



Appeal Decision

Site visit made on 26 March 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2024

Appeal Ref: APP/K1128/W/23/3326906

Vicarage Road Street Works, Vicarage Road, Marlton TQ3 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Cooke of CK Hutchison Networks (UK) Ltd against the decision of South Hams District Council.
 - The application Ref is 1005/23/PAT.
 - 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 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. It has been suggested that the proposed associated cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.
4. Since the Council made its decision, a new version of the National Planning Policy Framework (the Framework) came into effect. The Framework includes sections on supporting high quality communications and achieving well designed places. Therefore, it is also a material consideration. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

5. The Council's decision notice highlights that insufficient information has been provided to demonstrate that the proposed mast is in the most appropriate location. The Officer report expands on this by raising concerns in respect of

the effect of the proposal on the character and appearance of the area. In particular, it is the increase in clutter that is at issue. Additionally, 3rd party representations have been made in this respect. The appellant has attempted to address these matters within their submissions and would therefore not be prejudiced by them forming part of the main issues.

6. Therefore, the main issues are the effect of the siting and appearance of the proposed installation 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 alternatives.

Reasons

Character and appearance

7. The appeal site comprises an area of grass verge between a road and public footpath. It is next to a bus stop. The proposed 15m telecommunications pole would be on the edge of a residential area, around 20m from the nearest property. The proposal would be positioned against a tree lined backdrop that forms an attractive, naturally screened edge to the urban area. The evidence suggests these trees are approximately 6m tall. Within the immediate surrounding area, I observed numerous street signs and slim profiled lamp posts. Additionally, what appeared to be a large telecommunications mast had been erected in close proximity to the appeal site.
8. Although coloured in grey and smaller than a previous iteration, the proposed mast and cabinets would be eminently visible to pedestrians and the occupants of nearby properties. Even though the backdrop of trees would go some way towards reducing the visual effect of the mast, it would nevertheless stand significantly taller than them and nearby buildings. Moreover, the mast would be substantially bulkier than lamp posts close by. Consequently, whilst I find no reason to doubt that the proposal would be restricted to the minimum height capable of providing the required essential coverage, it would nevertheless not blend into its surroundings.
9. Additionally, although such installations are not uncommon in urban areas, the proposal would amplify the amount of street furniture found in this locality. The Council does not raise any specific design concerns of the proposal, when taken in isolation. However, the cumulative effect of the development in the context of other existing street furniture would result in an excessively cluttered and unwelcoming visual experience.
10. For the above reasons, the proposal would not make a positive contribution to the character and appearance of the area.

Alternative sites

11. The Framework's support for high quality communications is acknowledged. In that context, the proposal would support high quality communications and digital connectivity by offering 5G services. Furthermore, there is nothing within the evidence that suggests the scheme would not improve communications networks in this location. In that respect, the Framework indicates that the need for electronic communication systems should not be questioned when determining development schemes.

12. Notwithstanding the above, paragraph 121 of the Framework says that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. Part c) of that paragraph adds that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be included.
13. The appellant states that to maintain existing coverage, the search for a replacement is constrained to within a small search area. It is accepted that the position of the newly proposed equipment would need to complement the existing network so as to promote continuous network cover. However, based on the evidence before me, it is not clear whether the proposed siting is within or outside this search area. Indeed, if the appeal site is located outside the search area, this would suggest a greater degree of flexibility in terms of the site selection process. Therefore, I cannot be certain that there are not other sites outside this more densely built-up search area that might also provide suitable coverage.
14. In respect of discounted sites within the search area, some are identified as unfavourable for being in a residential area, though this is not supported by any evidence as to why these sites are unsuitable. Additionally, visibility splay issues are identified as constraints, though no supporting information is provided to set out why this could not be overcome.
15. Moreover, the Council has suggested that a nearby mast, or its newer replacement, represents a possible sharing option. In response, the appellant claims that this would be likely to result in a taller lattice mast. They add that this would be less preferable than the smaller mast proposed. This, together with very little information to corroborate that there are no other buildings or structures available, is not sufficiently robust or compelling evidence to justify the development. As such, the requirements of paragraph 121c of the Framework have not been met.
16. Overall, based on the evidence before me, I am unconvinced that a thorough review of possible alternative site options has been conducted. Consequently, the arguments in favour of the appeal site do not outweigh the identified harm.

Other Matters

17. 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.
18. The appellant refers to pre-application submissions within their statement. However, the Council says the appellant did not enter into discussions through their charged service. In any case, this does not affect my conclusions on the appeal proposal.

19. Reference has been made to various environmental, social and economic benefits that would arise, but these have not been taken into account in considering the matters of siting and appearance.
20. I note that the appeal site is not in a statutory protected area such as a Conservation Area or has any environmental designation such as a Tree Preservation Order. However, these are neutral factors that neither weigh in favour nor against the proposal.

Conclusion

21. For the reasons given, I conclude that the appeal should be dismissed.

J Hills

INSPECTOR