
Appeal Decision

Site visit made on 5 January 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Appeal Ref: APP/F5540/W/21/3275696

Staveley Road, Chiswick, London W4 3EU

- 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 Hutchison UK Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00176/L/COM2, dated 17 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is a 15m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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, Paragraph A.3(4) require an assessment of the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
3. While quoted by the appellant in their appeal statement and the Council in the reasons for refusal, the relevant provisions of the GPDO do not require regard to be had to the development plan. Nevertheless, I have had regard to these policies and related supplementary guidance only in so far as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.
4. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, the principle of the development proposed is acceptable.

Main Issues

5. The main issues are the effects of the siting and appearance of the mast on the character and appearance of the area, with particular regard to the Chiswick House Conservation Area (CHCA), and on the living conditions of occupiers of nearby dwellings.

Reasons

Character and Appearance

6. The appeal site is a section of footpath which lines the boundary of tennis courts located at the junction of Staveley Road and Burlington Road. The mast and ancillary equipment, including ground level cabinets, would be positioned to the rear of the footpath, located in a gap between large, mature trees. The immediate area is residential in nature and characterised predominantly by two-storey dwellings and large areas of green space such as playing fields and sports facilities.
7. Due to the wide footpaths, grass verges, open areas of recreational space and trees, the area has an open, spacious and verdant character. The submitted drawings show the height of the mast would be considerably taller than nearby dwellings and street furniture such as streetlights. While I appreciate that the proposed mast must be taller than other objects in the vicinity in order to operate efficiently, the large size and utilitarian appearance of the proposed equipment would appear out of scale and overly prominent within its immediate residential setting.
8. The trees lining the street would offer some screening and natural backdrop. However, this would likely depend on the time of year and would not sufficiently reduce the visual impact of the mast given its size. I note that the mast has been reduced in height from a previously refused application¹ and the appellant is agreeable to a condition to control the colour of the mast and ancillary equipment. However, this would not overcome the harm I have identified.
9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The Framework sets out at paragraph 199 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to that asset's conservation.
10. The significance of the CHCA relates principally to the architectural and historic interest of the Grade I listed Chiswick House, its landscaped grounds and surrounding late nineteenth to early twentieth century residential areas. The appeal site is located within the West sub section of the CHCA as identified in the Appraisal (January 2021). This identifies the area as forming an important buffer to the house and grounds but is nonetheless notable for the quality of much of the housing.
11. I have reasoned above that the scale of the proposal would be incongruous given the spacious nature of the area and the absence of meaningful similar structures or cover in its surroundings. For the same reasons, and given that

¹ 00176/L/COM1

the scheme would be a modern engineered form in an historic area which draws significance from its human scale and open layout, it would therefore harm the significance of the CHCA.

12. In terms of the approach set out in paragraph 202 of the Framework, the harm to the significance of the heritage asset would be less than substantial (the scheme is inherently a lightweight structure and would affect only part of the CHCA). In such cases, Framework paragraph 202 guides the harm arising should be weighed against the public benefit of the proposal, and 200 that 'any harm to, or loss of, the significance of a designated heritage asset... should require clear and convincing justification.'
13. I therefore conclude that the siting and appearance of the development would have a harmful visual effect on the character and appearance of the local area, including the CHCA. Insofar as they are material considerations, I have also had regard to Policies CC1, CC2 and CC4 of the Hounslow Local Plan 2015-2030 (LP) (adopted September 2015). The proposal would conflict with the requirements of these policies which state, among other things, that proposals should conserve and take opportunities to enhance any heritage asset and its setting in a manner appropriate to its significance. The proposal would also be contrary to the Framework insofar as it seeks to ensure that where new sites are required (such as for new 5G network), equipment should be sympathetically designed. I have also reasoned above how conflict would arise with relevant elements of the Framework which seek to preserve the significance of designated heritage assets, and the clear expectations of statute in that regard.

Living Conditions

14. The nearest residential properties to the appeal site are located on the opposite side of Burlington Road. Although the Council references an overbearing impact in their assessment, this appears to relate to the previously refused application for a larger mast.
15. From my observations on the site visit, the outlook from first floor windows and the gardens of these nearby properties would retain a sufficient distance from the mast given the road and wide footpaths to either side. Due to the slim profile of the mast, it would be unlikely to result in either an unacceptable overbearing impact or to unduly reduce outlook from windows or gardens associated with these properties.
16. The proposal would therefore accord with Policy CC2 of the LP which seeks development to provide adequate outlook and minimise overbearingness, among other things. However, that unacceptable effects in this respect would not arise is effectively neutral in my assessment of the scheme rather than weighing positively in favour of allowing the appeal.

Other Matters

17. I accept that the Framework is supportive of high-quality communications, and the proposal would have some benefits in that respect in terms of increasing coverage. In that context the appellant has pointed to a lack of alternative available sites because of the area that the proposed mast would serve and that transmitters for the 5G network cannot be placed on existing masts which

transmit older wireless signals and that there are constraints to placing antennae on buildings.

18. There is clear need for, and importance of, the rollout of the 5G network. The Framework is clear in paragraph 114 that the provision of high-quality communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported. The proposal would facilitate 5G coverage and I have had regard to the public benefits of this technology to local residents, visitors and businesses in the area. Cumulatively, these factors and public benefits weigh in the scheme's favour.
19. I have also taken into account that the scale of the mast, which has been reduced in height from a previously refused application at the same site. The proposed monopole is said by the appellant to be the minimum width possible to accommodate multiple-generation technologies, which cannot be placed on existing masts due to transmission issues. I acknowledge that telecommunications equipment is now a common feature of the built environment and that it is argued the cabinets could be erected without the need for planning permission.
20. However, I have found that the proposal would harm the character and appearance of the local area and would cause less than substantial harm to the significance of the CHCA. Heritage assets such as the CHCA are an irreplaceable resource and as per the Framework great weight should be given to their conservation which also places great emphasis on protecting areas and buildings of architectural or historic importance. Similarly, the surrounding environment changing over time does not justify any and all development, and potentially places more importance on maintaining that coherence of scale which remains.
21. Moreover, the information that I have with regards to alternative sites is of a limited nature, especially as to whether alternative locations would be as prominent or would have similar impacts on designated heritage assets. Nevertheless, the Framework states in paragraph 117 that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. In this case, such evidence is lacking as regards alternative sites.
22. Although it is asserted the cabinets do not require planning permission for their installation, I have assessed the proposal as it is presented to me and to my knowledge a Certificate of Lawfulness has not been applied for. Moreover, it would appear unlikely cabinets would be installed without a mast. As such I attribute this fallback position limited weight.
23. My attention is drawn to several other proposals for telecommunications equipment, including masts, which were the subject of both planning applications and appeals. Other than the decision notices I have little information on these. However, these developments would have had their own site-specific circumstances which led to their approval. While I agree in general that consistency in decision making is important, it does not follow that this proposal should be approved on this basis. Accordingly, I have determined the appeal scheme on its own merits, having regard to its own individual context.

24. I have had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, which was not forthcoming. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits. Accordingly, neither that, nor any other matter is sufficient to outweigh the harm that would result.

Conclusion

25. For the foregoing reasons, and having taken account of all relevant material considerations, I conclude that the appeal should be dismissed

C McDonagh

INSPECTOR