



Appeal Decision

Site visit made on 6 December 2022

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 25th January 2023

Appeal Ref: APP/Q5300/W/22/3298867

Chequers Way street works, Chequers Way, Enfield N13 6DA

- 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 Enfield.
- The application Ref 21/04535/PAT, dated 30 November 2021, was refused by notice dated 18 January 2022. The development proposed is new 15m high Phase 8 3HG street pole and associated 3no. equipment cabinets (colour GREEN-6009) are proposed to be located on the pavement adjacent to Chequers Way, Bowes.

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 installation of a 15m telecommunications monopole with 3 cabinets and associated works at Public footpath adjacent 40 Chequers Way, London N13 6DA in accordance with the terms of the application, 21/04535/PAT, dated 30 November 2021, and the plans submitted with it and subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), 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.
3. I have used the description of the works and address as they appear on the decision notice issued on 18 January 2022 as they describe the development and its location more succinctly and clearly than those on the application form.

Planning Policy

4. The principle of development is established by the GPDO, and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. Nevertheless, Policies GG1, GG2, D4, G7 and T2 of the London Plan (2021), Policies CP30 and CP36 of the Enfield Plan Core Strategy (2010) and Policies DMD37, DMD38, DMD80 and DMD81 of the Enfield Development Management Document (2014) are material considerations, as

they relate to issues of siting and appearance. In particular, these policies seek to ensure all development is well-designed, minimise the impact of new telecommunications apparatus on visual amenity, safeguard the contribution of trees to the urban environment and safeguard pedestrian movement. The National Planning Policy Framework (the Framework) is also a material consideration, and it includes a section on supporting high quality communications.

Main Issues

5. The main issues in this appeal are the effect of the siting and appearance of the proposed installation, including any potential impact on nearby trees, on the character and appearance of the area, 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

Character and appearance

6. The appeal site lies close to a complex junction formed of a mini roundabout in close proximity to a "T" junction, where there is a cluster of ground floor commercial uses, in an otherwise residential area. The buildings around this junction are limited to two storeys in height. Nearby, on Tile Kiln Lane is a primary school, whilst to the north lies an industrial dairy.
7. There are some street trees of moderate size around the junction and on both sides of Chequers Way to the north and west. These, together with lower level planting in verges around the junction, help in softening the appearance of the area. The site therefore lies in an area that is suburban in appearance, with domestic scale buildings and an open, spacious character.
8. There are streetlights of slim design, about 8 metres high, along the south side of the western arm of Chequers Way and on both sides of the other streets. In the immediate vicinity of the site these are often interspersed with the street trees, and so are not prominent, whereas those to the south and west along Chequers Way are more noticeable features in the street scene. There are also telegraph poles of similar height to the street lighting columns in the vicinity, together with guard railing, low level railings, bollards, planting, a bench, litter bins and traffic signage and a telephone call box. However, street furniture is of a modest scale and not visually predominant in the area. The street scene is, instead, characterised by the domestic scale buildings, of traditional design, the street trees and the landscaping in the gardens and along the verges.
9. The proposed 15 metre monopole and associated cabinets would be located on a small area of feature paving on a wider area of footway that is formed by the layout of the carriageway in the vicinity of the junction. It would be close to some of the trees around the junction, and these would provide a degree of screening from certain vantage points close to the site to the north and west when in leaf. However the monopole would be highly visible at the junction, particularly during the winter when the trees are bare. At all times of year the upper part of the monopole would rise above the canopies.
10. Whilst there are streetlights in close proximity, they are of a much slimmer design, and only a little more than half the height of the proposed mast. The

- structure would be higher than any of the surrounding buildings and trees and would be much bulkier than any of the existing street furniture in the locality.
11. The equipment would, therefore, be a highly visible, prominent and incongruous feature that would be out of proportion with the surrounding domestic scale of the buildings and recessive street furniture. Its harmful visual impact would be readily perceived by residents, people visiting the commercial uses and the school in Tile Kiln Lane, and drivers passing through the crossroads.
 12. In longer views the lower part of the monopole and cabinets would be largely screened from view by existing development and planting. However, due to its height, and the generally domestic scale of the surrounding buildings, the upper part of the monopole would be visible over a wide area. I saw that some views of the upper part of the pole would remain from Chequers Way to the south and north and from Chequers Way/Tottenham Road to the west of the site. I saw that the upper part of the monopole would be largely unscreened and would form a prominent focal point in views from these areas and in all of these views it would be an alien feature in this otherwise suburban location. Consequently, its harmful impact would not be confined to the area immediately around the crossroads. As the lower part of the installation would be well-screened, the harm to the character and appearance of the area would be moderate in these longer distance views.
 13. In arriving at this conclusion, I have considered the appellant's choice of colours, and I consider that the colour of the mast could be controlled by condition. However, whilst some colours may reduce the prominence of the proposed development to a limited degree, they would not successfully conceal its height, bulk, and incongruous presence in these suburban surroundings.
 14. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area. Consequently, I must consider whether this harm is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.
 15. The proposed installation would be quite close to the street trees adjacent to the carriageway and no evidence has been submitted to demonstrate that there would be no harm to them. However, the pole would be outside the canopy spread of the trees, and excavations would only be required in a limited area, some distance from the trunks. In these circumstances, it is unlikely that significant roots would be encountered, and most of their rooting areas would be undisturbed. Further I note the comments of the Council's Arboricultural Technical Officer that, provided basic guidelines to which he refers are followed, the proposal should not be an issue in regard to trees. Based on the evidence before me, I conclude that it is unlikely that there would be significant harm to the trees that would result in their loss or decline.
 16. For the above reasons, I conclude that the proposal would result in significant harm to the character and appearance of the immediate area, and moderate harm in wider views. Consequently, I must consider whether this harm is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reason for installation, alternative sites and planning balance

17. As set out at paragraph 114 of the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Paragraph 117 of the Framework confirms that applications for telecommunications development should be supported with the necessary evidence to justify the proposal. This should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. It should also be noted that paragraph 118 of the Framework indicates that the need for electronic communication systems should not be questioned when determining applications.
18. The installation is required to fill a gap in 5G coverage in a largely residential area surrounding the site, where access to digital services is poor. Paragraph 115 of the Framework advises that the number of telecommunications masts should be kept to a minimum, consistent with the needs of consumers, the efficient operation of the network, and the provision of reasonable capacity for future expansion. It also encourages the use of existing masts, buildings, and other structures. However, it does recognise that new sites may be required for new 5G networks. The evidence indicates that the sequential approach to site selection set out in paragraph 117 of the Framework has been followed, and that there are no opportunities for erecting antennas on existing buildings, masts, or other structures.
19. It is contended that, within a constrained search area, the appeal site presents the only viable solution, bearing in mind technical requirements. The appellant's evidence highlights five alternative sites within the target coverage area that have been considered, but the reasons given for discounting them are brief. The sites referred to as D1 and D2 were rejected due to their location directly in front of residential properties. However, the siting of the monopole on the appeal site would be very close to a residential use at 40 Chequers Way, so would be no further from sensitive receptors than these alternative sites. Notwithstanding this, these two sites and that referred to as D5, would be in areas of a similarly suburban character, with domestic scale buildings, and would not, therefore represent less harmful locations for the installation. The site referred to as D4 was rejected because it would be close to Oakthorpe Primary School, and the proposal site is much further away from the school.
20. Site D3, whilst being in close proximity to an industrial unit, and the area having a more urbanised character as a result, was rejected as having too narrow a footway for the installation of the apparatus. The site referred to as D5 was rejected for having potential visibility splay problems. Having visited the alternative sites I have no reason to disagree with these conclusions.
21. The Weir Hall Ratepayers Association has suggested an alternative site for the installation further along Tottenham Road between Pasteur Gardens and the Tottenham Recreation Ground, which they identify as having a wider footway and being further away from properties. However, this site would lie on the outer limits of the search area for sites and would be much further away from existing sites to the east. On the evidence before me I cannot conclude that

this site would, therefore, provide a technically feasible alternative to the proposal site.

22. The appellant has satisfactorily demonstrated that the proposed development is necessary for coverage of the locality and therefore, on the evidence before me, I conclude that the appeal site represents the least harmful alternative for a new installation to provide 5G coverage for the area.
23. Given the specific circumstances of this appeal, I find that the proposed development's benefits in terms of providing improved digital connectivity should be given significant weight.
24. Taking all the above into consideration, I am of the view that taken together, very significant weight can be afforded to the public benefits of the proposed development, which would outweigh the significant harm to the character and appearance of the immediate area, and moderate harm in wider views.

Other Matters

25. 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.
26. Many local residents have raised concerns about obstruction of the footway resulting from the installation of the equipment and that this would adversely affect pedestrian safety, particularly on a footway used by schoolchildren travelling to and from the local primary school.
27. The proposed monopole and boxes would be located towards the back of the footway. They would have the effect of reducing the usable width of footway. However this would be a discrete effect and sufficient width of footway would remain for pedestrians, including those pushing a double buggy or using a wheelchair, to pass. Further, users of the footway at this location are constrained from entering the carriageway by guard rails and planting. I am, therefore, satisfied that the proposal would not result in significant additional delays or risk to pedestrians. I note that the comments of the Council's Senior Transport Planner generally accord with this view.
28. Concerns have been raised that the installation of the mast and its associated cabinets may adversely affect property values. However, that is not a matter which is before me.
29. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conditions

30. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic

communications code operators contained within it. 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 of the approval 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.

Conclusion

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

I A Dyer

INSPECTOR