grass verge between the road and pavement, close to the junction of Lushington Drive and Oakdene Road. A number of mature, tall trees are present on the grass verge surrounding the site. To the north are residential buildings, up to three storeys in height which are surrounded by grassed, landscaped areas creating a pleasant and open, green environment. On the opposite side of Oakdene Road is a two storey supermarket car park and rear service area related to commercial units fronting Anyards Road.
7. There is a variety of street furniture in the vicinity of the site such as streetlighting columns, a post box, road pole signs, cycle parking hoops, a noticeboard, and small roadside equipment cabinets.
8. The proposed street pole would be much thicker and taller than the adjacent lampposts, demonstrating the discreet design of the latter rather than the similarity and visual acceptability of the former. Furthermore, the antennae and GPS module attached to the pole, would create a top-heavy appearance. As such, from both close and longer range vantage points, the street pole would appear dominant and intrusive in the street scene.
9. The nearest three storey building is located a sufficient distance from the site that it does not form part of its immediate setting and would not screen views of the proposal from the majority of nearby viewpoints. The mature trees surrounding the site would provide some softening of the development especially in the months when the trees would be fully in leaf. However, due to the street pole's location, which would be closer to the junction with Oakdene Road than the surrounding trees, it would not be screened in views from the south and west and would be prominent when seen from these viewpoints. There would be significant periods of the year when the trees are not in leaf. During these times the trees would provide limited filtering of views of the street pole in medium and long-distance views from Lushington Drive.
10. I understand from the evidence that 15 metres is the lowest height required to provide the improved 5G service need identified for the area, and that such poles are often found in suburban locations. However, the street pole would also be significantly taller, bulkier, and more prominent than the existing street furniture in the area. It would appear as a prominent structure which would be incongruous in this context and would appreciably detract from public views. This is despite its proposed grey colour which the appellant suggests would assist its assimilation into the street scene.
11. The street pole and ancillary equipment cabinets would be in very close proximity to the trees on the verge. Given their height and maturity it seems likely that their roots may spread beneath the area that the equipment would be installed.
12. Whilst they are not subject to a Tree Preservation Order, due to their prominence and maturity, the trees have good amenity value and make a positive contribution to the character of the area. The effect of their screening

of the proposal is also identified by the appellant for its siting in this location. Whilst the GPDO requires the assessment of the proposal solely on the basis of its siting and appearance, were the installation to harm the nearby trees, this would reduce their ability to screen the proposal and would have a negative impact on the street pole's siting.

13. The submitted evidence does not provide details in relation to the potential effect of the installation on the long-term health of the trees. Crucially, the evidence before me does not indicate that the adjacent trees' roots would be unaffected by the proposed siting of the proposal.
14. Whilst there are vertical elements in the street scene, in the streetlights and the existence of three storey development nearby, the streetpole would be significantly taller than the streetlights and bulkier and more prominent than the existing structures given its siting. Even if I were to accept that its verticality means that it is consistent with, and appropriate to the existing character of the street scene, I could not ignore the combined effects of its additional height and bulk. Taken as a whole, the development would be visually intrusive, dominant and this is compounded by the risk that nearby trees could be affected by the development, leading to their loss.

### **Other Matters**

15. The new site is required to meet CK Hutchison Networks (UK) Ltd operational requirements and to provide much needed coverage to this densely populated area. I note the support in the National Planning Policy Framework (2023) (Framework) for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. I also note that decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically sited and designed, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
16. In this case, the appellant's evidence demonstrates that there is a need for a new mast in the area. In accordance with the advice at paragraph 118 of the Framework, the Council does not question the need for improved coverage.
17. Paragraph 117 of the Framework states that evidence must be supplied to demonstrate that alternatives have been taken into consideration. The appellants considered five other sites but concluded that they were not suitable alternatives and that there are no sequentially preferable sites. As described by the appellants the sites were discounted for a variety of access and highways reasons and because three of the sites were considered to be in close proximity to residential properties.
18. However, the Council argues that the appellant has not properly addressed other potential sites in the area as they state that, for example, it is unclear whether the existing two storey car park to the south has been considered. The appellant's evidence indicates the sequential approach as outlined in the Framework was adopted, and a desktop survey was undertaken. No mast or site sharing opportunities or existing buildings or structures were identified.

19. However, the submitted evidence does not provide information to demonstrate why the car park has been discounted. A large proportion of the car park is located within the appellant's designated search area. Therefore, on the evidence before me I cannot be certain that the appellants have adequately explored whether there may be less harmful alternatives.
20. My attention has been drawn to an appeal (APP/A5840/W/20/3254830) for a 20 metre monopole within the London Borough of Southwark. This appeal related to the impact of the proposal on the pedestrian environment and whether the proposal would satisfy the limitations on the height of the monopole set out within the GPDO. As the proposal before me relates to different issues it is of neutral consequence to the outcome of this appeal.

#### *Health*

21. 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.

#### **Planning Balance and Conclusion**

22. I have assessed the siting and appearance of the proposal mindful that it is permitted development and has been accepted in principle. It would meet a need to site an installation in this location. I give considerable weight to these matters in support of the proposal.
23. However, for the reasons set out above, I do not consider that the appeal proposal has been sympathetically designed as required by the Framework. I have concluded above that the development would be harmful to the character and appearance of the area, and do not consider that harm to be outweighed by the support in the Framework for high quality communications, when weighed against the wider requirements of the Framework.
24. As such, for the reasons given above, I conclude that the appeal should be dismissed.

*B Pattison*

INSPECTOR