



Appeal Decision

Site visit made on 12 January 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Appeal Ref: APP/L5810/W/21/3275535

Lower Mortlake Road, Richmond, Surrey TW9 2JR

- 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 Great British Communications Ltd against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 21/0114/TEL, dated 13 January 2021, was refused by notice dated 3 March 2021.
 - The development proposed is erection of a 15-metre-high Phase 8 telecommunications pole with built-in cabinet, 3no. separate cabinets and ancillary works.
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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 a 15 metre high Phase 8 telecommunications pole with built-in cabinet, 3no. separate cabinets and ancillary works at land at Lower Mortlake Road, Richmond, Surrey TW9 2JR in accordance with the terms of the application Ref 21/0114/TEL, dated 13 January 2021, and the plans submitted with it including 002 Site Location Plan; 100 Existing Site Plan; 150 Existing Site Elevation; 215 Proposed Site Plan; 265 Proposed Site Elevation; 304 Proposed Configuration Antenna Schedule and 307 Equipment Schedules and Dependencies.

Procedural Matters

2. The description of development in the banner heading above is taken from the appeal form. It adequately and simply describes the proposal.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and 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 (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

5. The revised Framework has been published since the appeal was submitted. My decision is made in the context of the revised Framework. I am satisfied that no interested party has been prejudiced by my approach as no revisions have been made to the contents of the chapter relating to high quality communications.
6. The Council, in the second reason for refusal, refer to a failure by the appellant to serve the requisite notice on all of the owners of the land, namely Transport for London (TfL). The appellant has indicated that pre-application consultation was undertaken with TfL and notice has subsequently been served as part of the appeal process. Thus, with particular regard to this appeal, I am of the view that TfL have not been prejudiced by the procedural omission and have been given the opportunity to comment accordingly. I have dealt with the appeal on this basis.

Main Issue

7. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area including the setting of the Sheendale Road Conservation Area (CA).

Reasons

8. The appeal site is an area of pavement on Lower Mortlake Road close to the junction with Sheendale Road. It is in an urban location with largely built-up surroundings that include residential, commercial and office buildings. Lower Mortlake Road is a wide 4 lane tree lined carriageway with wide pavements either side. Vertical structures such as lighting columns, traffic lights and road signs are notable vertical features along the road.
9. I acknowledge the proposed mast would be substantially taller than the building it would be sited in front, and that the thicker upper part of the mast would protrude above trees so it would stand out in the skyline. Due to its height it would be visible in local views but this would be in the context of other vertical features in the street scene and buildings along the road.
10. Telecommunication installations, such as the one proposed, are common features in urban environments and it would not be incongruous. In the context of the surrounding area, I find that the proposed development would be compatible with its surroundings.
11. In views over longer distances when travelling along Lower Mortlake Road it would be partially screened by street trees. Even though the trees are deciduous, they are of a sufficient scale and spread, even when not in leaf, providing a degree of visual mitigation.
12. The Council have referred to photographic imagery to support their case. However, I am not satisfied that this is a true representation of the proposed development. As such, I give it negligible weight in coming to my decision.
13. Paragraph 194 of the Framework requires assessment of development proposals within the setting of designated heritage assets. The CA is located to the south of the site and derives its significance from a development of largely uniform small villas set along tree lined streets resulting in townscape value. This compact and quiet pocket of development is in contrast to the busy character and urban appearance of Lower Mortlake Road.

14. The proposed development would be set away from the entrance into the CA and whilst it would be visible from the CA only the upper part would be noticeable. Its position and the intervening built form provides sufficient separation and tree cover would serve to reduce its visual impact. Furthermore, it would be viewed in the context of a busy thoroughfare and urban environment. As such, I find the proposal would have a neutral effect on the setting and significance of the CA.
15. Based on the evidence, before me, and taking into account the advice of the Council I am satisfied that the proposed development would not adversely affect the significance of the Kew Gardens World Heritage site, including views of the pagoda.
16. As such, I conclude that the siting and appearance of the proposed development would not adversely affect the character and appearance of the area.

Other Matters

17. Concerns have been raised about potential effects on health. However, 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.
18. I note the representations made in relation to highway safety and pedestrian movement. It would occupy a paved area close to a bus stop. However, the presence of the mast and cabinets would make little difference to the useable width of the footway for pedestrians including children, the elderly and less mobile. The width of pavement available would still allow users to pass one another including those pushing a baby buggy or groups of people waiting by the bus stop.
19. There are bollards, a bus shelter and other items of street furniture nearby, but given the width of the footway the proposed development would not introduce excessive clutter on the pavement and would not present an obstruction to pedestrian movement, social distancing or adversely affect pedestrian safety.
20. There is no evidence before me to indicate that the siting of the mast and associated cabinets would unduly affect visibility along the highway. Moreover, I am not aware of any objection from the highway authority.
21. The Council has not challenged the conclusion of the appellant that the alternative sites referred to are not suitable and that mast sharing is not an option. I have no reason to disagree with the Council and there is no substantive evidence before me to lead me to reach a different conclusion.
22. Whilst 5G coverage may well be available in the area the appellant has demonstrated that the proposed development is necessary for their coverage in the locality. In any event the Framework, at paragraph 118, states that the need for electronic communications systems should not be questioned.

23. I am satisfied that the proposed development would be sited a sufficient distance from nearby residential properties so it would not be an unduly overbearing feature or result in a visual obstruction.

Conditions

24. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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

25. For the reasons set out above, the siting and appearance of the proposal would be acceptable and would not cause harm to the character or appearance of the surrounding area including the setting of the Sheendale CA.
26. Therefore, the appeal is allowed and prior approval is granted.

B Thandi

INSPECTOR