



Appeal Decision

Site visit made on 16 May 2023

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/L5810/W/22/3298695

Twickenham Road, Richmond upon Thames, Grid Ref Easting: 517292, Grid Ref Northing: 174929

- 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 EE (UK) Ltd against the decision of the Council of the London Borough of Richmond Upon Thames (the Council).
 - The application Ref: 21/3348/TEL, dated 24 September 2021, was refused by notice dated 16 November 2021.
 - The development proposed is for the installation of a 10m black monopole with tri-antenna with 2 equipment cabinets and associated ancillary works thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of consistency, I have, in the banner heading above, used the address of the appeal site as contained within the Appeal Form.
3. The provisions of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) (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.
4. 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, supplementary guidance, and the National Planning Policy Framework ('the Framework') only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues in this appeal are:
 - The effect of the siting and appearance of the development on the character and appearance of the area, including with regard to Metropolitan Open Land (MOL), the significance of the Old Deer Park Conservation Area (the Conservation Area), the Royal Botanic Gardens Kew World Heritage Site, and nearby Listed Buildings,

- The effect of the siting of the development on biodiversity; and,
- Whether appropriate consultation has been carried out.

Reasons

Character and Appearance

6. The proposal seeks to erect a telecommunications mast on an area of land situated on the eastern side of Twickenham Road and adjacent to Twickenham Bridge. The site is located within the Conservation Area and within the buffer zone for the Royal Botanic Gardens Kew World Heritage Site, and comprises land designated as MOL.
7. The significance of the Conservation Area derives from its position formerly being part of the Royal Gardens and Park of the Tudor Palace of Shene, with Old Deer Park being a well-defined and extensive area of open space, which is listed on the Register of historic Parks and Gardens, with that open space contributing to the designation as MOL.
8. The Royal Botanic Gardens at Kew is a designated World Heritage Site (WHS), and the site is located within its buffer zone. The WHS designation highlights the international importance of places and their significance as a heritage asset. Whilst I have not been provided with any supporting information regarding the WHS, I consider that the attributes of the WHS Outstanding Universal Value derive from its setting amongst parks and estates along the Thames, historic landscape gardens which includes work from internationally renowned landscape architects, and its housing of plant collections which have contributed to advances in botany and ecology.
9. In addition to the above, the proposal would also be positioned adjacent to the Grade II Listed structures at Twickenham Bridge and Richmond Railway Bridge which cross the Thames. The significance of Twickenham Bridge derives from its architectural quality including distinctive ornamentation and due to it being the first example of a large three-hinged concrete arch bridge to be built in this country. Richmond Railway Bridge also has special architectural historic interest as an early railway structure.
10. Further to the above identified heritage assets, the proposal would also be located close to Grade II Listed Obelisks within Old Deer Park and near to the Grade I Listed building at Asgill House. The significance of the listed Obelisks derives from their architectural interest as monuments and historic interest as part of their commission for the former Royal Observatory. The significance of Asgill House lies in its architectural form and quality and from its historic use as a retreat for a former Lord Mayor of London.
11. The proposed monopole would be located adjacent to the highway and, whilst it would be commensurate in height to existing lampposts that line the highway, it would be appreciably wider than the lighting columns. While roadside trees would partially screen the proposal when in full leaf, the proposal would be visible in views from Twickenham Bridge and Old Deer Park and from within the WHS buffer zone. Despite the presence of trees and other nearby street furniture, the width of the proposal would draw the eye, appearing as an incongruous addition to this sensitive location, adding to the concentration of structures that would result in visual clutter, diminishing the openness of the MOL, adversely affecting the character and appearance of the Conservation

Area and the WHS as well as being harmful to the setting of Twickenham Bridge.

12. Notwithstanding the above, on account of separation distance and intervening natural features, I find no harm to the setting of the listed Obelisks, Asgill House or to Richmond Railway Bridge.
13. Overall, whilst the proposal would contrast harmfully with its immediate surroundings in terms of width which would make it prominent in nearby views and incongruous in its setting, in respect of its height it would not be harmful. Consequently, I consider the harm to the Conservation Area, Twickenham Bridge and the WHS would be less than substantial in terms of the Framework.
14. The Framework makes clear that any harm to the significance of designated heritage assets should require clear and convincing justification. Paragraph 202 of the Framework provides that where a proposal would lead to less than substantial harm to the significance of designated heritage assets, that harm should be weighed against the public benefits of the scheme including, where appropriate, securing optimum viable use.
15. The Framework supports high quality communications and notes that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. Moreover, I acknowledge that policies and decisions should support the expansion of electronic communications networks, including 5G mobile technology. I appreciate the public benefits of the proposal with regards to the wider economy, improved connectivity for businesses and other sectors, as well as use by emergency services and ensuring continuous coverage along the nearby railway line.
16. I have noted the contention that consideration of alternatives is not a matter that can be considered in the determination of an application for prior approval. Nonetheless, the Appellant has provided details of a number of alternative locations which were considered and discounted. However, the information provided in that regard is somewhat limited and vague in terms of, for some examples, the specific location or characteristics of those alternative positions, and in terms of impact on residential areas. Therefore, in my view, whilst there would be public benefits arising from the proposal as described above, it has not been satisfactorily demonstrated that the site is the most suitable option for siting of the proposed monopole, which consequently reduces the weight that can be given to the benefits of the proposal at this location.
17. As such, I find that the public benefits of this proposed monopole would not be sufficient to outweigh the less than substantial harm to the character and appearance of the Conservation Area and the WHS and to the setting of Twickenham Bridge, that I have identified would result from the siting and appearance of the proposal and to which I attach great weight in accordance with the provisions of the Framework.
18. It is acknowledged that the appeal was supported by additional information regarding impact on trees. In that respect, the evidence before me indicates that the proposal would not impinge upon the root protection areas for nearby trees and the scheme recommends that such trees are protected during construction of the proposal.

19. However, in respect of those trees that make a positive contribution to the character and appearance of the surrounding area and Conservation Area, I have little information which confirms that future pressure for additional pruning or removal of those trees in order to maintain line of sight for adequate and effective signal propagation free of obstruction, would be unlikely. Should such pruning or other management of the trees become necessary, it would reduce the screening provided by those trees, exacerbating the harm that I have identified would be caused to the character and appearance of the area. Furthermore, such works may result in the proposal becoming more prominent in views from within the setting of Asgill House and Richmond Railway Bridge, drawing the eye away from those heritage assets and thereby adversely affecting the setting of those listed structures.
20. I conclude that, insofar as they are a material consideration, the proposal would fail to accord with the aims of Policies LP1, LP3, LP6, LP13, LP16 and LP33 of the London Borough of Richmond Upon Thames Local Plan (July 2018) (the Local Plan), Policies HC1, HC2, G3 and G7 of the London Plan (March 2021) (the London Plan), the Framework and the Telecommunications Equipment Supplementary Planning Document. Together, and amongst other matters, these require that proposals are compatible with local character, takes into account impacts on the character and openness of MOL, conserves the significance of heritage assets, conserves the WHS and protects existing trees. It would also conflict with the statutory duties to have special regard to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation Area.

Biodiversity

21. Amongst other things, Policy LP15 of the Local Plan provides that the protection and enhancement of the borough's biodiversity will be achieved by protecting biodiversity in, and adjacent to, the borough's designated sites for biodiversity and nature conservation importance (including buffer zones), as well as other existing habitats and features of biodiversity value. Policy G6 of the London Plan concerns biodiversity and access to nature and provides that Sites of Importance for Nature Conservation (SINCs) should be protected.
22. In terms of its location, it is not entirely clear from the information provided whether the site is situated within or adjacent to a SINC. Nonetheless, the information provided by the Appellant maintains that the proposal, positioned on a highway verge that does not have any demonstrable nature conservation interest, would not result in harm to biodiversity of the SINC. No further information which specifically counters or brings into question the Appellant's contention, has been provided by the Council. Given the scale of the proposal and its likely location at the periphery of the SINC, without any specific information as to why such a proposal would impact on biodiversity, insofar as they are material considerations, I find that the proposal would not fail to accord with the provisions of Policy LP15 of the Local Plan nor in respect of Policy G6 of the London Plan.

Consultation

23. Paragraph 117 of the Framework makes clear that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development including, inter alia,

the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college. The supporting text to Policy LP33 of the Local Plan similarly outlines that the outcome of consultation with organisations with an interest in the proposed development (e.g. if a mast is to be installed near a school) is necessary.

24. The submissions indicate that there are three schools within the surrounding area, and that no consultation with those institutions had been made. The evidence before me identified that these schools are located between 900m and 1200m from the site. In these respects, in essence the Council considers that those identified schools are near to the development site and therefore consultations should have been carried out, whereas the Appellant considers that, given the distances involved, those schools could not be defined as being 'near' to the site.
25. No definition of what is considered to be 'near' is provided within Policy LP33 of the Local Plan nor within the Framework. As such, in my view, and given the separation distances and intervening features, I consider the proposed development would not be near a school and so the consultation requirement as set out in the Framework and within Policy LP33 of the Local Plan does not apply.
26. For the above reasons, I conclude that an appropriate level of consultation has been carried out. Consequently, and in this regard, the proposal complies with the requirements of the Framework.

Other Matters

27. My attention has been drawn to two appeal decisions which concern telecommunications monopole proposals at Brighton and at Colney Hatch Lane London. Whilst I have noted the details provided, there is very limited information before me regarding those proposals. As such and in any case, I have determined this matter on its own merits.

Conclusion

28. Although I have found that the proposal would be acceptable with regards to biodiversity and that an appropriate level of consultation has been carried out, it would lead to less than substantial harm to designated heritage assets. That identified harm is not outweighed by the public benefits of the proposal.
29. For the above reasons, I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR