



Appeal Decision

Site visit made on 7 September 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/L5810/W/20/3254052

Sandy Lane, Teddington, London TW11 0DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cornerstone, Telefonica & Vodafone against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref DC/TFA/19/3151/FUL, dated 17 October 2019, was refused by notice dated 10 December 2019.
 - The development proposed is described as the replacement of existing 14m pole with a new 15m pole, the installation of 2no new cabinets, and ancillary works thereto.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, having particular regard to the streetscene and to the setting of heritage assets, and whether any harm caused is outweighed by the need to locate the installation in the location proposed.

Reasons

3. The appeal site is part of the pavement and a grass verge along Sandy Lane, which includes a row of trees about 10 metres tall and 10 metre high street lighting columns. Nearby dwellings and garage courts are set well back from one side of the road. On the opposite side is the approximately 3 metre high boundary wall of Bushy Park, a Grade I Historic Park and Garden (the Park) in the Bushy Park Conservation Area (the CA). These are designated heritage assets. The Park and the CA is also Metropolitan Open Land (the MOL) which is a non-designated heritage asset. These heritage assets cover an extensive area of land in the wider locality.
4. The Council's 'Bushy Park Conservation Area 61' assessment explains that views are an integral part of the Park's landscape and the historic and special character and appearance of the CA. In addition, trees beyond the boundary of the Park and the CA (and, as I saw at my site visit, the MOL) are 'important in contributing to a sense of the landscape continuing beyond its well-defined and historic boundaries'. Views and trees are therefore important to the significance and setting of these heritage assets. Trees within the Park are also visible from Sandy Lane in the vicinity of the appeal site over the wall and, combined with the trees in Sandy Lane, give a verdant feel to the area, alleviate the appearance of built form and are locally distinctive in public views.

5. The appeal proposal would upgrade an established mobile telecommunications base station with two equipment cabinets and a 15 metre high replacement mast (monopole). The mast column would have a uniform profile up to 10 metres and then a 5 metre long shrouded antenna headframe which would splay out to about 0.5 metres wide. The cabinets would be located near existing cabinets and be of a similar size.
6. There are already two Royal Mail post boxes and four equipment cabinets sited in a line along this verge. Individually, these are relatively small-scale structures and being sited next to trees and lighting columns are reasonably inconspicuous in longer distance views. However, in closer views the relatively isolated, open siting of these structures in the verge is more apparent, despite the green colour of some of them. Whilst the proposed equipment cabinets would also be painted green and would not extend this row of structures, one would nonetheless be the largest and infill a large part of an existing gap. As a result, it would add significantly to cumulative visual 'clutter' at street level and be unduly conspicuous in public views.
7. On the evidence before me, the proposed mast would be the smallest available to facilitate dual users and it would be 2.5 metres lower than a previous proposal refused by the Council. While the majority, lower part of the mast column would be noticeably thicker in profile than the lighting columns and most of the branches in the adjacent trees, this part would be assimilated reasonably well into the sequence and vertical orientation of these elements of the street scene, even in winter months when the trees were not in leaf.
8. However, the bulkiest and tallest one-third of the mast would plainly project above the trees and lighting columns. While it would be only 1 metre taller than the mast to be replaced, that mast is narrower and has a uniform profile along its entire length, including the part above 10 metres. Consequently, even though it projects above the trees and lighting columns, it is substantially less bulky and visually intrusive than the proposed mast. Irrespective of its colour, the height, design and physical presence of the top part of the proposed mast would therefore be unduly conspicuous in public views in the Sandy Lane street scene, even in summer months when these trees were in full leaf. The appeal proposal would therefore cause significant harm to the character and appearance of the area, having particular regard to the streetscene.
9. When considering the impact of proposed development on the significance of a designated heritage asset, National Planning Policy Framework (Framework) paragraph 193 indicates that great weight should be given to the asset's conservation. While the trees inside the boundary wall of the Park, the CA and the MOL are generally reasonably tall and mature, there are some gaps and smaller trees. This allows views towards trees outside, including those at the appeal site which form a distinct part of the setting to these heritage assets.
10. Consequently, the wider 5 metre top section of the mast would be noticeable above the trees in some views from within the Park, the CA and the MOL, especially in winter months when the trees were not in leaf. This would therefore have a negative effect in that the mast would appear as an unduly conspicuous urban feature and significantly detract from these views. As this would affect only a small number of trees and views, and a relatively small part of the overall setting to the Park and the CA, the appeal proposal would cause less than substantial harm to the significance of the Park and the CA.

11. In which case, Framework paragraph 196 indicates that this harm should be weighed against any public benefits of the proposal. The appellant has not advanced any appropriate mechanism in this appeal to ensure that the adjacent redundant base station (an equipment cabinet and a 10 metre monopole) owned by another operator would be removed, as the appellant otherwise contends. Furthermore, the appellant's suggestion that the proposed mast at the appeal site would avoid a separate mast elsewhere, perhaps even at the appeal site, has not been substantiated in the evidence before me in this appeal. The alleged benefits of avoiding the proliferation of equipment elsewhere and of 'de-cluttering' at the appeal site by the removal of the redundant equipment have not therefore been demonstrated in this appeal.
12. However, the appeal proposal would enhance existing network coverage for Vodafone, including to provide modern mobile communication services, and would allow O2 to share this equipment and establish new network coverage. These are important objectives recognised by the Framework and, as the appellant suggests, may also have some particular resonance in the current Coronavirus pandemic as a means to facilitate increased home working. These would be significant public benefits.
13. Framework paragraph 194 indicates that any harm to, or loss of, the significance of a designated heritage asset, including from development in its setting, should require clear and convincing justification. While I attach appreciable weight to the public benefits in this appeal, these would nonetheless not be sufficient to outweigh the identified less than substantial harm to the setting of two designated heritage assets, including an important Grade 1 historic park. In addition, having regard to Framework paragraph 197, and for the same reasons as explained above, there would be a direct negative effect on the setting and significance of the MOL which would cause moderate harm.
14. Considering the above, the appeal proposal would not accord with Policies LP1, LP3, LP13 and LP33 of the London Borough of Richmond-upon-Thames Local Plan, July 2018 (the LP). These policies include that development should maintain the high quality character and heritage of the borough having regard to scale, height, proportions and form, and should protect the setting of, and views to and from, Historic Parks, Conservation Areas and Metropolitan Open Land. It would also not accord with the Council's 'Telecommunications Equipment' supplementary planning document, June 2006. It would conflict with Framework paragraphs 124, 127 and 170. These include that development should create high quality places, add to the overall quality of the area, be sympathetic to local character and history, including the surrounding built environment and landscape setting, and protect valued landscapes.

Other Matters

15. I recognise that benefits of the sort referred to in the main issue above are capable of outweighing harm, including with regard to heritage assets. I do not, though, have full details of the other appeals that are referred to by the appellant in this regard so I cannot be certain that they are directly comparable to the current appeal. However, I note that some of the decisions are quite dated or relate to different Council areas and so were made in a different development plan regime and national planning policy context. I have, in any event, determined this appeal on its planning merits.

16. I appreciate that an addition to an existing base station (such as cabinets) may not require consideration of alternative locations. However, the appellant has not substantiated that there are no less harmful sites for the proposed mast, which albeit replacing a mast would nonetheless be a new mast, not an addition to an existing mast.¹ These circumstances can therefore be distinguished from the previous Inspector's decision where such evidence was provided by the appellant.² That decision is also somewhat dated and the possibility of an alternative site may have changed meantime. The appellant has also referred to another appeal decision.³ While I do not have full details in the evidence before me, I note that the location of the replacement equipment in that case, and whether there was a need to consider alternative sites, was not influenced by a requirement for equipment sharing or to establish new network coverage; whereas, these are objectives of the appellant in the current appeal and can therefore be distinguished from this other appeal.
17. Permitted Development (PD) rights may allow a similar development to the appeal proposal. However, there is no PD scheme before me to allow for reasonable comparison and no evidence that it is a realistic 'fall back' prospect. Indeed, to meet the appellant's objectives in this current appeal would appear to require a mast that would be taller and wider at the top, and likely therefore to be materially different to that which PD might allow.
18. Some local residents are concerned about harm to human and wildlife health. On the evidence before me, the development would comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). As such, the Framework advises that health safeguards are not something which a decision-maker should determine. No substantive evidence is before me to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified. I also note that the Council did not object to the development for these reasons.

Planning Balance and Conclusion

19. As explained in the main issue above, the appeal proposal would cause significant harm to the character and appearance of the area. I give considerable weight to this harm. It would also cause harm to the significance of designated heritage assets and I give substantial weight to this harm, as well as harm to the significance of a non-designated heritage asset and I give reasonable weight to this harm. The appeal proposal would enhance existing and future network coverage, provide modern mobile communication services and allow equipment sharing. I give appreciable weight to these benefits.
20. Consequently, the appeal proposal would not accord with the development plan overall. There are no material considerations that indicate that my decision should be taken otherwise in accordance with the development plan. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

¹ Framework paragraph 115(c).

² APP/L5810/W/16/3152507, paragraph 14.

³ APP/X5990/W/18/3218246.