
Appeal Decision

Site visit made on 28 June 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Appeal Ref: APP/R5510/W/22/3307164

Falling Lane/Royal Lane, Yiewsley, London UB7 8PD

- 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 the Council of the London Borough of Hillingdon.
 - The application Ref 70600/APP/2022/1724, dated 25 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is described as 'Proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.'
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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) (the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3 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 principle of development is established by the Order and its provisions do not require the proposal to be assessed against development plan policies. I have had regard to the policies of the Hillingdon Local Plan: Part 1, Strategic Policies, November 2012 (LP1), London Borough of Hillingdon Local Plan: Part 2, January 2020 (LP2) 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. In addition, I have taken the related guidance in the Planning Practice Guidance¹ into account. In relation to the siting and design of fixed and mobile electronic telecommunications equipment this provides a link to the Cabinet Siting and Pole Siting Code of Practice, November 2016 (CP).

¹ Paragraph: 071 Reference ID: 13-071-20170728

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and if any harm is identified whether that harm would be outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

Reasons

Character and appearance

6. The corner of Falling Lane and Royal Lane is close to the conjunction of several roads and parade of local shops, although the wider area is generally residential in character. It comprises a broadly triangular grassed area containing footways. Mature trees are growing adjacent to the corner and provide a verdant backdrop when in leaf. Together these factors contribute spaciousness, greenery and a softening effect to the public realm at a prominent point in the street scene.
7. This is an important visual counter to the presence of nearby built form, road infrastructure, street furniture and existing telecommunications equipment. In particular, the concentration of road signage, street lighting poles, road crossings and utilities equipment (including the existing telecommunications pole and cabinets) in the relatively confined area cumulatively draw the eye and result in an adverse cluttered appearance. The small area of greenery on the corner provides some mitigating visual relief in this busy context.
8. The proposal would introduce a 15m high telecommunication pole with antennas and wrap around base cabinet along the eastern edge of the grassed space. The proposal would be seen together with other cabinets (not the subject of this prior approval appeal) and would have a utilitarian appearance. The pole would be significantly higher than the background trees, existing monopole, streetlights, road signage and most buildings in the area. It would also be considerably thicker than the existing lampposts and road signage poles and so would not easily blend in with most existing street furniture.
9. In addition, the siting of the proposed monopole would be closer to the road and further away from the treed backdrop than the existing telecommunications equipment. As such, it would appear adrift from the back of the triangular space, and I cannot agree with the appellant's assertion that it would be surrounded by tall mature trees². Instead, it would have an overt presence at a prominent corner position, which would exacerbate the detrimental impact. It follows that it would be conspicuous in views from the surrounding roads, including Falling Lane, Royal Lane, Kingston Avenue and Yew Avenue. The lower levels of Kingston Avenue and Yew Avenue relative to the appeal site would make the impact particularly pronounced.
10. The obviously functional appearance of the equipment would be at odds with the proposed prominent siting. Therefore, it would not enhance the street scene nor positively contribute towards local distinctiveness as encouraged by policy BE1 of the LP1. Instead, it would erode the positive qualities of the grassed area, further interrupt views of the tree line and significantly compound the cluttered appearance of the area.

² Paragraph 3.3 Appellant's Appeal Statement

11. I acknowledge that the careful use of colouring could limit the extent of the visual impact, but I am not persuaded that it would entirely overcome the harm I have identified. I further accept that the area has not been designated as being sensitive in heritage or scenic terms. Nevertheless, it does not follow that it lacks any attributes worthy of protection.
12. Taking these factors together the proposed siting and appearance of the equipment would have an adverse impact on the character and appearance of the area. This would be contrary to policy DMHB21 of the LP2 which states that telecommunications development will only be permitted where it does not have a detrimental effect on the visual amenity, character or appearance of the local area. Furthermore, it would conflict with advice in the CP³ which amongst other matters, recommends not positioning poles in a prominent position at a junction or on a bend in the road. Other prominent locations on grass verges or grassed amenity areas should also be avoided unless there is a technical justification.
13. It is highlighted that the appellant consulted the Council prior to submitting the application, to which no comments were received. Be that as it may, the Council did articulate their concerns as part of the formal decision. Neither does the consultation exercise described negate the harm that I have identified.

Alternative sites

14. Section 10 of the Framework confirms the Government's view that advanced, high quality and reliable communications infrastructure is essential to economic growth and social well-being. These benefits are emphasised throughout the appellant's appeal submission. Nevertheless, those wider benefits have to an extent been recognised by the grant of permission under Article 3(1) of the Order. Given that I have found harm would result from the proposed siting in this case, it is appropriate to consider the potential for less harmful alternative siting.
15. The appellant states that there is an acute need for the equipment in this area due to a gap in the network. Moreover, the requirements of 5G technology mean that the area of search for suitable alternatives is limited to a more restricted area.
16. Whilst the appellant has indicated that a sequential approach to site selection has been followed in this case, such that mast sharing and the positioning of equipment on buildings was ruled out, limited details of the criteria used or availability of these is provided. As such, I consider the information provided falls short of the necessary evidence to show that the appellant has properly explored the possibility of erecting antennas on an existing building, mast or other structure as required by paragraph 117c) of the Framework. This is for the following reasons.
17. Firstly, the extent of the designated search area in this case is not clearly illustrated on a map. Although an Area Coverage Map⁴ is shown which illustrates zones of poor or no coverage and an aerial view⁵ of the position of discounted options, uncertainty remains as to how constrained the search area is. This inhibits a proper consideration of alternatives. For example, the areas

³ Paragraph 5.8

⁴ Figure 5, Appellant's Appeal Statement

⁵ Figure 6, Appellant's Appeal Statement

of no and poor coverage shown in the area coverage map appear to include some industrial areas to the south. On the information before me, it is not explained whether they fall within the designated search area, or if not, why not.

18. Furthermore, there is an existing telecommunication pole close to the appeal site, albeit lower than the proposed pole in this case. The sequential approach requires mast sharing to be considered at an early stage in the sequence. The appellant asserts that opportunities for sharing have been investigated and exhausted⁶ but provides limited substantial evidence to support that. Rather, generic problems relating to radio frequencies, need for separation and the nature of 5G antennas are outlined, which may present obstacles to mast sharing in some cases. Vague reference is made to technological constraints. However, this stops short of categorically ruling out the possibility of mast sharing in this specific case, nor does it illustrate what the equipment would look like if it were possible.
19. Little reference is made as to whether any buildings might be suitable upon which to install necessary equipment, such that doubt remains as to whether a comprehensive exercise preceded the search for a new ground based mast site.
20. Eight discounted locations for free standing equipment are listed⁷ but the reasons given for discounting them are somewhat vague. This, together with only a general indication of the sites on an aerial map extract, further inhibits a proper comparison with the siting that has been proposed in this case.
21. Furthermore, the Site Specific Supplementary Information prepared by the appellant shortlists four site options, one of which is the appeal site and another was the subject of a separately refused application. However, this would leave two other options identified by the appellant. The very limited explanations given for discounting them inadequately justify on what basis the appeal site was perceived as preferable.
22. Overall, the evidence provided in relation to potential alternatives is far from comprehensive and does not amount to a convincing case that no less harmful options for siting the equipment exist.
23. Accordingly, I do not consider that there is a compelling reason for the proposed siting of the equipment that would outweigh the harm I have identified to the character and appearance of the area.

Conclusion

24. For the reasons given above, I consider that the siting of the proposal would be unacceptable. I therefore conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR

⁶ Paragraph 3.17, Appellant's Appeal Statement

⁷ Section 5, Appellant's Appeal Statement