



Appeal Decision

Site visit made on 20 June 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2023

Appeal Ref: APP/Y1945/W/22/3302960

Area of Grass Verge, Oxhey Road, Watford Heath, West Watford , Hertfordshire

- 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 Watford Borough Council.
 - The application Ref 22/00571/GPDO16, dated 28 April 2022, was refused by notice dated 14 June 2022.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets. Located at: Oxhey Road, Watford Heath, West Watford, Hertfordshire, WD19 4QG.'
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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(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 Council has referenced development plan policies in its decision notice. The principle of development is established by the Order and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard be had to the development plan. I have had regard to the policies of the development plan 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. Also, the policies referred to in the decision notice have, during the process of this appeal, been replaced by the policies of the Watford Local Plan 2021 – 2038(Local Plan).The appellant has been made aware of this change by the Council's appeal statement, although they have made no comment on this matter in their own appeal submission. In any event, for the reasons outlined above, development plan policies are not determinative in this case.

Main Issues

5. The main issues are:

- the impact of the siting and appearance of the proposed installation on the character and appearance of the area; and, if any harm would occur,
- whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and Appearance

6. The appeal site is roughly a triangular shaped grass verge which is bisected by a footway. The site is located in a predominately residential area. Although this verge is bounded by roads, it is relatively wide and hosts a bench and some trees. As such it provides a pleasant pedestrian reserve at the edge of the carriageway. This verdant feature also contributes to the generally attractive suburban character of the residential area, which comprises largely detached dwellings in good sized plots, with trees and vegetation in their front gardens.
7. The proposed mast would be located on the section of verge that aligns with Oxhey Road. Although it would be set back from the carriageway, it would be close to the footway that cuts across the verge. The mast would be topped by an antenna, and this tall structure would be substantially taller than the dwellings surrounding it and the existing street signage and trees in this area.
8. Also, the base of the mast would comprise a sizeable wraparound cabinet. Alongside the base there would also be three additional cabinets. The base and cabinets would be positioned in a line, such that they would create a relatively solid boundary along a significant length of the pedestrian footway, and along the centre of the relatively open public space. These solid features would be substantially higher than the neighbouring street bench and the street name signs that are currently at this location. As a consequence of these factors, the proposed structures would dominate this relatively undeveloped green verge.
9. The appellant contends that the mast would be slimline. It is also stated that locating the mast on this open site would reduce the likelihood of a shadowing effect. Be this as it may, the mast would be significantly wider than the nearby streetlamps and would be considerably taller than these existing items of street furniture. While there are surrounding trees, these would offer limited screening for a mast that would be substantially higher than these existing green features. Moreover, these trees would not provide any meaningful screening of the base of the mast and the ancillary cabinets that would be located alongside it.
10. With minimal screening, the proposed mast and associated cabinets would appear stark and incongruously large. They would also appear stridently commercial structures that would be jarringly at odds with the distinctly verdant suburban character of this area. In this regard the siting of the mast at this prominent and relatively open location would not be sensitive to the domestic scale and appearance of this largely residential area and the existing built form in it. In turn the proposal would result in substantial visual harm to the appearance and the character of the area.

11. The cabinets might be allowed under permitted development rights. However, these structures form part of the scheme before me, and it is unlikely that they would be constructed without the mast. It is therefore reasonable to consider the visual effect of the scheme as a whole.
12. The mast and cabinets could be painted green, but this would not minimise their size or their incongruous appearance. In any event, the Order governing this proposal does not provide any specific authority for imposing additional conditions beyond the standard conditions specified by the Order. Therefore, there would be no means of ensuring this outcome. These matters have not altered my findings for these reasons.
13. In light of the above, I find that the impact of the siting and appearance of the proposed installation would be harmful on the character and appearance of the area. Although not decisive in this case the proposal would not accord with Policy QD6.1 of the Local Plan. This Policy states, amongst other matters, that new development in Watford is required to deliver high quality design. In respect of this prior approval matter, the proposal would also not accord with the Framework which seeks well-designed places.

Alternatives

14. I have found harm in respect of siting and appearance; therefore, it is necessary to take account of alternatives in this case. The appellant has concluded that a standalone mast would be necessary due to the problems with using existing masts or sharing masts. I also acknowledge that the new technologies may necessitate new structures. Furthermore, I see nothing which would lead me to question the proposed height of the mast. However, in the context of the approach, outlined in paragraph 117 c) of the Framework, for this type of development, few details have been provided about the potential to site the mast on existing structures or buildings. Such an approach could work towards camouflaging and reducing the visual impact of the strikingly tall structure in this prominent location.
15. The appellant has identified a small search area and asserts that locating a mast outside this area may lead to a proliferation of masts. The appellant has also consulted the Council at the pre-application stage. I also note, during the site selection process that the appellant sought to avoid schools, designated areas and sites effected by tree preservation orders.
16. The appellant's submission has identified six alternative sites in the search area. These were discounted due to visibility splay concerns and/or pavement width restrictions. Alternative site D3 was also discounted due to proximity to residential housing. The reasons for discounting the remaining five alternative sites differ from the issue in dispute in this case. However, limited information has been presented, to consider in detail, the possible siting constraints at the five other alternative sites. Based on this evidence it is not possible to compare how the harms at those sites would compare with the harm identified in this case.
17. Also, the Council has highlighted Eastbury Road as a potential alternative to the appeal site. However, although alternative site D6 is located at the corner of this road, this is the only alternative site on this main road that appears to have been considered. Moreover, the appellant has provided limited information as to why other locations on that road would not be suitable for the

siting of the mast. In light of this, the evidence presented has not demonstrated that locating the mast at an alternative site would have a worse effect than at the appeal site, or that the appeal site would be the 'least worse' site in the search area.

18. For the reasons stated above, I have insufficient information to conclude that the appeal site would be the least harmful location in the search area and would be the only viable option. I am unable to conclude that the appeal site would be the least harmful option for this visually harmful development, and that there are no more suitable alternatives reasonably available in this constrained search area.

Other Matters

19. Concerns have been raised about the effect of the proposal on local residents' living conditions in respect of outlook. This matter is relevant to the consideration of siting and appearance. However, dwellings in the area are generally stepped back from their front boundaries. The proposal would also be separated from these front boundaries by the carriageways. As such the proposal would not appear unacceptably overbearing such that it would harm the living conditions of occupants of the neighbouring dwellings. However, as outlined above, the discordant development would negatively dominate the existing character of the street scene and its siting would be visually harmful in this respect. In any event, while there may not be harm in respect of living conditions, development should not result in such harm. This matter is a neutral factor in this appeal.
20. My attention has been drawn to a proposal for a 20 metre mast that was allowed on appeal.¹ However, that proposal was in Southwark, a London borough, a considerable distance from the appeal site. The character of the area for that development is distinctly different from the proposal before me. This matter has not altered my findings for this reason.
21. The Framework states that advanced, high quality and reliable communication is essential for economic growth and social well-being. This reflects the objectives and benefits outlined in the Government's white paper 'Next Generation Mobile Technologies: A 5G Strategy for the UK' and the Government's advice to Chief Planning Officers on this matter. Although these benefits are outside the provisions of the Order, this development would contribute to the expansion of the next generation of electronic communication network, which has policy support at both national and local level. The proposal would in small part help address the national and local need for this infrastructure. This would be a positive factor that weighs in favour of the proposal.

¹ Ref: APP/A5840/W/20/3254830

Conclusion

22. The proposal would contribute to the new 5G network. Weighed against this I find that the proposal would result in substantial harm to the character and appearance of the area. Accordingly, the lack of clear evidence demonstrating that there are no other suitable alternatives available is an important factor in this case. I therefore conclude that the limited benefits identified above would not outweigh the substantial harm identified in this case and, in terms of siting and appearance, the site is not acceptable. Therefore, the appeal is dismissed.

A J Sutton

INSPECTOR