



Appeal Decision

Site visit made on 23 May 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2023

Appeal Ref: APP/H5960/W/22/3312649

Mitcham Lane Street Works, Mitcham Lane, London SW16 6NU

- 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 Mr Cameron Wilson of CK Hutchison Networks (UK) Limited against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2022/2974, dated 15 July 2022, was refused by notice dated 5 September 2022.
 - The development proposed is 5G telecoms installation: H3G 17m street pole with additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The principle of development is established by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of the GPDO require the local planning authority to assess the proposal solely based on its siting and appearance, taking account of any representations received. I have determined the appeal on the same basis. 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 nevertheless had regard to the policies of the 2021 London Plan, the 2016 adopted Wandsworth Local Plan Core Strategy (the CS) and Development Management Policies Document (the DMP), 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.
3. The Wandsworth Local Plan (the emerging LP) has not yet been adopted, and so while it appears to be at a very advanced stage in its preparation, I cannot yet accord it full weight. When referring to the emerging LP policies, I have referred to the Wandsworth Publication Version Local Plan 2022, as referred to in the Council's reasons for refusal (RfR).

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposal on the character and appearance of the area including nearby trees, and the safe use of the highway for pedestrians; and

- if there is any harm, whether this would be outweighed by the need for the installation to be sited as proposed, having regard to the potential availability of alternative sites.

Reasons

Character and Appearance

5. The appeal site would comprise part of the pavement in front of a small shopping parade with residential uses above. The properties across Mitcham Lane, which is a well-used road featuring two-way traffic, are similar in nature. The wider area comprises mainly two storey residential properties.
6. Mitcham Lane slopes upwards from the south west towards the site and it is visible on the approach from both directions. Vertical structures in the form of streetlights of regular height and spacing are apparent in the street scene. There are several street trees near to the site which provide a verdant character to an otherwise built-up street scene in the immediate vicinity and therefore contribute positively to the character and appearance of the area.
7. The height and width of the monopole has been reduced to the minimum necessary for its purpose of deploying 5G services. However, it would appear as an obviously engineered feature of a greater scale and bulk than the existing vertical structures. It would stand out as a prominent element in the street scene irrespective of whether it would be in the location shown on the elevation plan or site plan. The height of the monopole would be further emphasised by the topographic incline when approaching from the south west.
8. The nearby street trees would provide some limited screening to the lower parts of the installation from certain vantage points but not from the main public views along Mitcham Lane, at its junctions with roads in the vicinity or from nearby residential properties, in particular those above the commercial premises behind the site. In such views, the monopole would be highly prominent.
9. I appreciate that efforts have been made to avoid locating the proposal within designated areas. However, the monopole's height and positioning would stand out as a dominant and incongruous feature. Because of this, the focus of nearby residents and passers-by would likely be moved from a shopping parade fronted by a line of trees to the dominant monopole.
10. The proposed cabinets and monopole would introduce additional structures to those already located on the pavement. This would lead to a more cluttered appearance to this section of highway, which would be experienced in views by both passers-by and occupiers of the nearby properties that have a view of the site. The various elements of the proposal alongside the existing features on the pavement would detract from the area's public realm.
11. The appearance of the proposal would not be mitigated by painting the equipment grey, which would not alter the fundamental issue of its scale, height and siting.
12. The elevation plan shows an equipment cabinet on or very close to one of the street trees. The site plan shows the cabinets and monopole as very close to two of the trees. Damage to the roots of the trees can affect their health and therefore longevity. No arboricultural impact assessment has been submitted to

assess the potential effect on the street trees through works within their root protection areas. It is not therefore possible to conclude that the trees would not be unduly harmed during the installation of the proposed equipment. Although the trees are not protected, they nevertheless make a positive contribution to the character and appearance of the area. A loss of tree cover would diminish the amenity value of the line of street trees and therefore add to the harm that would be caused to the character and appearance of the area.

13. I therefore conclude that the proposal would cause harm to the character and appearance of the area, including nearby trees. Consequently, insofar as they are a material consideration, the proposal would be contrary to Policy IS3 of the CS and Policies DMS1, DMS9 and DMO5 of the DMP which, in summary, require proposals to respect local character and avoid development that would result in damage to or loss of trees of amenity value. There would also be conflict with Policies LP1, LP2, LP22 and LP56 of the emerging LP, which includes similar requirements, and the design objectives of the Framework.
14. Although reference is made in RfR one to Policy SI6 of the London Plan, this policy sets out supportive criteria for digital connectivity infrastructure rather than specific references to protecting the character and appearance of an area. I therefore find no conflict with this policy.

Highway Safety for Pedestrians

15. The overall width of the pavement where the proposal would be located is relatively wide. However, although the elevation plan and site plan show the equipment in different locations, there is nevertheless a large amount of street furniture present in the vicinity. This includes a waste bin, existing cabinet, telephone kiosk, advert sign, an advertising kiosk, post box, a line of street trees, several bollards adjacent to the highway, streetlights and a braille crossing. In addition, the hard surfaced area in between the parade of shops and the pavement, including behind both locations shown on the plans, is used as a vehicle parking area.
16. The proposal would materially add to this street clutter, increasing the number of obstacles that pedestrians would need to manoeuvre. It would therefore significantly impede the walking route for pedestrians in what appears to be quite a well-used area of pavement. Overall, the proposal would obstruct pedestrian movement and hinder the free flow of pedestrians, to the detriment of pedestrian safety.
17. Consequently, I conclude that the proposal would have an unacceptable effect on the safe use of the highway for pedestrians. Therefore, insofar as they are a material consideration, the proposal would be contrary to the highway safety requirements of Policies T1(B), T2(D) and T4(E) of the London Plan, Policy DMT1 of the DMP and the Framework. There would also be conflict with Policy LP49 of the emerging LP which includes similar requirements.

Alternative Sites

18. Paragraph 115 of the Framework states that the number of communications masts and the sites for such installations should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. It encourages the use of existing masts.

19. The appellant has investigated alternative sites as required by paragraph 117 of the Framework. As described in the appellant's Site Specific Supplementary Information and Planning Justification Statement and appeal statement, six other locations have been discounted for a number of reasons.
20. However, this information contains minimal details and limited supporting information to fully corroborate that an exhaustive search of all possible sites was undertaken, or that potential alternatives were discounted on reasonable grounds. For example, some sites have been discounted due to their proximity to residential properties. The appeal site is close to residential properties, but the appellant does not advise the detailed parameters on which this conclusion is drawn or why the appeal site is deemed acceptable in this regard and others are not. Other reasons for sites being discounted include pavement width and proximity to a railway line, without providing details or the extent of the constraints.
21. I find the level of detail for each alternative site is somewhat limited and the reasons for dismissing them lacks detailed justification. This makes it difficult to understand how or why the choice of the appeal site was arrived at. Hence, I am not satisfied that a robust review of possible site options within the search area has been conducted.
22. I appreciate that the search area is constrained and that its residential character further restricts potential sites. I also attach positive weight to the benefits that the roll out of 5G coverage would provide, as set out in the Framework and Policy SI6 of the London Plan.
23. However, the evidence does not convincingly demonstrate that the appellant has properly explored all the potentially available alternative options. Consequently, on the evidence before me, I find that it has not been proven that less harmful alternative sites are not available.

Other Matters

24. The Council identifies that the Grade II listed Mitcham Lane Baptist Church is around 140 metres to the north east of the site. Given the upward slope of Mitcham Lane between the site and the listed building and the separation distance, the proposal would preserve its setting and would not harm its significance as a designated heritage asset.

Conclusion

25. For the above reasons, having had regard to all matters raised, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR