



Appeal Decision

Site visit made on 29 November 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 DECEMBER 2022

Appeal Ref: APP/L5240/W/22/3295265

London Road, Thornton Heath, Croydon CR7 7NA

(Grid Ref Easting: 531050; Grid Ref Northing: 168494)

- 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 GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/04584/PA8, dated 29 August 2021, was refused by notice dated 27 October 2021.
 - The development proposed is 15.0m phase 8 monopole c/w wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the location of the development and the appellant's details from the planning application form as I consider this accurately represents the proposal and the appellant.
3. Because this is an application for prior approval, the provisions of the GPDO 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. This appeal will be determined 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. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issues are the effect of the siting and appearance of the proposal on:
 - The character and appearance of the area; and
 - Highway safety.

Reasons

Character and Appearance

6. London Road is a busy thoroughfare which contains a mixture of commercial and residential uses. The appeal site is located opposite a commercial parade, although the site is viewed against a block of flats and the area changes to a suburban residential character to the south. The Council contends that the area has a low-rise character, although I saw that there were a number of 3-4 storey buildings in the vicinity of the site.
7. The appeal site is located to the front of a block of flats. Comments raised locally refer to the attractive appearance of a 1930s building, and I saw that the flats are of a coherent design representative of their time of construction. The flats face onto a wide area of footpath adjacent to London Road which is relatively open and enables a view of this attractive building which makes a positive contribution to the streetscape.
8. Within this context, the mast with its relatively bulky design and projection above the flats, as well as the cluttered appearance of the various cabinets, would appear as an incongruous feature that would jar with the attractive design of the flats. The proposal would also be sited adjacent to a low wall with railings above, which form an attractive boundary feature to the front of the flats along with an extent of manicured hedging. The proposed mast and cabinets would lead to insensitively sited clutter along this front boundary, with the cabinets in particular leading to solid features projecting above the low wall and detracting from the relatively open and uncluttered appearance of the railings.
9. The appellant refers to existing tall street furniture, including streetlights, with similar vertical lines that will allow the proposal to visually assimilate with its surroundings. However, the proposal would be of a greater height and bulkier design than these features, and they do not therefore establish a context which would mitigate for the siting and appearance of the proposal.
10. There is an existing telecommunications mast and cabinets at the other end of the front boundary of the flats. However these features served to confirm the awkward relationship with the flats that can arise from development of this nature, even though the existing mast is of a more slimline design compared to the appeal proposal. For the reasons stated previously, the proposal would add unacceptably to the harm to character and appearance arising from the extant mast and cabinets.
11. Trees in the vicinity of the site would provide a degree of screening, and would be particularly effective in screening the proposal in medium to longer distance views along London Road. However, this does not negate the harm I have identified in relation to views of the site within its immediate context.
12. I conclude that the proposal would lead to significant harm to the character and appearance of the area due to its siting and appearance. The proposal would therefore be contrary to policies SP4 and DM10 of the Croydon Local Plan 2018 (the Local Plan) and policies D3 and D4 of the London Plan 2021 which seek to ensure that proposals are of a high design quality which respects, enhances and positively responds to local character and distinctiveness, and contributes positively to the public realm and townscape, amongst other things.

13. I find no conflict with policy DM33 of the Local Plan as this does not refer to matters of character and appearance in respect of new masts. However, this does not negate the harm I have identified on this main issue.

Highway Safety

14. The appeal site is located adjacent to the busy through-road of London Road. The highway in the vicinity of the appeal site is relatively complex, including a bus stop, junction, pedestrian crossing point, and access to the nearby block of flats. This part of London Road forms part of Transport for London's Road Network and is heavily trafficked.
15. The mast and cabinets would be sited away from the edge of the carriageway, at the back edge of a wide extent of footpath. However, the appellant has provided no substantive evidence in respect of how the proposal would be constructed and maintained. Given the sensitive nature of this busy extent of highway, it is reasonable to expect some evidence that the proposal would not result in an unacceptable blockage of the carriageway or the pavement during installation and maintenance. Such a blockage could lead to the deflection of highway movements, thereby increasing the potential for collisions between vehicles as well as with other highway users, including pedestrians, to the detriment of highway safety.
16. The pavement is very wide in this location, and it may therefore be possible for construction and service vehicles to be parked here without creating undue obstruction. However, taking a precautionary approach on a matter of public safety, the appellant has not demonstrated this.
17. The Council contends that the proposal could cause a distraction to drivers. However, the mast and cabinets would be set back some distance from the edge of the carriageway and based on what I have seen and read would not obstruct any visibility splays. The proposal would also be a static feature, and telecommunications masts and apparatus are not unusual in urban areas. On that basis, the proposal would not represent a distraction to drivers, even allowing for the sensitive and busy nature of the highway in this location.
18. Notwithstanding my comments in relation to the distraction of drivers, I conclude that it has not been demonstrated that the proposal would be sited in a manner where construction and servicing of the installation could be undertaken without harm to highway safety. The proposal would therefore be contrary to the highway safety and servicing considerations of policy DM29 of the Local Plan and policies T4 and T7 of the London Plan.

Other Matters

19. Paragraph 117 of the Framework sets out that evidence must be supplied to demonstrate that alternatives have been taken into consideration. The appellant has undertaken a sequential approach to site selection with all the alternatives discounted. The appellant sets out that no opportunities for site sharing are available, resulting in the erection of a new ground-based mast in a street environment being the only viable option.
20. However, even given the limited size of a 5G cell and the constraints of this urban area, I saw that there were a number of buildings which may be suitable for the location of antennas, and the appellant has not set out why these were discounted. Similarly, the alternative locations considered appear to relate only

to London Road, and there may therefore be sites located away from this main thoroughfare which would not lead to the harm arising from the proposal. On that basis, the appellant's sequential approach and site selection exercise would not appear to be suitably robust. In this respect, the proposal would not comply with policy DM33 of the Local Plan with regards to the consideration of existing buildings, masts or other structures.

21. The appellant states that the associated ancillary equipment cabinets are within the size limits to be classified as permitted development without prior approval and should not be considered as a reason for refusal. However, I am not persuaded that there is a greater than theoretical possibility that the installation of the cabinets on their own in this location may occur. My concerns in respect of the main issues and the siting and appearance of the installation as a whole remain.
22. I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure. The appellant emphasises that the 5G service provides faster speeds and handles more data. Furthermore, paragraph 114 of the Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported. These matters weigh in the proposal's favour. However, it has not been demonstrated that these benefits would not be possible on sites in the vicinity of the appeal proposal which are more suitably located in respect of character and appearance and potentially highway safety.

Conclusion

23. Based on the evidence before me, it has not been demonstrated that the appeal site is the only viable solution with regards to supporting high quality communications. I conclude that the benefits of the installation in terms of an enhanced telecommunications network would not outweigh the harm that I have identified. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR