



Appeal Decision

Site visit made on 25 March 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 April 2024

Appeal Ref: APP/H1705/W/23/3322859

Norn Hill Street Works, Norn Hill, Basingstoke RG21 4ER

- 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 CK Hutchison Networks (UK) Ltd against the decision of Basingstoke and Deane Borough Council.
 - The application Ref is 22/03292/TENO.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets'.
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Decision

1. The appeal is allowed and prior 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 a proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets at Norn Hill Street Works, Norn Hill, Basingstoke RG21 4ER in accordance with the application 22/03292/TENO and the details submitted with it.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, 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.

Planning Policy

3. 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 consideration of the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are factors relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site comprises part of a triangular area of grass verge located at the junction of Norn Hill and Queen Mary Avenue. The verge lies between the road and a tarmac footpath which runs parallel to the side boundary of the nearest residential property. Due to the location of the site adjacent to the highway and footpaths, it is prominent in views from the public realm and neighbouring properties. The surrounding area is predominantly residential in character including 2 storey and single storey dwellings. The grassed area has a pleasant sense of openness which, together with other similar greenspaces nearby, contribute positively to the character and appearance of the area.
6. Various items of street furniture occupy the grass verge, including a lighting column, litter bin and road name sign. In addition, there are telegraph poles, highway signage, bins, a cabinet, and streetlights nearby. There is also an array of mature trees in the surrounding area, including several of significant height immediately adjacent to the site. While the existing telegraph poles and lighting columns have a vertical emphasis, the proposed street pole would be appreciably greater in height and would have a substantially thicker profile. The upper section of the proposed monopole would also protrude above the height of the surrounding residential properties.
7. Nonetheless, in views along the road the street pole, despite its height, would be viewed against the backdrop of, and largely screened by, the existing mature trees on the opposite side of the footpath close to the site. Consequently, in this context, given the height of the nearby trees, the proposal would not be a visually prominent or incongruous feature in the street scene. Furthermore, due to its siting, set back from the edge of the carriageway, the proposal would not significantly diminish the sense of openness at the junction.
8. The proposed equipment cabinets would be low key and in keeping with the urban roadside location where such features are common. Moreover, they would not result in an undue proliferation of street furniture or a visually cluttered street scene.
9. As I have found that no harm would arise as a result of the proposal, there is no need for me to consider the availability of alternative potentially less harmful sites. There is no requirement in the Framework or the GPDO for a developer to select the best feasible siting.
10. The Council has drawn my attention to a recent appeal decision for a similar development at Weston Way which was dismissed¹, in which the Inspector acknowledged the important contribution grass verges made to the character and appearance of the area. While I do not have the full details of the case before me, it differs from the appeal scheme in that the Inspector found the presence of existing trees would not adequately mitigate the adverse visual impact of the proposal. In any case, I have determined the appeal on its own merits, based on the evidence before me.
11. For the foregoing reasons, due to the siting and appearance of the proposal, it would not appear overly prominent or visually intrusive and as such would not cause harm to the character and appearance of the area. Insofar as it is a

¹ APP/H1705/W/21/3283055

material consideration, it would accord with Policy EM10 of the Basingstoke and Deane Local Plan (2011-2029) which seeks development of a high quality design that, among other things, positively contributes to the appearance and use of streets and other public spaces, and the aims of the Framework in relation to supporting high quality communications, including equipment that is sympathetically designed and camouflaged where appropriate.

Other Matters

12. 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.
13. The proximity of the development to residential properties is itself not a reason to refuse permission. Whilst the street pole would be seen from the windows in the neighbouring dwelling, and its garden, it would not be bulky and would be located to the side of the property, set back from the boundary, so as to avoid any significant overbearing effect.
14. Concerns have been raised regarding the effect of the development on the visibility of users of the junction. However, the Highway Authority raised no objection to the proposal on highway safety grounds and given the position of the installation, set back from the edge of the carriageway, I have no reason to reach a different conclusion.
15. Whilst the bench was not present at the time of my site visit, given the scale and design of the cabinets and street pole, they would not prevent views outwards across the space towards the road so as to deter members of the public from using a bench in the position shown on the submitted drawings. Nor is there any substantive evidence before me to demonstrate that the siting of the development, which would be set back from the edge of the footpath, would prevent the continued use of the verge by pedestrians in the event they need to step on to the grass to pass one another on the footpath, or that it would have any tangible effect on the use of the space by dog walkers.
16. Given that the users of the verge who may be affected may use wheelchairs, they would have a protected characteristic for the purposes of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010 (PSED). I have therefore had due regard to the needs of the individuals as required by the PSED. Nevertheless, although the verge is modest in size, I saw at my site visit that the equipment would take up only a small amount of the grass. Furthermore, there is no definitive evidence before me to suggest that the proposal would harmfully affect their enjoyment of the area. I am satisfied therefore that it would not interrupt their ability to meet in this location.
17. I have not been presented with any compelling evidence that the proposal would have an adverse effect on protected species which may be present in the area. Moreover, whilst I note the appeal proposal is a resubmission of a previous application for similar development on the site that was refused by

the Council, I can only assess the current proposal based on the information before me.

Conditions

18. The Council has suggested planning conditions be imposed should approval be granted. However, there is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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.

Conclusion

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

E Worley

INSPECTOR