



Appeal Decision

Site visit made on 16 April 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/R5510/W/23/3326905

High Road Street Works, High Road, Hillingdon HA5 2ER

- 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 appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref is 77683/APP/2023/816.
 - The development proposed is described as 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), amongst other things, permits the installation of electric communications apparatus, subject to the conditions set out in paragraph A.2. Development prescribed in paragraph A.2(3) can only begin if the developer has applied to the local planning authority for a determination as to whether prior approval will be required as to the siting and appearance of the development.
3. As set out in paragraph A.2(5A) development consisting of the installation of a mast on a civil or defence safeguarding area is permitted subject to the condition that the developer notifies, as appropriate, the Civil Aviation Authority (CAA), Secretary of State for Defence or the operator of the civil or defence safeguarding area. Furthermore, the development must not begin until the end of 28 days after the day the last notification required is given.
4. The appellant's 5G Site Specific Supplementary Information and Planning Justification Statement indicates that the structure would not be within 3 kilometres (km) of an aerodrome or airfield and that no consultation has been undertaken with the CCA, secretary of state for defence or aerodrome operator. The Council's position is that the site does fall within a safeguarding area, namely the designated RAF Northolt 3km buffer zone, and that in the absence of any evidence that the relevant authorities have been notified, the proposal fails to comply with the provisions of the GPDO.
5. Having regard to the above, the main issues are:
 - whether the appeal proposal would constitute permitted development under

the terms of Schedule 2, Part 16, Class A of the GPDO; and if so

- whether the siting and appearance of the proposed installation are appropriate in their contexts.

Reasons

6. Neither party has submitted detailed evidence to demonstrate that the appeal site falls within a safeguarding area. Nonetheless, the Council's view that the site falls within a safeguarding area is supported by the Defence Infrastructure Organisation safeguarding team who in their consultation response to the planning application indicate that the site falls within the statutory safeguarding zone surrounding RAF Northolt. Therefore, and in adopting a precautionary approach in the interest of safety and to ensure the operation of RAF Northolt is not compromised, I find that the appeal site does fall within a safeguarding area. The conditions set out in paragraph A.2(5A) therefore apply.
7. Prior to the submission of their planning application, the applicant, now appellant, did not notify the relevant safeguarding authorities, on the basis that the site was not considered to fall within a safeguarding area. Despite this matter being clearly articulated in the Council's officer report and the failure to comply with paragraph A.2(5A) being a reason for refusal on the decision notice, evidence regarding safeguarding issues did not form part of the appellant's appeal submissions.
8. As such, notwithstanding that during the determination of the planning application the Council carried out consultations with regard to safeguarding matters, there is no evidence that the appellant has complied with paragraph A.2(5A). This is contrary to the provisions of paragraph A.3(5) which states that the application must be accompanied by evidence that the relevant authorities have been notified. Consequently, the requirements of Schedule 2, Part 16, Class A of the GPDO have not been met.
9. As the proposal would not be permitted development, it is not necessary for me to consider the prior approval matters of siting and appearance.

Other Matters

10. I note the various social and economic benefits of the proposal. However, given my findings above that the proposal would not be permitted development, it is not necessary for me to consider these, or any other matters.

Conclusion

11. For the reasons set out above, and having regard to all relevant matters raised, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR