



Appeal Decision

Site visit made on 5 June 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2023

Appeal Ref: APP/Z5630/W/22/3299291

Palace Road, Surbiton, London, KT1 2BF

Easting 517764, Northing 168121

- 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 & 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 Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03827/TEL, dated 1 December 2021, was refused by notice dated 25 January 2022.
 - The development proposed is described on the application form as 'proposed 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.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance. My determination of this appeal has been made on the same basis.
3. The Council has referred to several development plan policies in the reason for refusal. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. I have nonetheless had regard to the development plan policies only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including the Riverside South Conservation Area.

Reasons

5. The appeal site is a section of the footway on the southern side of Palace Road close to the junction with Portsmouth Road, a short distance to the east of the River Thames. The surrounding area is of mixed character with mainly residential properties and some commercial premises, including the adjacent

car wash facility to the south. Properties within the surrounding area range from two storey detached dwellings to apartment blocks of three storeys and above. A number of items of street furniture are evident within the immediate area, including street lighting columns, road signs and a bus shelter.

6. The site is within the Riverside South Conservation Area (the CA). The significance of the CA is partly derived from its linear nature along the eastern side of the River Thames, which forms part of the setting of Hampton Court Park on the opposite bank, the many nineteenth century buildings of architectural interest and examples of Victorian public works at Queens Promenade and Seething Wells Water Works. There is a notable spacious and verdant character in this part of the CA. In this context, the appeal site together with the generous width of the carriageway and pavements along Palace Road, proximity to the open spaces along the River Thames and adjacent trees, make a positive contribution to the CA's significance.
7. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
8. The proposal is intended to provide new 5G network coverage to the area in and around Palace Road and Portsmouth Road. The proposed pole and cabinets would be positioned at the back edge of the footway close to a low brick wall with a line of trees and then a large area of hardstanding beyond. The proposal would be of a functional appearance and coloured green.
9. Whilst there are other vertical features within the surrounding area, given the scale and height of the pole, it would be much taller than the street lighting columns and adjacent trees. Although there are some taller blocks of apartments relatively close by, in the context of its immediate surroundings the monopole would appear disproportionately high and dominant when viewed above the adjacent trees. The width of the pole, particularly the antennas at the top, would draw the eye, and result in the proposal appearing as a bulky and top-heavy structure at odds with the more slimline street lighting columns.
10. I am mindful that the height of the pole must be sufficient to enable local provision, but its size and utilitarian appearance would appear as an overly prominent, dominant and incongruous feature. Due to its height and siting, the pole would be highly prominent from the junction of Palace Road and Portsmouth Road, and it would also be partially visible from the Queens Promenade to the west.
11. The adjacent trees would filter some views of the proposal, but they would not sufficiently mitigate the harm due to the height of the pole, and the trees would provide only limited screening during the autumn and winter months when leaf cover is reduced. Street trees along Palace Road would also provide some screening in views east Palace Road but would not sufficiently reduce the visual impact of the proposal.
12. The appellant indicates that the proposal would be coloured green, however this would not sufficiently mitigate the adverse impact of the proposal, which would arise chiefly as a result of its siting, scale and utilitarian design and appearance. The appellant contends that the car wash and other developments to the rear of the site are arguably more detrimental to the appearance of the

area. However, that does not alter my view that the proposed pole would be harmful to the character and appearance of the area, including the CA.

13. The development would include ground-based equipment cabinets grouped together at the base of the pole. These would be of modest size and minimised in their extent. As such, the cabinets would not result in an undue proliferation of street furniture or a visually cluttered street scene. They would not have an adverse effect on the character or appearance of the CA.
14. Overall, however, there would be significant harm to the character and appearance of the area due to the siting and appearance of the pole. The proposed development would also fail to preserve the character and appearance of the CA. Insofar as they are a material consideration, the proposal would be contrary to the aims of policies CS8, DM10 and DM12 of the Royal Borough of Kingston upon Thames Core Strategy 2012 which require, amongst other things, that structures including telecommunications equipment should not be visually intrusive and preserve or enhance heritage assets. The proposal would also conflict with section 72 of the Act and the National Planning Policy Framework (the Framework) which seeks to conserve and enhance the historic environment.

Other Considerations

15. Paragraph 117 of the Framework states that proposals for electronic communications development should be supported by the necessary evidence to justify them, including as regards potential alternatives, notably the possibility of erecting antennas on an existing building, mast or other structure.
16. The appellant has undertaken a sequential approach to site selection with the other alternative sites having been discounted. The reasons for discounting the alternatives are brief and refer in vague terms to proximity to residential properties and a school, narrow pavements, and possible obstruction of visibility sightlines. There is little detail on how the search for alternative sites was carried out or how sites were selected for further consideration. Consequently, the assessment of alternative sites lacks sufficient detail, and the scheme before me is also close to residential properties including those on Home Park Walk. The appellant claims that no mast/site sharing opportunities or existing buildings/structures were identified and that, as a consequence, a new base station has been sought. However, there are several high buildings within relatively close proximity of the site and there is no evidence of surveys of any buildings having been undertaken which conclude that they cannot accommodate such equipment.
17. For the above reasons I cannot be satisfied that alternative sites have been comprehensively assessed or that the appeal site represents the least harmful option available in the area to meet the additional coverage and capacity requirements and so secure the same public benefits.

Other Matters

18. One of the other concerns raised by interested parties was about the potential effects on health. However, the appellant has provided a certificate which confirms that the proposal has been designed to conform with the guidelines published by the International Commission on Non-Ionizing Radiation Protection. In these circumstances, the Framework advises that health

safeguards different from the International Commission guidelines for public exposure should not be set.

Planning Balance and Conclusion

19. The harm to the character and appearance of the CA would be localised and would be 'less than substantial' within the meaning of the Framework. This is a matter of considerable importance and weight. Paragraph 202 of the Framework nevertheless requires such harm to be weighed against the public benefits of the proposal.
20. Paragraph 114 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. The proposal would provide significant economic and social benefits through the upgrade to digital telecommunications in this part of the Borough allowing for additional coverage and capacity, including the introduction of 5G technology to the locality. This weighs significantly in favour of the proposal.
21. However, on the basis of the evidence before me, it has not been demonstrated that the appeal site is the best available option for minimising the effect of the development. Taking these factors into account the proposal's significant benefits do not outweigh the extent of harm I have identified. I have also found that the unacceptable impacts would give rise to clear conflicts with the development plan, for reasons given earlier, as well as the Framework and the Act. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR