The Planning Inspectorate

Appeal Decision

Site visit made on 28 February 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2023

Appeal Ref: APP/L5810/W/22/3306616
Adjacent to 234 Uxbridge Road, Hampton Hill, Hampton

- 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 Richmond Upon Thames.
- The application Ref 22/1967/TEL, dated 18 June 2022, was refused by notice dated 1 August 2022.
- The development proposed is '5G telecoms installation: H3G street pole and additional equipment cabinets'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is stated differently on each of the application form, appeal form and the Council's decision notice. I have based the address in the banner heading above on that stated on the Council's decision notice which I consider to most accurately describe the location of the site which is alongside Uxbridge Road rather than Burtons Road as suggested by the application and appeal forms. However, the site does not contain existing telecommunications apparatus and I have therefore omitted this description from the address.

3. The appeal relates to an application made pursuant to the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions include a requirement in certain cases to apply for a determination as to whether prior approval will be required as to the siting and appearance of the development.

4. In determining such an application, the provisions of Class A 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. I have determined the appeal on the same basis.

5. The provisions of Class A do not require regard to be had to the development plan. I have had regard to the policies of the development plan and related guidance referred to by the parties, as well as to 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

6. The main issues are:
   i) the effect of the siting and appearance of the development on the character and appearance of the area, including with regard to effects on the setting of 234 Uxbridge Road, a Building of Townscape Merit, and on Metropolitan Open Land;
   ii) the effect of the siting of the development on flood risk;
   iii) the effect of the siting of the development on biodiversity and ecology; and
   iv) if any harm would occur, whether this would be outweighed by the need for the development to be sited on the appeal site having regard to any suitable alternatives.

Reasons

Character and Appearance

7. The appeal proposes a street pole and associated cabinets on part of a wide section of footway adjacent to the garden of 234 Uxbridge Road, close to the intersection of Burtons Road with Uxbridge Road. Buildings near to the site are predominantly two-storey detached and semi-detached dwellings which face the street, although there is a tree belt along the north side of Burtons Road and Uxbridge Road close by, beyond which is Fulwell Golf Course which is designated as Metropolitan Open Land ('MOL').

8. The proposed street pole would be significantly taller than existing street lights near to the site. It would also be much wider, particularly the highest section where it would increase in diameter, adding further bulk.

9. At my visit, I noted an existing telecommunications mast and cabinets nearby on the north of Uxbridge Road to the other side of the Burtons Road junction. The development would not therefore be an alien feature in the area. However, the existing mast is positioned at the back of the footway as it runs alongside Uxbridge Road. It is also set among adjacent trees which I saw have canopies of similar or greater height, and which also spread closer to Uxbridge Road than the mast. Even though they were not in leaf at the time of my visit, the trees provide fairly significant screening of the mast from many viewpoints, and I would expect this to be much greater during periods when they are in leaf. These factors soften and moderate the visual impact of the mast, and it is a relatively discreet feature in the street scene.

10. In contrast, the appellant's plans indicate that the proposed street pole would be significantly taller than the closest trees within the garden to No 234. The larger trees along the edge of the MOL would provide a backdrop to it in views on the approach along Uxbridge Road from the south east. However, the slight bend in this part of Uxbridge Road and the position of the street pole within the footway mean that it would in effect be set forward of the line of the tree belt along the MOL. As a consequence, screening to views from the other direction along Uxbridge Road would be limited. Given these factors, the street pole would be much more visible than the existing mast. While the appellant has referred to the presence of three and four-storey flatted developments, I saw none in close proximity to the site. Irrespective of its colour, I consider that the height and bulk of the street pole would form a prominent feature projecting

above the closest tree canopy and dwellings in the vicinity, and it would be an unsympathetic and visually intrusive element in the street scene.

11. Moreover, No 234 is identified as a Building of Townscape Merit ('BTM'). In my view, the combination of the fairly substantial size of the building, its architectural detailing which is more decorative than most buildings nearby, and its generous plot which is enclosed by a brick boundary wall give this dwelling a sense of importance and status in the street scene which contributes to its significance as a non-designated heritage asset. The development would be in close proximity to No 234 and sited alongside its garden where I consider the substantial height and utilitarian appearance of the street pole would be dominant, and would diminish the BTM's impression of importance to the detriment of its significance.

12. The development would be apparent in views towards the adjacent MOL as well as in some outward views from it. However, it would be sited close to existing buildings with separation to the MOL provided by the garden of No 234 and Burtons Road. As a consequence, I consider that it would be appreciated as sitting within a different context to the MOL itself, and I find that the presence of the development in these views would not be unduly obtrusive, and there would not be meaningful harm to the setting or character of the MOL.

13. Nevertheless, I conclude for the reasons above that the siting and appearance of the development would harm the character and appearance of the area, and there would be harm to the significance of No 234 as a BTM.

14. Given my findings above, I see no conflict with Policy LP 13 of the Local Plan (adopted 2018) which indicates that visual impacts on the character and openness of MOL should be considered. However, the proposal would be contrary to requirements within Policies LP 1, LP 4 and LP 33 broadly for development that maintains the high quality character and heritage of the borough, that preserves and where possible enhances the significance, character and setting of non-designated heritage assets, and that minimises the visual impacts of telecommunications proposals, albeit that this conflict is not determinative. It would also be contrary to the Framework insofar as it seeks development that is sympathetic to local character and that conserves and enhances the historic environment.

Flood Risk

15. The appellant has not disputed that the appeal site is in an area of identified groundwater flood risk. The proposal would result in additional structures on the site, and no flood risk assessment or other substantive evidence has been provided to demonstrate that there would not be a consequent increase in flood risk at the site or elsewhere.

16. As a consequence, I have insufficient evidence to conclude that the siting of the development would not unacceptably increase flood risk in the area. I note that the proposal would also be contrary to Policy LP 21 of the Local Plan which, insofar as it is a material consideration, sets out that development should avoid, or minimise, contributing to all sources of flooding.

Ecology

17. Fulwell Golf Course is designated as an Other Site of Nature Importance ('OSNI'). However, the intervening garden to No 234 and the highway of

Burtons Road provide for some separation, and the development would be on part of a hardsurfaced footway close to streetlights and other street furniture. Furthermore, while birds and bats may be present in the vicinity of the site, there is no substantive evidence before me indicating that they would be adversely affected by telecommunications equipment in this location, either directly or indirectly.

18. As a result and given the nature of the appeal site, I conclude that the siting of the development would not be likely to cause unacceptable harm to biodiversity or the ecological interest of the OSNI. Insofar as it is a material consideration, the proposal would not be contrary to Policy LP 15 of the Local Plan which sets out that the borough's biodiversity will be protected and enhanced.

Alternative Sites

19. The development is proposed to meet operational requirements and provide new 5G coverage to the area around the appeal site, and I have no firm reason to doubt that it is of the minimum height and scale necessary to provide the required coverage. I also note the proposed dark green colour of the pole and cabinets which is intended to assist with assimilating the development into its surroundings.

20. Nevertheless, the Framework outlines that the number of masts should be kept to a minimum. It encourages use of existing masts, buildings and other structures, and where a new mast or base station is proposed, it requires evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored. Policy LP 33 of the Local Plan includes a similar requirement to demonstrate that all options for sharing of existing equipment, including with other operators, and erecting masts on existing tall buildings or structures have been fully explored before considering the erection of new structures or facilities.

21. The appellant advises that a sequential approach to site selection was adopted, involving a desktop survey and physical search of the target area to identify suitable locations, including the possibility of sharing existing telecommunications infrastructure. They state that existing telecommunications sites, structures and buildings which could potentially accommodate the necessary equipment were not identified, and detail six alternative new sites that were considered and discounted.

22. However, there is very little detail to explain the reasons behind the statement that existing mast sites are not capable of supporting additional equipment. While the appellant also comments that no mast/site sharing opportunities were identified, no information indicating existing sites that were considered has been provided. It is not therefore evident whether the mast that I saw very close to the site on Uxbridge Road was considered and discounted as a possible opportunity. Furthermore, the appellant's evidence does not refer to this mast even as a comparator structure in support of the proposal which I would have expected given its proximity and similar nature to the appeal development. This raises doubt in my mind that the existing mast here has been recognised and considered, and in the absence of firm evidence to the contrary, I am not sufficiently confident that potential for sharing existing structures has been fully explored.

23. In addition, the appellant's evidence does not explain the nature of the 'constraints of the search area and general makeup of the locality' which they assert led to the freestanding telecommunications pole with associated ground-based cabinets being quickly considered as the most appropriate solution. From the information provided, it is unclear to me to what extent any potential options to use existing buildings were sought and considered, and why a street pole with associated cabinets was deemed to be the only and most appropriate solution available.

24. I am not therefore satisfied that the information before me adequately demonstrates that a robust sequential approach to site selection has led to the appeal proposal. Accordingly, I am unable to conclude that there would be no preferable alternative option to deliver the required coverage.

Other Matters

25. The Framework states that applications for electronic communications development should be supported by the necessary evidence to justify the development. This should include the outcome of consultations with organisations with an interest in the development, in particular with the relevant body where a mast is to be installed near a school or college or within a statutory safeguarding zone surrounding an aerodrome or technical site.

26. The Council has not disputed the appellant's evidence that there are no schools or colleges within 200m of the site and that the site would not be within 3km of an aerodrome or airfield. Nor has it identified that the site would be within a statutory safeguarding zone surrounding an aerodrome or technical site. From the information before me, the development would not be installed near a school or college, and the consultation requirements as set out in the Framework would not be applicable. I have no details to indicate any consultation took place with ward members, but the Framework refers specifically to consultations with organisations. While I acknowledge that ward members may have an interest in the proposal, I am not persuaded that they would comprise an organisation in their own right. The appellant's submissions indicate that there was consultation with the Council, and there is no substantive evidence before me to the contrary.

27. Notwithstanding that the appellant has not detailed the outcome of consultations, I therefore consider that appropriate consultation has been carried out, and the proposal would accord with the Framework in this regard. The Council has referred additionally to the Telecommunications Equipment Supplementary Planning Document 2006, but I have not been directed to any relevant reference to consultation requirements within this guidance.

Planning Balance

28. I have found that the proposal would cause some harm to the significance of 234 Uxbridge Road through the development within its setting. In weighing applications that affect non-designated heritage assets, the Framework advises that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

29. The proposal would not affect the BTM itself, and would affect only a relatively modest part of its overall setting so that I consider the harm to its significance would be limited. Against this harm, the proposal would support the

Government's clear objectives to facilitate telecommunications coverage. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of electronic communications networks, including next generation mobile technology such as 5G, should be supported. Policy LP 33 of the Local Plan similarly advises that the enhanced connectivity of the borough will be supported. In my judgement, the economic and social benefits of improved connectivity are significant public benefits that would outweigh the limited harm to the significance of the BTM.

30. However, the siting and appearance of the development would also cause harm to the character and appearance of the area more widely, and there is insufficient evidence to demonstrate that the siting would not unacceptably increase flood risk in the area. While I acknowledge the support for communications infrastructure, including 5G networks, and the associated benefits, I am not satisfied that the evidence before me demonstrates there are no less harmful viable alternative locations to the appeal site. This weighs against the proposal, and I find in this context that the siting and appearance of the development would be unacceptable.

Conclusion

31. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR