The Planning Inspectorate

Appeal Decision

Site visit made on 13 February 2023

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/Y3805/W/22/3295597
Kingston Lane, Southwick BN42 4SQ

- 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 GPDO).
- The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Adur District Council.
- The application Ref AWDM/1858/21, dated 2 October 2021, was refused by notice dated 17 November 2021.
- The development proposed is "15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works".

Decision

1. The appeal is allowed, and 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 the siting and appearance of "15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works" at land at Kingston Lane, Southwick BN42 4SQ in accordance with the terms of the application Ref AWDM/1858/21, dated 2 October 2021, and the plans submitted with it numbered ADR19261_M001A/002, ADR19261_M001A/100, ADR19261_M001A/150, ADR19261_M001A/210, ADR19261_M001A/260, ADR19261_M001A/303, and ADR19261_M001A/305.

Procedural matter

2. Because this is an application for prior approval, the provisions of the GPDO 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. This appeal will be determined on the same basis.

Planning policy

3. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the Development Plan. I have had regard to the policies of the Development Plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Reasons

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

5. The appeal site is within a wider mainly residential area that increases in density to roughly north. The site includes part of the highway verge on the roughly west side of Kingston Lane. The largely open grounds of Shoreham Academy and its buildings lie beyond the hedge and drop off route to roughly west. There is an access to Glebe Primary School by the junction of Old Rectory Gardens with Meadway Court. The nearest part of the low pitched roofed 3 storey flats building at 1 to 15 Meadway Court lies opposite to roughly east, partly screened by the trees within its largely open grounds.

6. There are a few trees close by in the highway verge on the west side of the lane, and the monopole (mast) would be sited almost centrally within a lengthy gap between them. Most nearby trees are characterised by their compact natural forms, so they form a partial sylvan backdrop in some views, offer partial screening in others, and their main stems offer moderate vertical emphasis in the Kingston Lane street scene.

7. The mast would be as low as possible to fulfil its purpose, but it would be taller than the nearby trees, some of which are taller than the street lights on both sides of the lane. There are lower posts for other street furniture on both sides, and vertical features in the academy's grounds. So, although the mast would be seen in some nearby views, its slim form would harmonise with other nearby vertical features in the Kingston Lane street scene. It would also broadly align with the trees and street furniture in longer views travelling north or south, including the approach to the Conservation Area, along the lane. The mast would project above the partly leafy backdrop in westward views from the academy, but as it would be seen across and from the academy's good-sized grounds, it would have relatively little visual impact.

8. The application was submitted soon after the pre-application enquiry, and whilst the Council has raised concerns relating to that process, no alternative site for the mast has been put to me by the Council. As the site is some distance from the nominal and just within an area with adequate coverage, this supports the appellant's view that there are no suitable alternative sites within the cell search area. The appellant's evidence shows that there are few potential sites within the well populated area, and it explains why other sites have been discounted, including 4 that were too close to existing cells, and 2 that would have a greater impact on existing occupiers. The site would be near 2 school entrances, but well away from their buildings, where their students would spend more time. The mast would also be partly screened by trees in views from the nearest dwellings. As there is no satisfactory alternative site available, the proposal would satisfy Policy 37 of the Adur Local Plan 2017. As the mast's design is the least visually intrusive option available, it would satisfy the Framework which seeks good design. The highway authority has not raised concerns about highway safety, and I agree.

9. The proposal would be a change to the local scene, but that change would be acceptable. Therefore, I consider that the siting and appearance of the proposed development would not harm the character and appearance of the surrounding area.

Other matters

10. The clear need for additional 5G coverage in the area has been demonstrated by the appellant and it is not disputed by the Council.

11. Concerns have been raised about potential effects on health, but 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.

Conditions

12. The Council would prefer the structure to be coloured green, but as the proposal has been found to be acceptable, that would not be necessary.

13. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. 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

14. For the reasons given, the appeal should be allowed.

J Reid

INSPECTOR