



Appeal Decision

Site visit made on 9 November 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2022

Appeal Ref: APP/T5720/W/22/3299426

Grass verge opposite 177 Mostyn Road, SW19 3LS

- 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 Three - CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Merton.
 - The application Ref 21/P4273, dated 03 December 2021, was refused by notice dated 27 January 2022.
 - The development is proposed 5G telecoms installation: H3G Phase 8 18m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Because this is an application for prior approval, the provisions of the 2015 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. My determination of this appeal has been made on this basis.
3. I have used the site address used by the Council in its decision as it describes the location of the appeal site more clearly.

Planning Policy

4. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
5. Nevertheless, Policies DM D1, DM D2, DM D6 and DM O1 of the Merton Local Plan Sites and Policies Plan (2014), Policies CS 13 and CS 14 of London Borough of Merton LDF Core Planning Strategy (2011), and Policy D8 of The London Plan (2021) are material considerations as they relate to issues of siting and appearance. In particular, they seek a well-designed public realm, to site telecommunications apparatus unobtrusively, minimise adverse impacts on visual and environmental amenity, and protect designated open spaces. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, including the sections on supporting high quality communications and achieving well-designed places.

Main Issues

6. The main issues are (i) the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and (ii) if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and appearance

7. The junction of Mostyn Road and Martin Way is located on a bridge above the railway and the southern end of Mostyn Road rises above the land on either side to meet it. Adjacent to the junction, South Merton Railway Station, Mostyn Gardens designated open space, and houses on a lower section of Mostyn Road all lie on lower ground. Two existing monopole mobile telecommunications masts of similar heights to the surrounding trees are located on Martin Way, near the junction.
8. The appeal site is an area of land on the grass verge between the road and the footway. It is set back from the junction and on higher ground than the land surrounding it. In the vicinity of the appeal site, the verge contains traffic signs, electric vehicle charging points, 6m high lamp posts, and street trees of around 8m in height. Boundary trees in the Mostyn Gardens open space also reach a similar height on the banks adjacent to either side of the road.
9. The proposed mast would be set away from the Martin Way and Mostyn Road junction, and as seen from the junction would be accommodated into the street scene in the context of railway infrastructure. However, at 18m high, the proposed street pole mast would be the only feature significantly higher than the surrounding trees, on land which is also higher than the surrounding area.
10. The boundary trees are an important feature from the Mostyn Gardens open space, which is largely open land enclosed by trees on its boundaries. From there, the proposed mast would stand conspicuously above the trees, at almost double their heights, and would be intrusive.
11. Similarly, from the raised section of Mostyn Road the street trees would provide some screening for those travelling along it. However, from its lower part, where there are dwellings opposite the site on lower land, the mast would be a towering and dominant presence, significantly exceeding the height and scale of any other feature.
12. In relation to the height of the mast, the appellant refers to three and four storey flatted developments on Martin Way. However, the surrounding developments are on lower land, and the appeal site is seen in the context of heavy tree cover along Martin Way, rather than built development. The flatted buildings do not therefore justify the height of the new mast.
13. The cabinets would be the largest street-level features on the verge, being at a similar height to the railings on the boundary with the open space. They would be grey in colour, against a leafy background, and therefore more prominent than the green cabinets associated with existing masts in the vicinity. Nevertheless, the vegetation either side of the road and its separation from the houses and open space on lower land either side of the road mean the cabinets would not be unduly harmful to the appearance of the area in this location.

14. The appellant has referred to an appeal decision in Walworth, London (APP/A5840/W/20/3254830), but the circumstances of that case do not appear to be comparable to those before me. Therefore, I give it little weight.
15. In conclusion, the siting and appearance of the proposal would therefore harm the character and appearance of the area, and the harm should be weighed against the need for the installation to be sited in this location.

Need and alternatives

16. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communications infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places.
17. The proposal would provide 5G coverage for the wider area, and the appellant advises that the height of the proposed mast is the minimum required to do so.
18. With regard to alternative locations/solutions, I have not seen evidence that the appellant has explored the possibility of erecting antennas on an existing building or structure in the area, including non-residential buildings close to the target area, as required by the Framework. Neither have I seen evidence that the sites of non-residential buildings have been considered for a ground-based installation. In relation to other potential mast sites, the reasoning behind the exclusion of the four alternative sites put forward by the appellant is also very brief.
19. It has therefore not been demonstrated that this specific site is the only location for installation within the area in question, and that the harm found would not be equivalent or less on a site elsewhere.

Other Matters

20. The Framework also expects applications to demonstrate that consultation has been carried out with nearby schools, and the appellant appears not to have identified Poplar Primary School, which adjoins the Mostyn Gardens open space.
21. 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.
22. Reference has also been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conclusion

23. The siting and appearance of the proposed installation would harm the character and appearance of the area, and with the information before me this harm would not be outweighed by the need for the installation to be sited as proposed.
24. Furthermore, despite the support for high quality communications in the Framework, this is not at the expense of other Framework requirements such as achieving well designed places.
25. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Peter White

INSPECTOR