



Appeal Decision

Site visit made on 7 March 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 April 2023

Appeal Ref: APP/H5960/W/22/3300015

Queens Circus, Battersea, London, SW8 4LL, 528655, 177021

- 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 London Borough of Wandsworth Council.
 - The application Ref 2022/0104, dated 13 January 2022, was refused by notice dated 2 March 2022.
 - The development proposed is proposed 5G telecoms installation: H3G Phase 8 18m 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 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 the appeal has been made on the same basis.
3. The Council refers to development plan policies in its refusal reason. 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 to 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.
4. I note that the Council is at an advanced stage in preparing a new Local Plan. There are no details of the Policies of its new Local Plan before me. I am however satisfied that it is acceptable for me to proceed to determine this appeal without these as I am not required by the GPDO to have regard to the development plan.

Main Issues

5. The effect of the siting and appearance of the proposal on the character and appearance of the area, with particular regard to the Grade II* Battersea Park and Battersea Park Conservation Area, and the convenient and safe passage of pedestrians; 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 is located in a busy and densely developed urban area, alongside a large roundabout with residential development nearby ranging from relatively modest three storey buildings to much larger blocks of flats including a 7 storey building immediately to the west of the site. The east side of the roundabout is dominated by the elevated railway line and its supporting structure. To the north and northwest of the site stands Battersea Park. Battersea Park is a Grade II* Registered Park and Garden.
7. The site is within the Battersea Park Conservation Area (the CA). The majority of the CA is taken up with the Park. It also includes a small margin of peripheral development that is important to the Park's setting. The Park has outstanding landscape interest and has an important relationship with the urban environment that surrounds and tightly defines it, as well as its open aspect towards the river. These characteristics contribute to the character and appearance of the CA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
8. The site has an urban backdrop with a high curved brick wall. Its curve follows the line of the 19th century dwellings to the east and the curved entrance of the Park to the north. These components contribute to the form of the road junction, which is a significant component of the Park's urban edge that contributes to its setting and the character and appearance of the CA.
9. At my visit I observed that the proposed location for the pole was reasonably discreet, set alongside the canopy of a substantial tree of a similar height and behind other smaller trees. It would also stand alongside and close to a building of a similar height. For these reasons I am satisfied that the structure would not appear overly prominent or intrusive in most general views of the area.
10. In terms of its impact on Battersea Park, owing to mature vegetation I could only see very limited views of the site from the Park at my visit. I note that the Council did not highlight any particular views in its submissions. Additionally, for the reasons already given, I am satisfied that the pole would not be visually obtrusive even where it can be glimpsed from the Park.
11. At close range the proposed installation would be more prominent. Two existing cabinets and a phone box exist already in this location. These structures are positioned neatly up against the wall. A further small cabinet stands away from the wall, but alongside an existing tree. For reasons that are not clear, the proposed structures would be erected significantly forward of the existing brick wall in an area of the footway that is currently clear. As a result, they would appear to ignore the existing layout of this stretch of footway and would look awkward and cumbersome, particularly as they would be of such a significant scale.

12. Additionally, the different appearance of the three cabinets, alongside the wrap around cabinet at the base of the pole, which would also be of a different design, would look ill considered and clumsy. Together with the existing items of street furniture, the forward position of the various structures and their mismatched designs would result in a cluttered length of footway that would cause localised harm to the character and appearance of the area, and subsequent harm to the character and appearance of the CA.
13. In summary, the siting and appearance of the proposal would have a harmful effect on the character and appearance of the area, including the CA. It would thus fail to meet the requirements of the LBCA. I have taken account of Policies HC1 and SI6 of the London Plan 2021 (London Plan), Policy IS3 of the Wandsworth Local Plan Core Strategy 2016 (Core Strategy) and Policies DMS1, DMS2 and DMS9 of the Wandsworth Local Plan Development Management Policies Document 2016 (DMPD). Together these Policies seek to ensure that proposals conserve the significance of heritage assets and ensure that digital infrastructure is well designed and suitably located. Given my findings on this main issue, the proposal would conflict with these Policies.

Pedestrians

14. Although the footway in the area of the appeal proposal is broad, it is already restricted by the existing trees and lampposts, which occupy a significant outer portion of its width. At my visit I observed that most people using the footway pass through the area behind the existing trees, which is currently free from obstruction. This area is away from the busy road and the most direct route for pedestrians to follow.
15. The proposed structures would stand within this area in a forward position away from the existing wall, and for a considerable length as they would be arranged in a row. This would present a significant obstruction to those using the footway. Additionally, owing to the height of the units and their forward position, they would create an unpleasant dead space alongside the wall that would give people an opportunity to loiter and thus may increase a risk of crime or anti social behaviour.
16. In summary, the siting of the proposal would have a harmful effect on the convenient and safe passage of pedestrians. I have taken account of Policies T1 and T4 of the London Plan, Policy IS3 of the Core Strategy and Policies DMS1, DMS9 and DMT1 of the DMPD. Together these Policies seek to ensure that proposals mitigate impacts on the transport network and are well designed to create streets that are safe and accessible. Given my findings on this main issue, the proposal would conflict with these Policies.

Suitable alternatives and heritage balance

17. Paragraph 117 of the Framework says that proposals should be supported by the necessary evidence to justify the proposed development. It states that in the case of a new mast evidence should be provided to demonstrate that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure. Policy DMS9 of the DMPD and Policy SI6 of the London Plan confirm this position.
18. The appellant has submitted a short list of alternative sites with very brief reasons given for discounting each site in favour of the proposal. With such

limited information it is difficult for me to make a proper assessment of these alternatives. Additionally, there is nothing before me to justify the proposed siting of the structures in a position forward of the existing wall. This is a site specific issue that is highly relevant to the matters of character and appearance and the pedestrian environment, and a matter that the Council has raised, yet it is not addressed by the appellant in the submissions before me.

19. For these reasons I am of the view that the appellant has not considered alternative sites fully, or justified the proposed layout, sufficient to satisfy the Framework, DMPD or London Plan. I am not therefore satisfied that the evidence before me is sufficient to justify the proposed siting, or that more suitable sites, that would cause less harm, are not available within the search area.
20. I have found that the proposal would harm the character and appearance of the CA. In terms of the Framework, the harm would be less than substantial. Paragraph 202 of the Framework establishes that any harm to a designated heritage asset should be weighed against the public benefits of the proposal.
21. The appellant states that there is an acute capacity need, and the Government's support for such proposals is clear. Paragraph 114 of the Framework establishes that decisions should support the expansion of electronic communications networks including next generation mobile technology. These matters weigh heavily in favour of the proposal, however the weight I give to them is reduced on the basis that the justification for the proposed solution is not robustly made for the reasons already given. On this basis I am not satisfied that the harms I have identified are outweighed by the public benefits.
22. In summary, I am unable to conclude that the proposal is the most suitable site to satisfy the identified need, sufficient to outweigh the harm arising from the siting and appearance of the proposal upon the character and appearance of the CA and the pedestrian environment. The appeal must therefore fail.

Other Matters

23. The Council also refers to harm to the visual amenities of neighbouring residents. The closest dwellings do not face directly towards the site, and the large tree to the south of the brick wall would significantly lessen its visual impact where it is seen. In any case, as I am dismissing the appeal, this is not an impact that would occur and therefore not a matter that I need to consider further.

Conclusion

24. For the reasons above, the appeal should be dismissed.

A Tucker

INSPECTOR