



Appeal Decision

Site visit made on 6 February 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 MAY 2023

Appeal Ref: APP/P5870/W/22/3299738

Love Lane, London Borough of Sutton, London SM3 9PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Sutton.
 - The application Ref DM2021/02394, dated 1 December 2021, was refused by notice dated 25 January 2022.
 - The development proposed is a 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (hereafter "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. The provisions of the GPDO do not require regard be had to the development plan in this case. I have therefore had regard to the policies of the development plan and the National Planning Policy Framework ("the Framework") only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area, and whether any harm caused is outweighed by the need to site the installation in the proposed location.

Reasons

Character and appearance

5. The appeal site lies within the wide central reservation of Love Lane, a dual carriageway avenue running approximately south-west to north-east through a

suburban residential area predominantly characterised by two-storey family houses. The central reservation is grassed, and contains numerous mature trees (some in clusters, others standing alone). The land rises gently to the north-east of the appeal site along Love Lane. South-west of the site, the central reservation ends at the mini-roundabout junction of Love Lane and Glastonbury Road, beyond which Forest Road is the south-western continuation of Love Lane. Forest Lane passes under a railway bridge a short distance after the roundabout, after which point it begins to rise gently. As well as the trees on the central reservation, there are a number of street lighting columns and telephone poles in the vicinity of the appeal site.

6. The proposed development is the installation of a 15m high¹ monopole mast with wraparound base cabinet, and three further cabinets of various sizes. The installation would be approximately on the centre line of the central reservation, some 20m or so north-east of the mini roundabout.
7. The nearby lighting columns are around 6m tall, and the telephone poles measure around 9m; the nearest housing has a height of around 7.5m. The proposed monopole mast would therefore be considerably taller than the nearest other street furniture and buildings. The appellant has referred to the presence of three-and four-storey flats within the vicinity of the site, although I was not provided with specific details and the only examples, I saw during my site visit were towards or on Green Lane, sufficiently distant to the north-east that they do not form part of the appeal site's immediate visual context.
8. I recognise that a mast must be high enough to ensure that it provides suitable coverage locally, and so that it can communicate with other nearby base stations on the same network; nevertheless, the height of the mast, as well as its utilitarian appearance, would make it a bulky and intrusive addition to the local streetscene. The mast and cabinets would be a grey colour, which would be unlikely to help them blend in with the trees and grassed central reservation on which they would be sited. The intrusiveness of the installation would be exacerbated by the long views towards and of the site which would be possible because of the topography when heading north-east along Forest Lane, or in either direction along Love Lane itself.
9. The appellant considers that the existing trees near the site would reduce the visual impact of the proposed installation. The appeal site is very close to a cluster of four trees which are sited on the northern side of the central reservation next to Love Lane's north-eastbound carriageway, and the Council is of the view that the proposed development would potentially be harmful to the nearby trees, with the threat of root damage possibly leading to the loss of one or more of the trees. The appellant's appeal statement did not specifically address the matter of potential damage to the trees, or how they would be protected if the development were to go ahead. Based on what I saw during my site visit, I consider that the trees make a strong positive contribution to the character and appearance of the local area. Damage to or loss of the trees would be harmful to visual amenity; it would also reduce or remove any screening of the mast which they might otherwise offer.

¹ The last line on page 3 of the Council's officer report referred to the proposal being for a 20m high monopole, though it is clear from the remainder of that report that the Council was correctly assessing the proposal as being for a 15m high mast.

10. I therefore conclude that the proposal would cause significant harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would conflict with Policies 23 and 28 of the 2018 Sutton Local Plan. Together, and among other things, these policies seek to ensure that all development makes a positive contribution to the streetscene, and that telecommunications development is sited and designed in a way which does not adversely affect the appearance of the surrounding area. The proposal would also not comply with the provisions of Paragraph 115² of the Framework, which require equipment for new telecommunications sites to be sympathetically designed.

Alternatives and other considerations

11. I note that the appellant considers the Council's decision was made without it having given appropriate weight to the economic and societal benefits of the scheme. The Framework supports the provision of high quality and reliable communications which it states are essential for economic growth and social well-being. Paragraph 114 states that planning policies and decisions should support the expansion of the electronic communications network, including next generation mobile technology such as 5G.
12. The supporting information submitted with the application indicates that the proposed development would fill a substantial "hole" in the operator's network coverage in the local area; it would also assist in the roll out of 5G technology in accordance with aspirations in the Framework. The appellant's evidence explains that none of the "sequentially preferable" options set out in the Framework is available, and that the search area for a new mast is tightly constrained by the need both to provide the desired expansion in coverage, and to be sufficiently distant from other base stations serving the same operator so as not to cause interference. I am satisfied that the appellant has demonstrated that there is an identified need for the proposed development to be located somewhere within the search area.
13. I also recognise that telecommunications installations are now a common feature of the built environment, even in pleasant and leafy suburban areas. However, this is not a consideration which means that any such scheme is acceptable, and an appropriate balance must be struck.
14. The appellant has outlined four alternative sites that were considered but discounted for a variety of reasons such as the width of pavements, and proximity to houses (and their driveways), a school, and the railway line. However, little detail (such as plans or other illustrations showing the implications of the constraints identified) was put forward to substantiate the assertion that the appeal site would be more suitable than the alternatives.
15. I note that the Council did not itself put forward any alternatives which it considered would be preferable to the appeal site. However, in walking around the area I saw that there were other places (such as adjacent to the V-shaped grassed area between Love Lane and Glastonbury Road immediately north of the appeal site, or at the open corner by the cul-de-sac spur serving Nos 73 to 99 Glastonbury Road a short way to the north) which do not appear to have

² The Council's decision notice referred to Paragraph 113 of the Framework, although as this relates to travel plans and transport assessments it was quite clear to me that this reference had not taken account of changes to the Framework (including the renumbering of otherwise unchanged paragraphs, as in this case) made in July 2021.

been considered but which may be free of the constraints which led to the four alternatives considered being discounted; it is also possible that an alternative siting could be found even within the Love Lane central reservation which would be both less intrusive and have less potential for harming established trees than the appeal site.

16. It is, of course, inevitable that almost any site chosen for a telecommunications mast within a residential area would be visually intrusive to some extent or other. It is also important to be clear that in determining this appeal I have not attempted to fully appraise other sites which had not been considered by either party; this would be a matter for a future decision maker in the event of an alternative proposal coming forward. However, on the balance of the evidence which has been put before me, I am not satisfied that all reasonable alternative sites, which may be less harmful than the appeal site, have been considered.

Conclusion

17. I acknowledge that the proposal is necessary to expand mobile communications (including 5G) coverage in the area, and I attach significant weight to the economic and social benefits provided by improved communications infrastructure. However, on balance I find that these benefits would be outweighed by the significant harm that the proposal would cause to the character and appearance of the area.
18. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector