



Appeal Decision

Site Visit made on 17 May 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Appeal Ref: APP/L5810/W/20/3264789

Telecommunications Site 78221, Amyand Park Road, opposite 148 Amyand Park Road, Richmond upon Thames TW1 3HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 EE Limited against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 20/2222/TEL, dated 7 August 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the installation of a telecommunications base station, 1no 15m alpha monopole with 2no 300mm dishes, 2no equipment cabinets and associated ancillary works thereto.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the siting and appearance of the development on:
 - the character and appearance of the area, having particular regard to the streetscene and to the setting of the Amyand Park Road Conservation Area;
 - highway safety, with particular reference to pedestrian movement; and
 - whether any harm caused is outweighed by the need to site the installation in the location proposed, including with regard to the potential availability of alternative sites.

Reasons

Character and appearance

3. The appeal site is part of the Amyand Park Road pavement, which at this point backs onto a railway line and platform, near a footbridge crossing. It is a reasonably short distance (about 20m) from the boundary of 'The Amyand Park Road Conservation Area' (the CA) and the development would face this part of the CA, forming part of the surroundings in which the CA is experienced, within its setting. Land along this part of the railway line includes little built-form of any substantial scale, massing or vertical height. Nearby housing and some commercial buildings either side are also reasonably low level, mainly two or two and a half storey, and mostly set well back from the railway line behind

roads or gardens within a patchwork of trees of a generally similar height. This wide corridor of largely open land forms an expansive visual horizon in several directions around the appeal site. It is locally distinctive in public views, including from Amyand Park Road.

4. The National Planning Policy Framework (the Framework) confirms that a Conservation Area is a designated heritage asset¹ and that irrespective of the level of potential harm 'great weight' should, in this appeal, be given to the conservation of the CA². The Council's 'Amyand Park Road Conservation Area Statement' (the CAS) refers to its character as including 'The meandering nature of Amyand Park Road' which 'offers a continuously changing series of views and has a beneficial effect on the setting of the buildings'. This is consistent with what I saw at my site visit and is important to the significance of the CA. The Framework³ states that 'any harm to, or loss of, the significance of a designated heritage asset' including 'from development within its setting' should require 'clear and convincing justification'.
5. The appeal site is also within 'Character Area 5' of the Council's 'St Margarets Village Planning Guidance' Supplementary Planning Document, June 2016 (the VPG). The VPG aspires to upgrade the public realm in this area with 'more appropriate' street furniture to enhance the character of the historic streets⁴. The equipment cabinets would not be excessive in size, painted green⁵ and sited next to a litter bin in front of a blockwork wall of a similar height with a fence above and taller railway station platform railings behind. The cabinets would not therefore cause unacceptable visual intrusion, including to the setting of the CA. I note that the Council did not object to the cabinets. The absence of harm in this regard is a neutral factor in my decision.
6. There is a multitude of street and platform lighting columns, as well as some telegraph poles, in the immediate vicinity of the appeal site. An additional column at the appeal site would not therefore be incompatible in principle with this sequence of vertical structures, including the trunks of nearby trees. The monopole would be 15m high with a uniform profile 0.3m in width, aside from two small dishes at 11m, and painted dark brown. It would be the minimum height necessary to achieve the appellant's desired coverage levels and would be well-located within this particular mobile communications cell. I also accept that simply being able to see a telecommunications mast (or its visibility per se) may not be a determinative consideration.
7. However, on the evidence before me, and as I saw at my site visit, the monopole would be appreciably thicker in profile and, in particular, significantly taller than these columns, poles and trees such that the tallest top 5m section (and one third of its height) would project substantially above them, as well as the railway footbridge, nearby buildings and trees. While I appreciate that its reasonably neutral colour might be consistent with a timber telegraph pole, its texture and appearance would nonetheless remain artificial. It would also have a relatively exposed and isolated position with no substantial or immediate backdrop of any significant height to assimilate this structure.

¹ Framework glossary.

² Framework paragraph 193.

³ Framework paragraph 194.

⁴ VPG - page 24.

⁵ According to the appellant.

8. The lower part of the monopole would therefore stand out as an overly noticeable and intrusive structure in shorter distance public views from Amyand Park Road at street (eye) level. Moreover, the upper part would be demonstrably at odds with the otherwise prevailing pattern of broadly comparable heights and thickness of these other nearby objects. Consequently, the monopole would also be conspicuous as an unduly prominent structure on the horizon that would jar in the streetscene in longer distance views from Amyand Park Road, including as this road slopes upwards to the north east.
9. From the south, within the CA, Amyand Park Road turns past Beaconsfield Road in one direction, straightens and then turns in the other direction, past Amyand Cottages and out of the CA past the appeal site. Terraced houses along either side are close to this road at the back edge of pavement and some have roof gables or dormers which accentuate the appearance of their height. The resulting tight containment of space along this part of the road, and the meander through these bends from the south, is locally distinctive and changes the direction of public views. There is a palpable sense of anticipation of what follows around these corners.
10. However, the monopole would be sited centrally within the resulting vista, out of visual context with the majority of nearby columns, poles and trees, and its thickness and height overly conspicuous in direct line of sight. Despite the backdrop of the railway line (and even if this renders an 'industrialised' or 'utilitarian' setting, as the appellant suggests) railway infrastructure is predominantly at a significantly lower level, including the footbridge, and the monopole would remain incongruous⁶.
11. It would therefore dominate this view, including the skyline, and unduly detract from the experience of walking or cycling in this part of the CA, including the transition out of the CA towards and through its immediate setting. Harm to the significance of the CA arising from these adverse effects of the monopole in its setting would be limited to this small part of the CA and as a result would cause less than substantial harm to the CA overall. The Framework⁷ states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'.
12. I find that the development would be excessive in height and inappropriate in design such that it would appear overbearing and incongruous with respect to visual amenity. Its siting and appearance would cause significant harm to the character and appearance of the area, having particular regard to the streetscene and to the setting of the CA. It would not accord with Policies LP1 and LP33 of the Richmond Local Plan, July 2018 (the LP). Amongst other things, these policies seek to maintain the high quality character and heritage of the borough, including compatibility of proposals with existing townscape and development patterns, views, siting, scale, height, form, the public realm and heritage assets and visual impact of telecommunications proposals should be minimised. It would also not accord with the CAS, VPG and the Council's 'Telecommunications Equipment' Supplementary Planning Document, June 2006 (the SPD).

⁶ The appellant has also referred to a 'commercially used garage directly opposite the Site'. I saw that this site was being redeveloped and there is no evidence before me about its future use or appearance.

⁷ Framework paragraph 196.

13. It would also conflict with Framework paragraphs 113, 124 and 127 which include that where new sites are required for telecommunications, equipment should be sympathetically designed and camouflaged where appropriate and development should create high quality places, add to the overall quality of the area, be visually attractive and sympathetic to local character and history, including the surrounding built environment.
14. In its first reason for refusal, the Council has referred to LP Policy LP4, which relates to 'non-designated heritage assets', though neither main party has advanced a case in this regard. On the evidence before me, this policy is not relevant to my determination of the appeal. The Council has referred to LP Policy LP3 ('designated heritage assets') in its officer report, but it is not in the first reason for refusal or in the Council's appeal questionnaire. On the evidence that is before me, this policy reflects the general objectives of the Framework that I have referred to in this main issue above and provides more detail on designated heritage assets than is otherwise referred to by the Council in LP Policy LP1, which is in the first reason for refusal.

Highway safety

15. The pavement next to the appeal site is flared so that it is wider near the railway footbridge. The footbridge links either side of the railway station and its platforms and is also a throughfare between the surrounding built-up areas which include some schools. The proposed monopole and cabinets would be in a line near the back edge of this pavement, on one side of the bin, and would maintain at least the same minimum width of pavement as elsewhere along this side of Amyand Park Road. The development would not therefore ordinarily interfere with pedestrians using the pavement in both directions, past the monopole and cabinets (including during maintenance works) to destinations elsewhere. I acknowledge that the Council's Transport Officer did not object to the appeal proposal.
16. However, the absence of a highway objection does not mean the absence of material planning harm. The flared pavement also provides pedestrian access to and from the railway footbridge and I saw that this junction at the bottom of the stairway is also the place where some pedestrians cross the road⁸. Due to the effects of the Covid-19 pandemic, the pattern of use of the footbridge and this road that I observed may not be representative of normal use. While the long-term implications for travel and social distancing remain unknown at this time, it is consequently more likely than not to have been a lower frequency or intensity of use than might otherwise be expected.
17. Nonetheless, even at the level of use that I saw, there was on occasions a significant volume of pedestrians using the flared pavement and stairway, including opposing movements of people, particularly at the bottom of the stairway or congregating in the pavement. The flared pavement allows people to wait safely and conveniently until the stairway can be accessed, and without obstructing people passing along the pavement or wishing to cross the road.
18. The footprint of the monopole and cabinets would be modest in area, with gaps in-between and would not therefore erode a significant proportion of the flared pavement area. However, these structures would nonetheless materially reduce

⁸ My visit to the appeal site and the surrounding area was a school day (Monday) from 13:30, including continuous observation of the appeal site and its immediate environs, including the footbridge, between 15:00 and 16:15.

the available width and capacity of the flared pavement to accommodate people and the development would be significant for these reasons. I note that the appellant has not suggested any mitigation in these regards. The appeal proposal would therefore unduly increase the likelihood of pedestrian conflict at the bottom of the stairway, including potential overcrowding and overspill of people into the road. It would also cause undue distraction to people crossing the road or to passing motorists or cyclists.

19. While Amyand Park Road was relatively lightly trafficked and vehicle speeds were reasonably low during my site visit, the appeal site is near two corners in this road which significantly limits visibility for pedestrians and vehicles. Moreover, wheelchair or electric buggy users of the pavement, as well as people using the footbridge with mobility impairment, elderly persons or adults with pushchairs or children would be especially vulnerable. There would therefore be unacceptable increased vehicular and pedestrian conflict, including with cyclists. In addition, any actual or perceived increased hazard to the safe and convenient use of the railway footbridge, or this part of the pavement, would be at odds with encouraging alternative modes of travel to the private car, including walking and trains.
20. I find that the development would unduly compromise the safety of members of the public. Its siting and appearance would cause significant harm to highway safety, with particular reference to pedestrian movement. It would not accord with LP Policies LP33 and LP44. These policies require, inter alia, the consideration of national policy in the Framework and seek to minimise congestion, maximise permeable access to services and facilities, including provision of safe and convenient walking and cycling routes, ensure that the location of development takes account of local character and context and mitigates any impacts on the highway network. It would also not accord with the SPD in these regards.
21. It would also conflict with Framework paragraphs 102, 109, 110 and 127. These include that development should create places that are safe, accessible and minimise the scope for conflicts between pedestrians, cyclists and vehicles, promote walking and cycling and public transport and avoid unacceptable impact on highway safety.

Other Matters

22. The appellant has explored some other site options. I note that many of these are 'outside the search area'⁹ and this suggests that they are not therefore realistic alternatives. Nonetheless, I acknowledge the influence of constraints on site selection, such as heritage assets, underground services and residential neighbourhoods. I have no reason to doubt that there are a limited number of options for the development in the locality.
23. However, it is not clear from the appellant's evidence before me whether some of these options might simply be less suitable or less effective, rather than not suitable or effective at all. Nor is it clear whether this is an exhaustive list of possible options to meet the identified need, including by sharing existing equipment with other operators, and aside from the railway station no other railway land is referred to. I am therefore concerned that the appellant has not justified that the appeal proposal is in fact 'the only design solution available'

⁹ Appellant's 'Design and Access Statement' prepared by Avison Young, August 2020.

- (insofar as design also reasonably includes siting) or that there is a 'lack of viable alternatives', as the appellant otherwise also suggests.
24. The appeal proposal would improve mobile communications along a section of the railway line where there is little or no coverage and a weak signal. This would be an asset for railway customers, local residents, businesses, visitors and the Emergency Services Network. The Council does not dispute this and I have no objective evidence before me to the contrary. The Framework states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being'¹⁰. This would therefore be a significant public benefit of the development.
25. On the evidence before me, the development would comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Accordingly, 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. Therefore, whilst the equipment would be sited in view of a number of dwellings and reasonably close to some local schools, the approach taken by the Framework does not support the health fears of local residents. I also note that the Council did not object to the development for these reasons.
26. Despite the thickness and height of the monopole this structure would nonetheless not be substantial enough to have any unacceptable adverse effect on the living conditions of the occupiers of nearby dwellings with respect to daylight or outlook. The absence of harm in these regards is a neutral factor in my decision.
27. I appreciate that the appeal proposal is a revised scheme following an unsuccessful application. The appellant considers it to be an improvement, including a betterment by comparison to another nearby proposal refused by the Council¹¹ and has sought to work positively with the Council and the local community. Nevertheless, I have considered this appeal on its individual planning merits.

Planning Balance and Conclusion

28. As explained in the main issues above, the appeal proposal would cause significant harm to the character and appearance of the area and to highway safety. I give substantial weight to each of these harms. The appeal proposal would support high quality communications. I give appreciable weight to this public benefit. 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.
29. For the reasons given, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

¹⁰ Framework paragraph 112.

¹¹ Council's reference 18/3758/TEL.