



Appeal Decision

Site visit made on 30 November 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2023

Appeal Ref: APP/H5960/W/22/3299292

**Area of footpath, Roehampton Vale, Wandsworth, Greater London
SW15 3DW**

Grid Ref Easting: 521606, Grid Ref Northing: 172416

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/4720, dated 13 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is a 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet; and 3 further additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Though the site address in the banner heading above is based upon that stated on the application form, I have, in the interests of precision and clarity, added "Area of footpath" which is taken from the site address provided on the appeal form.
3. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording from that on the application form has been entered. The description of the development on the application form referenced the submitted plans only. Therefore, I have taken the wording from the appeal form which more accurately describes the development proposed.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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.

Planning Policy

5. Part 16 of the GPDO 2015 establishes that the proposal is permitted development. Furthermore, there is no requirement to have regard to the

development plan as there would be for any development requiring planning permission.

6. Nevertheless, Policy T2 of the London Plan, 2021, Policy IS3 of the Wandsworth Local Plan Core Strategy, 2016 (CS) and Policies DMS1 and DMS9 of the Wandsworth Local Plan Development Management Policies Document, 2016 are material considerations as they relate to issues of siting and appearance. In particular, they seek to ensure that, telecommunications development is appropriately designed and would not result in significant effects on the character or appearance of the area and that alternative options have been explored. Furthermore, these policies require that development proposals provide for a high quality layout which creates streets which meet the needs of people, promote permeability by foot and cycle, and which takes account of transport infrastructure. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on supporting high quality communications and promoting sustainable transport.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposed installation upon highway users with particular regard to pedestrian and cyclists and, 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

8. The appeal site forms a part of a pavement located beside the A3. Signage in the vicinity of the site specifies that the pavement is for the purposes of both pedestrians and cyclists. The section of the A3 road beside the site is quite wide, with two eastbound and two westbound traffic lanes. The local area is of mixed character, there are many houses nearby but also, open spaces, sports facilities, a supermarket, whilst university property is adjacent to the site.
9. Next to the proposed location of the telecommunications equipment is a road sign. The road sign itself is set above head height but it is supported by 3 columns which are fixed to the pavement. These supporting columns, in total, span a significant proportion of the pavement and therefore, the existing road sign presently causes some impediment to the passage of pedestrians and cyclists. The road sign can be passed on the road side although that would bring any pedestrians or cyclists closer to the heavily trafficked carriageways which provides for a hostile environment. To pass the road sign to the other side would involve leaving the pavement altogether and travelling on grass and therefore would be unsuitable. There is space to travel beneath the road sign and between the columns, more especially the wider of the two spacings.
10. The siting and footprint of the equipment proposed would narrow the width of the footpath. Its precise siting, however, so close to the existing road sign would cause a cumulative effect. The passing space available to pedestrians and cyclists travelling through the wider gap between the road sign columns would be narrowed. Consequently, this would cause greater conflict between the passage of cyclists and pedestrians at this point, or cause more pedestrians and cyclists to travel past the road sign on the road side and cause greater conflict at that point. Given the evidence before me, the nature and mix of land uses in the vicinity of the site and my observations on site, I have no reason to

conclude that the shared pedestrian and cycle path is not well used and that the forms of conflict I am concerned with would not regularly occur.

11. I note the appeal¹ relating to a telecommunications development in Penrose Street, Walworth. In that case it would appear that the footpath where the equipment would be sited was free of street furniture and that this formed part of the Inspector's reasoning as to why the development would not adversely affect pedestrian movement or safety. However, in this case I have identified harmful cumulative effects with existing nearby street furniture.
12. I have no substantive evidence before me in relation to what potential future transport improvements Transport for London may be proposing in the vicinity of the site. Neither do I have any information on how certain it may be that those improvements would be delivered and within what timescale. In such circumstances, I only attribute very limited weight to the effects that the development could have upon future transport improvements in the area.
13. Nevertheless, for the reasons given above, I conclude that the proposed development would create street clutter which would adversely affect the use of the shared pedestrian and cycle path and cause harm to highway safety.

Other Matters

14. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. These benefits, and general support for such proposals are clearly set out in the Framework. Furthermore, content within the CS does, in principle, support community services and infrastructure, including telecommunications development within the Borough. However, my decision must assess the acceptability of the siting and appearance of the proposal and I have identified harm in that regard.
15. I note the submissions of the appellant in regard to the visual effects of the proposal and thereby effects upon the character and appearance of the area. However, the Council did not refuse the development on visual grounds and, furthermore that the development may be acceptable in that regard does not outweigh the harm which I have identified in the main issues.
16. The proposal may also meet the International Commission guidelines on non-ionising radiation protection, and the proposal may not harm the outlook of nearby residential occupiers. However, an absence of harm in relation to these matters weighs neither for nor against the appeal proposal.
17. The appeal site may not have any particular land designation or identified sensitivity, however, despite this, I have nevertheless identified that harm to highway users would result.
18. I note that public representations have raised some objections to the development on other grounds, including the adequacy of consultation exercises on the proposal. However, given that I am dismissing the appeal, it is unnecessary for me to address these matters further.

Balance and Conclusion

19. Having regard to paragraph 117 of the Framework, the requirement for the development to be sited in the location and form proposed should be justified.

¹ Appeal Ref: APP/A5840/W/20/3254830

20. I acknowledge that the technical and operational requirements of the 5G service means that the target service area can be small. I also accept, again for technical and operational reasons, that the potential to erect antennas on existing buildings, masts or other structures can be limited and subject to constraints. However, very little evidence has been submitted in regard to why, in this case, this is not a suitable alternative. Although the submitted evidence depicts the locations of some existing telecommunications equipment in the area, an existing mast closer to the appeal site and beside the A3 to the north-east is not referenced. No detailed reference is made to existing buildings in the area which do include some non-residential buildings of quite considerable height. Such options have been discarded in favour of new ground-based options without evidence of clear or robust reasoning.
21. The proposed development would adversely affect pedestrian and cyclists' movements and in turn their safety. Limited justification for the discounting of alternative locations and development form has been provided, with little evidence submitted to support assertions that other options are unavailable or unsuitable. Accordingly, based on the evidence before me, the identified harm is not outweighed by the need for the installation to be sited in the proposed location.
22. For the reasons given above, the appeal is dismissed.

H Jones

INSPECTOR