



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: 12 April 2024

Appeal Ref: APP/H1705/W/23/3322941

**Buckingham Parade Street Works, Buckingham Parade, Basingstoke
RG22 5NY**

- 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 22/03291/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 Buckingham Parade Street Works, Buckingham Parade, Basingstoke RG22 5NY in accordance with the application 22/03291/TENO and the details submitted with it.

Preliminary Matters

2. As this is an application for prior approval, 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 forms part of the pavement which runs alongside an area of open green space with several trees. The immediate context also comprises residential properties, a public house, a parade of shops and car park.
6. The street scene includes various features with a vertical emphasis, including mature trees, lamp posts, telegraph poles, bus stops, traffic lights and road signs, as well as litter bins, cabinets, road safety barriers and street name signage. The existing tarmac footpath is generous in width and the street pole and cabinets would be aligned close to the back edge of the path, thereby retaining a spacious footway.
7. As a consequence of its height and position, and the open character of the green space, the street pole would be perceptible in views from Buckingham Parade and in both directions along Kempshott Lane, a well-trafficked highway, as well as from nearby properties. While it would be seen alongside other vertical features, it would be noticeably broader and taller than the existing street furniture such as lighting columns and telegraph poles. It would also be greater in height than the buildings in the surrounding area, which include low profile residential properties and 2 storey properties at a lower ground level.
8. However, in most views the installation would be seen against the backdrop of or screened to a degree by nearby trees, the closest of which is significantly taller than the proposed street pole. Even in times of leaf-fall, the branches of this tree would partially conceal the street pole. Consequently, while the proposal would be visible within the street scene, and from nearby residential properties, it would not appear unduly prominent or excessive in scale, nor would it detract from the overall open character of the area. While it has been suggested that a dark green finish to the pole and cabinets would reduce the visual impact of the proposal, I have found that the light grey finish of the installation would not give rise to harm.
9. The equipment cabinets, which would be screened in part in some views towards the site by the adjacent areas of higher ground, would be low key and in keeping with the urban location where such features are common. Furthermore, they would not result in an undue proliferation of street furniture or a visually cluttered street scene.
10. Interested parties have suggested an alternative site in Heron Way would be more appropriate. However, 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.
11. The Council has drawn my attention to a recent appeal decision for a similar development at Weston Way which was dismissed¹, where the Inspector acknowledged the important contribution of grass verges 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.

¹ APP/H1705/W/21/3283055

12. For the above reasons, I conclude that the siting and appearance of the proposed street pole and ancillary equipment would not harm the character and appearance of the area. In that regard, as far it is determinative in the matter, the proposal 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

13. Concerns have been raised about potential effects on health, particularly given the location of the site in proximity to residential accommodation for the elderly, community facilities and nearby schools. 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.
14. An interested party has expressed concern that the location of the proposal would adversely affect pedestrians using the footpath. Given that the users of the footpath who may be affected may be visually impaired, disabled or elderly, 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. However, there is no substantive evidence before me to suggest that the footway that would remain would be of an insufficient width to accommodate pedestrians, including those who may be visually impaired, disabled or elderly.
15. Furthermore, whilst the proposal would be located a short distance from both residential accommodation for the elderly and schools, it has not been set out as to how these residents and would be affected to a greater extent than other residents nearby. Therefore, there would be no particular discrimination or difference in opportunity for those who have a protected characteristic to those that do not.
16. There is nothing before me to suggest that the existing mature tree close to the site would be removed as a consequence of the installation.
17. Whilst previous applications for similar development in the area may have been 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 prior 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