



Appeal Decision

Site visit made on 3 January 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/Z3635/W/22/3299732

Thames Street, Sunbury-on-Thames, Spelthorne, Surrey, TW16 5QH,

- 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 Spelthorne Borough Council.
 - The application Ref MACH/22/00056/T56, dated 13 January 2022, was refused by notice dated 7 March 2022.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G Phase 8 19m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. The Council has referenced development plan policies in its decision notice. 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 be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the character or appearance of the Lower Sunbury Conservation Area;
 - highway safety in 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

5. The appeal site is located on a pavement fronting an apartment block. This eastern section of the Lower Sunbury Conservation Area (CA) while close to a local centre is predominantly a residential area. Immediately opposite the site is the green open space of Rivermead Island. This open space provides an attractive contrast with the tight grain of development to the north. It also allows views from the River Thames of the open space and the properties bounding Thames Street. Immediately west of the appeal site is the neat built form of Dax Court, described as an interesting typical interwar purpose-built block of flats. These attractive features strongly characterise the area and this positively contributes to the interest and significance of this verdant part of the CA.
6. Although the apartment block at the rear of the appeal site is a relatively modern infill, its simple low-rise form has a neutral presence in this location. I saw that the pavement in this area was uncluttered with street furniture generally limited to streetlamps. There were a few examples of cabinets in the wider area, but these were individual structures and therefore not prominent features in this street.
7. The proposed mast would be substantially taller than any existing feature in the immediate street scene, including streetlamps and the apartment block that would provide its backdrop. Although located towards the back of the pavement, it would have a relatively open position with a residential parking area to the rear and the road and open space to the front. There are trees in the immediate vicinity of the site, but these are few in number and located sporadically. They are also significantly smaller than the proposed structure. With these combined factors they would provide minimal screening, and the towering presence of the mast would be visible at all aspects in this sensitive setting. Moreover, although efforts have been made to locate the mast between Dax Court and Rivermead House, the incongruously large structure would be clearly visible from these surrounding properties. As such the discordant feature, with a distinct commercial quality, would not only dominate views along this straight stretch of road, but would encroach on existing vistas of the open space and the river in this part of the CA.
8. The base of the proposed mast would only be slightly lower than the railings that it would be located against. Alongside this would be three additional cabinets, one of which would match the height of the railings. That proposed cabinet and the base would be significantly larger than the few existing cabinets that I observed in the wider area, and the concentration of this equipment would be at odds with the generally uncluttered appearance of the pavement in the immediate area of the appeal site. As a consequence, the visually intrusive mast, in combination with the ancillary cabinets, would fail to blend with the existing style and scale of this street scene.
9. Painting the cabinets and base black may help these features assimilate with the adjacent railings, but this measure would not minimise the considerable visual intrusion of the pole and antennae. The mast would substantially alter the existing pleasant residential character of the area. In turn this would harmfully change how the special interest of this part of the CA, including the open space, is experienced, and appreciated.

10. The Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. For the reasons outlined above, the harmful visual effects resulting from the proposal would fail to preserve the character or appearance of the CA. This effect would be localised, and the harm caused to the significance of the CA as a whole would be less than substantial. However, in accordance with the Framework this harm needs to be weighed against the public benefits of the proposal.
11. The Framework states that advanced, high quality and reliable communication is essential for economic growth and social well-being. I have had regard to the Government's encouragement to local authorities¹ in helping to deliver the next generation of electronic communication network and the contribution that this proposal would make to achieving this objective. The proposal would in small part help address the national and local need for this infrastructure, and this would be a positive factor that weighs in favour of the proposal.
12. The Council has not identified harm with regards to residents' living conditions in this case. However, development should not result in such harm. Set back on the relatively wide pavement, the equipment would not interfere with pedestrian movement. However, this should also be an expectation of such development. These matters do not weigh in favour of the proposal for these reasons.
13. The public benefits outlined above would be limited, and they do not outweigh the great weight given to the conservation of the CA, and the less than substantial harm to its significance which I have identified. Therefore, the harm to the designated heritage assets would not have a clear and convincing justification in this case, as required by paragraph 200 of the Framework.
14. Accordingly, I find that the proposal would fail to preserve the character or appearance of the Lower Sunbury Conservation Area. In this regard it would conflict with Policies EN1 and EN6 of the Spelthorne Core Strategy and Policies Development Plan Document. (Core Strategy) These collectively require, amongst other matters, that proposals should respect and make a positive contribution to the street scene and character of the area and seek to preserve the character of conservation areas. It would also be contrary to the Framework regarding this matter.

Highway Safety

15. The Highway Authority has requested additional details regarding the proposal which include dimensions of the proposed equipment, a site specific risk assessment and plans showing the foundations of the structure.
16. The submitted plans show existing street furniture, and these are scaled drawings such that dimensions of the proposal can be ascertained. However, the appellant has provided limited information in response to the other requests made by the Highway Authority. In turn the Council has not identified specific harms in respect to highway safety, for example encroachment into visibility splays or proximity to junctions. That said, the Highway Authority has provided guidance on the technical approval of highway structures. I note that these requirements may affect the location and appearance of the equipment,

¹ Ref: Correspondences from the Department for Digital, Culture, Media and Sport and the Ministry of Housing, Communities and Local Government

and as outlined previously, these are matters on which this proposal can be assessed. The appellant has not addressed this issue in detail through this appeal process.

17. Therefore, given the limited information before me, it has not been demonstrated in this case that the siting of the proposed installation would not have a harmful effect on highway safety in the area. Although not determinative, it would be inconsistent with Policy CC2 of the Core Strategy and the Framework in respect to this issue.

Alternative Sites

18. I have found harm with regards character and appearance of the CA. Therefore, it is necessary to take account of alternatives in this case. While minimal evidence has been submitted on the matter, the problems with using existing masts or sharing masts have been explained. I also acknowledge that the new technologies may necessitate new structures. Furthermore, I see nothing which would lead me to question why the mast should be the height proposed. However, there are few details exploring the potential to site the mast on existing structures or buildings in this sensitive locale. Such an approach could work towards camouflaging and reducing the visual impact of the strikingly tall structure so that it would assimilate into the street scene and would not be visually harmful in this densely residential area and designated heritage asset.
19. I note the requirement for a small search area in respect to the 5G network and that this may necessitate development in sensitive locations. The appellant asserts that movement outside the search area applicable to this proposal is likely to lead to proliferation of masts. Be that as it may, the appellant has only submitted evidence relating to four alternative sites that were considered, and these are focused in one half of this search area. While noting the local school in the southeast corner of the search area, there is limited explanation regarding this focus.
20. Of these sites, three (D1, D3 and D4) were discounted on the basis that they were in residential streets and/or overlooked by residential properties. This is also the case with the appeal site. Moreover, unlike the appeal site, these discounted sites, although not confirmed by the appellant, appear to be outside of the Lower Sunbury CA. Even if this was not the case, these discounted sites, based on the information before me, are described as having similar conditions to that subject to the appeal site.
21. As this reasoning is not expanded on in the submitted evidence, I am unable to consider how this issue at alternative sites D1, D3 and D4 would weigh against the harmful issue identified at the appeal site. As such, the evidence before me does not demonstrate that locating the installation at the alternative sites would be more harmful in respect to siting and appearance, than the harm that would arise at the appeal site.
22. For these reasons, I have insufficient information to conclude that the appeal site would be the least harmful location in the search area and would be the only viable option. I am unable to conclude that the appeal site would be the least harmful option for this visually harmful development, and that there are no more suitable alternatives reasonably available in this constrained search area.

Other Matters

23. There is some local support for the proposal, but this in itself does not justify harm to the CA. My findings in this case have not been altered by this matter for this reason.
24. My attention has been drawn to the Council's duty to ensure that there is a robust and resilient telecommunications system in place. This is not in question in this case. In any event, for the reasons outlined above, the evidence before me does not demonstrate that this harmful proposal is the only means of securing this outcome.
25. The appellant also highlights an appeal decision allowing a mast in the south London area.² However, that site is a considerable distance from the appeal site. Moreover, issues relating to the historic environment and appearance were not raised by the Council in that case. It is not directly comparable to this appeal for this reason and so I give it little weight.

Conclusion

26. The proposal would contribute to the new 5G network. Weighed against this I find that the proposal would result in harm to the character and appearance of this area which is a designated heritage asset. Accordingly, the lack of clear evidence demonstrating that there are no other suitable alternatives available is an important factor in this case. I therefore conclude that the limited public benefits identified above would not outweigh the harm identified in this case and, in terms of siting and appearance, the appeal site is not acceptable. Therefore, the appeal is dismissed.

A J Sutton

INSPECTOR

² Ref: APP/A5840/W/20/3254830