
Appeal Decision

Site visit made on 4 April 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2022

Appeal Ref: APP/P5870/W/21/3279993

Cheam Road, Sutton, Greater London SM1 2BD (Easting 525367, Northing 163986)

- 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 Mr William Comery (Hutchison 3G (UK) Limited 'Three') against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/00501, dated 11 March 2021, was refused by notice dated 6 May 2021.
 - The development proposed is the erection of a 15m monopole with wraparound cabinet, 3 separate equipment cabinets and associated ancillary works.
-

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 Cheam Road, Sutton, Greater London SM1 2BD (Easting 525367, Northing 163986), in accordance with the terms of the application Ref DM2021/00501, dated 11 March 2021, and the plans submitted with it including 002 Site Location Plan STN12294 _Planning_REV_B¹; 150 Existing Site Elevation; 215 Proposed Site Plan; 265 Proposed Site Elevation; 304 Proposed Configuration Antenna Schedule; 306 Internal Cabinet Detail and 307 Equipment Schedules & Dependencies.

Preliminary Matters

2. There is no description of the proposed development in the application form. The description in the banner above is taken from the Council's decision notice, while in my decision above it is taken from the appeal form.
3. Because this is an application for prior approval the provisions of the Order 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. I have determined the appeal on the same basis.
4. The principle of the development is established by the Order and its provisions do not require regard to be had to the development plan. Nevertheless, Policies 23 and 28 of the Sutton Local Plan, adopted February 2018, refer to matters

¹ All plans referred to hereinafter include the reference 'STN12294 _Planning_REV_B'

relevant to siting and appearance and to telecommunications development. The National Planning Policy Framework (the Framework) includes a section on supporting high quality communications and on achieving well-designed places. I have had regard to these policies only in so far as they are a material consideration relevant to matters of siting and appearance.

5. The appellant's '5G Site Specific Supplementary Information and Planning Justification Statement' submitted with the application refers to the monopole as green in colour. However, the application plans refer to it as grey, which is consistent with the appellant's appeal statement. I have considered the appeal on the basis that it is proposed to be grey.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed development on the character and appearance of the area and on pedestrian movement; and, if any harm would be caused, whether this is outweighed by the need to site the installation in the location proposed, taking into account any suitable alternatives.

Reasons

7. The proposal is for a new installation comprising a 15m monopole and four equipment cabinets (one enclosing the monopole). It would remedy a gap in coverage in the appellant's 5G high-speed mobile telecommunications network.

Character and appearance

8. The proposed location is in Cheam Road on one corner of a crossroad junction with St James Road. It is an open, mainly paved space indented back from the junction due to the stepped-in alignment of the corner plot boundary.
9. The respective streetscenes include lamp posts, traffic signs, traffic lights, a bus stop, equipment cabinets, post boxes, bollards, a bench and roadside railings. There are also trees, blocks of flats up to 4 storeys high and a petrol station with a canopy, totem sign, lighting columns and fuel tank vent pipes. Consequently, while the monopole would have an appreciable diameter, in terms of its position and vertical profile it would be readily assimilated into this pattern and sequence of roadside features.
10. At a height of 15m it would, though, be significantly taller than most of these features and the last 5m or so would project above the tallest trees, lamp posts and blocks of flats. However, it would be the lowest height feasible to meet technical operational requirements. Notwithstanding the gentle slope of St James Road, on the approach to the junction from all four directions the effects of perspective would mean that even the tallest and bulkiest part of the monopole (including the transmission dishes) would be partially screened by, or seen in the context of, these other features, including tree canopies when not in leaf. Moreover, its grey colour would recede against the sky and would match the colour of the taller street lighting columns in Cheam Road. It would not, therefore, be unduly prominent in these longer distance views.
11. In shorter distance and upward views, the monopole would be more obvious in isolation given the looser-knit arrangement of roadside features around the junction. Despite its colour, its immediacy would render the monopole a more dominant and imposing structure. While it would not be incompatible in this

urban setting, in particular along the busy main Cheam Road corridor, it would nonetheless be conspicuous and detract from these views.

12. The cabinets would be different sizes but closely spaced in a row and on two sides next to a low wall and a taller evergreen hedgerow behind. As a result, on the approach to the junction from two directions they would not be seen until at the corner. In the other two directions they would be in plain view. However, and either way, their green colour would be subsumed against the hedgerow. Even if the hedgerow was reduced in height or removed, their regimented arrangement and set back from the junction would not appear cluttered or stand out as unusual or unexpected. The cabinets would not, therefore, be unduly prominent or conspicuous.
13. I find that in short distance views the siting and appearance of the monopole would cause limited harm to the character and appearance of the area.

Pedestrian movement

14. This paved recessed notch of land is part of the public highway. While it is available for pedestrian use, the main tarmac surface of the pavement (the pavement) arcs around the corner of the junction in front of the paved area.
15. The siting and alignment of the cabinets next to the wall and hedge would leave a majority of the paved area in front free of obstruction. It would also maintain the width of the Cheam Road and St James Road pavements on the approach to the corner. Doors would open flush with, or across, the fronts of the cabinets and so would not cause a hazard.
16. On one end, a small cabinet, and part of another would overlap beyond the paved area. However, at this corner of the junction the pavement increases up to about 5m wide as a build-out at an uncontrolled pedestrian crossing point. Including the tactile surfacing, the pavement would remain more than 3m wide to the nearest cabinet and just the tarmac part would be about 1.5m wide. This would, therefore, still allow users to pass one another including a visually or physically impaired person (and a wheelchair or electric buggy/scooter), parents with pushchairs or groups of people.
17. Nonetheless, these two end cabinets would encroach into a potential 'desire line' for pedestrian movement around this corner; ie following the inside edge of the pavement and/or cutting straight across part of the paved area. Given the enduring minimum unobstructed 1.5m width of pavement, this would not create a significant hazard or in itself unduly hinder the free flow of pedestrians. The slight detour would, though, need to be negotiated including by visually impaired or blind persons.
18. Notwithstanding the cabinets, the substantial remaining paved area and most of this built out section of the pavement at the corner and beyond would remain open and unobstructed. As a result, there would be sufficient space to 'hold' a large number of people waiting to enter, or wishing to exit, the crossing point, including at busy periods such as nearby nursery or school start and finish times.
19. I find that the siting and appearance of two cabinets would adversely affect some pedestrian movement. This would cause limited harm.

Alternative sites

20. The appellant has mobile telecommunication installations elsewhere in the wider locality. However, none of these are close enough to fill the particular gap in 5G coverage in this part of Cheam Road because a 5G cell operates over a relatively small radius.
21. Other potential masts and site sharing, or existing buildings or structures, would not deliver 5G coverage for this particular cell or would be affected by interference. The appellant has considered other potential locations within an extremely constrained 100m search area of the site. These were discounted for reasons of private land and access and proximity to a train line or to schools. Moreover, densely developed residential side streets were excluded to avoid the proposed installation directly outside or in front of houses, or because pavements would be inadequate in width or sections not long enough.
22. The Council does not dispute the appellant's evidence in these respects. But for its objections to siting and appearance, it agrees that the appeal site is otherwise 'the most suitable' within the search area. I have no reason to reach a different view.

Other Matters

Benefits

23. Reference has been made to various social and economic benefits of the proposal. These have effectively already been recognised by the grant of permission under Article 3(1). I have not, therefore, taken these into account in considering prior approval and the matters of siting and appearance.

Health

24. 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.

Other interested party comments

25. The monopole would not be in close proximity to residential properties, including the flats in Cypress Court or be in direct perpendicular line of sight of habitable room windows or balconies of these flats. It would be next to part of the residents' communal amenity open space but this is extensive in area and wraps around the building. The monopole would not, therefore, unduly affect natural light or outlook or be overbearing, nor is there any evidence that the equipment would cause noise disturbance. On this arm of the junction, St James Road has a wide bellmouth and connects at an angle to the curved alignment and outside edge of Cheam Road. As a result, the monopole and cabinets would not affect sightlines for road users.

26. There may already be mobile phone services in the local area. These may relate to a different network and do not necessarily reflect need having regard to capacity, coverage or signal strength. There is no apparent reason why this installation would be a focus for anti-social behaviour and its effect on property values and private views are not relevant to my decision. There is no evidence that the monopole would not be installed or maintained safely, including parked vehicles with any necessary consent of the Highway Authority. Damage to private property or obstruction of the carriageway would be private matters between the respective parties.

Planning Balance

27. In some public views the monopole would adversely affect the character and appearance of the area and two cabinets would adversely affect some pedestrian movement. The extent of harm would be limited in each case, but nonetheless these would be negative aspects against the proposal. I therefore give moderate weight to both considerations.

28. I have assessed the siting and appearance of the proposal mindful that it is permitted development and has been accepted in principle. It would meet a need to site the installation in this location to provide 5G coverage. There is no evidence of a more suitable and reasonably available alternative site within the relevant search area. These factors lend significant support to the appeal. As such, I give substantial weight to these considerations.

29. Accordingly, the benefits would outweigh the harm.

Conditions

30. Any planning permission granted for 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). These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date prior approval was given and 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.

31. The Council has suggested an additional condition that the monopole should be green. This would match the colour of the cabinets and some lower lamp posts in St James Road. However, the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions. In any event, in this appeal, green rather than grey would, in my view, increase the visual prominence of the mast, including against the sky. Such further control is, therefore, not necessary.

Conclusion

32. For the reasons set out above, I conclude that the appeal should succeed and prior approval should be granted.

Robin Buchanan

INSPECTOR