



Appeal Decision

Site visit made on 5 December 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/F5540/W/22/3298923

Syon Lane street works, Hounslow TW7 5PN

- 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 CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01106/O/COM1, dated 14 January 2022, was refused by notice dated 14 March 2022.
 - The development proposed is Proposed 5G telecoms installation: H3G Phase 8 16m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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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 the proposed 5G telecoms installation: H3G Phase 8 16m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets at Syon Lane street works, Hounslow TW7 5PN in accordance with the terms of the application, Ref 01106/O/COM1, dated 14 January 2022, and the plans submitted with it including: 002 B; 215 B; 265 B; 304 B; 307 B.

Procedural Matters

2. 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.
3. Nevertheless, Policies CC1, CC2 and CC4 of the London Borough of Hounslow Local Plan 2015-2030 Volume One are material considerations as they relate to issues of siting and appearance. In particular, they seek to support high quality urban architecture, conserve and enhance the character and appearance of the area and conserve or enhance the significance of the borough's heritage assets. Similarly, the National Planning Policy Framework ('the Framework') is also a material consideration, and this includes a section on supporting high quality communications.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, with particular regard to whether it would preserve or enhance the character or appearance of the Osterley Park Conservation Area (CA) 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

5. The appeal site lies along Syon Lane, a lengthy road of a mixed character and appearance, with some two storey residential dwellings but also including green open land, large expanses of car parking and the access to a school site and a sport facility.
6. The Osterley Road CA Appraisal (2019) sets out that the CA's primary special architectural and historic interest derives from Osterley House, its landscaped grounds and rural setting. Given that the immediate area is mixed in terms of character and appearance, with open spaces around a school, car parking areas and terraced and semi-detached housing, the appeal site has a broadly neutral impact upon the significance of the designated heritage asset.
7. The proposed 16m telecommunications mast with ancillary equipment would be of functional appearance, typical of telecommunications equipment seen in urban and suburban areas generally. There are streetlamps and other vertical lighting columns nearby in addition to mature tree planting running along this side of Syon Lane. Nevertheless, the proposed mast would be taller than any of these existing vertical elements.
8. I understand that the design of the monopole is dictated by technical considerations, and its height is required to enable local provision and clear surrounding buildings. The cabinets, given their limited scale, would also not have a detrimental visual impact. However, the large size and utilitarian appearance of the proposed mast would appear out of scale and overly prominent from the residential properties directly opposite, and from some medium distance views, for example along the north along Syon Lane by the access to the school and sport facility. The roadside trees and fencing would offer some screening and natural backdrop but not to sufficiently reduce the visual impact of the mast, given its size.
9. I therefore conclude that the siting and appearance of the development would have a moderately harmful visual effect on the character and appearance of the local area. In introducing conspicuous development in an open area free from visible development, the mast would fail to preserve or enhance the CA. As such, the proposal would fail to meet the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
10. Given the localised impact of the development the harm it would cause to the significance of the CA is considered to be less than substantial. Having regard to the Framework, great weight should be given to a heritage asset's conservation. However, paragraph 202 of the Framework requires less than substantial harm to be weighed against the public benefits of the proposal.
11. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-

being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. There is clear need for, and importance of, the rollout of the 5G network.

12. The proposal would upgrade the digital telecommunications network in the local coverage area by allowing for additional coverage and capacity, including the introduction of 5G technology to the area. The introduction of 5G technology would contribute towards economic growth, social inclusion and well-being, with a key benefit for residents, businesses and visitors of the area being faster mobile download/upload speeds.
13. The requirement for the mast and equipment within the immediate locality is clear and the appellant sets out that no mast/site sharing opportunities or existing buildings/structures were identified, in accordance with Paragraph 117c of the Framework. The appellant has ruled out a number of alternative sites within the designated search area, which are discounted due to reasons such as proximity to residential properties and insufficient pavement widths. I have no reason to disagree with these conclusions.
14. The Council have not suggested any alternative sites and there is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered. I have no substantive evidence before me to suggest that there would be other more suitable sites within the target area. The lack of realistic alternative options to deliver improved coverage and capacity is therefore a consideration which weighs significantly in favour of the development.
15. In this case, I conclude that the siting and appearance of the proposed installation would lead to moderate harm to the character and appearance of the area and less than substantial harm to the significance of the CA. However, this harm would be outweighed by the combination of material considerations, the lack of alternative sites and the significant public, economic and social benefits that would stem from the proposed upgrade. In my view, the balance of considerations lies in favour of the positive benefits and on this basis the proposal is acceptable.

Other Matters

16. I acknowledge that concerns have been raised about potential effects on health and a third party has pointed to a number of studies and a legal challenge. 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. I do not consider that the evidence before me indicates that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
17. The Equalities Act 2010 sets out the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard, in particular, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a relevant protected characteristic and those who do not.

18. The principle of development is established by Part 16 of the Order. Potential impact upon health is addressed above and I note that the information submitted by the appellants sets out that prior consultation was carried out with the nearby school. Therefore, I am satisfied that allowing prior approval would not amount to discrimination for any protected group under the Equalities Act.
19. The mast and equipment cabinets would be sited on the grass verge next to the pavement. As such they would not impede users of the footpath and it is noteworthy that the Council have considered the proposal acceptable in this respect. Given its simple form and the straight nature of the road, I am also satisfied that it would not distract road users. The need for the development is addressed above, and the impact upon the natural environment is not substantiated. Consideration of this prior approval is limited to matters of character and appearance and highway safety. Finally, the appeal form is dated 15 May 2022, which is within 6 months of the date of the determination of the application and as such the appeal is valid.

Conditions

20. 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

21. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

B Phillips

INSPECTOR