



Appeal Decision

Site visit made on 5 June 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/P5870/W/22/3310477

Manor Road Street Works, Manor Road, Wallington, London SM6 0DW

- 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 Sutton.
 - The application Ref DM2022/01445, dated 3 August 2022, was refused by notice dated 30 September 2022.
 - The development is a proposed telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole 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 (GPDO 2015), 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 appellant claims the proposed equipment cabinets could be provided under permitted development rights without the need to apply for prior approval. Even so, these are shown on the appeal plans as part of the proposal and so I have taken account of the cabinets in my assessment.

Planning Policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have however, 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.

Main Issues

5. Having regard to the above, and the Council's reasons for refusal, the main issues in this case are the effect of the siting and appearance of the proposals upon highway and pedestrian safety; and 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

Highway and pedestrian safety

6. The proposed development comprising cabinets and a monopole would be sited at the back edge of a footpath on one side of Manor Road (A237). Its pavement siting abuts a filling station forecourt, and the proposals are to be sited between the separate vehicular entrance and exit points to the filling station. There is also other street furniture on the pavement very near to the proposed site, including a BT display structure, a salt bin, and a road sign.
7. Whilst only a snapshot in time, on my site inspection I saw that this part of Manor Road was busy with vehicles, pedestrians, and other highway users. There are controlled crossing points, traffic lights and junctions onto other roads near to the appeal site. I also observed that vehicles were regularly exiting the petrol filling station.
8. The proposal would be closest to the exit from the filling station. Drivers exiting the filling station would be looking directly towards the proposed cabinets and monopole to see any oncoming traffic. The height and linear form of the cabinets and monopole would significantly obstruct the view of exiting drivers when seeing if it was safe to enter Manor Road. This obstruction would mean drivers would need to edge further into Manor Road to see any approaching traffic or pedestrians, including vulnerable pedestrians, who would be hidden or partially hidden by the siting of the proposal. This would add to the many other distractions on this busy part of Manor Road and would create dangerous conditions.
9. The footpath is constrained by the existing street furniture causing its width to already be narrowed in parts, and the exit to the filling station has a diagonal splay further restricting the footpath width and available area for pedestrians. Furthermore, the location of the dropped kerb for pedestrians is at the back edge of this pavement, in a similar alignment to the proposals. Consequently, the siting of the proposed development would unacceptably narrow the pavement even further, creating a much longer pinch point, much nearer to the point where vehicles exit the filling station, and where pedestrians are seeking to cross that exit point. In addition, to the obstructed views of exiting drivers, the cabinets would also obscure the views pedestrians would have of such vehicles at, or approaching the exit.
10. Given my findings, I conclude that the siting of the proposals would be harmful to highway and pedestrian safety. Although not determinative, the proposal in this respect would be inconsistent with the relevant parts of Policies T2 and D8 of The London Plan, adopted March 2021 (the LP) and Policy 36 of the Sutton Local Plan, dated February 2018 (SLP) which amongst other things require development to be sited to minimise any adverse impact on the highway network, be inclusive and accessible for all, ensure the public realm is accessible and safe for all, and avoid unnecessary street clutter within it. The proposal is also inconsistent with paragraph 112 of the Framework that amongst other things seek new development to ensure priority for pedestrians and address the needs of people with disabilities and reduced mobility and avoid unnecessary street clutter. In addition, I found that dismissing this

appeal would also be consistent with paragraph 111 of the Framework, that states development should be refused on highway grounds if there is an unacceptable impact on highway safety or the residual cumulative effects upon the road network would be severe.

Character and appearance

11. The appeal site is situated in a busy urban area, which includes commercial premises and tall buildings to either side of the appeal site on Manor Road. There are also other vertical structures nearby including street lighting columns, street trees and the large canopy of the adjoining filling station, along with its totem advertisement.
12. The siting of the proposed monopole within the built context of other tall structures and buildings, particularly given its narrow width, would assimilate well into its surroundings and would not appear obtrusive, overly dominant or imposing in the terms of the surrounding built context. Whilst it would be seen to either side of the appeal site from Manor Road, this would be mainly from viewpoints close to the site, and its limited massing would not be dominant or particularly prominent in the immediate area. The proposal would also not be highly visible beyond its immediate surroundings, due to it being set amongst taller structures.
13. The proposed monopole has a functional appearance, and in this urban context it would not appear discordant or incongruous. Its galvanised finish would be different to the darker coloured street lighting columns and generally darker coloured buildings nearby. However, as it would be set against the light-coloured filling station canopy, its finish would not necessarily be objectionable in this case. Although, I do note that if I had been minded to allow the appeal, the appellant has indicated they would accept a condition regarding the colour of the monopole.
14. The proposed cabinets would be neatly located at the back edge of the footpath directly adjoining the BT display cabinet and set farthest from the roadside. Due to the proposed cabinets modest scale, the appearance of the adjoining street furniture, and the backdrop of the petrol filling station, their siting and appearance would not be overbearing.
15. To conclude, the siting and appearance of the proposal would not be harmful to the character and appearance of the surrounding area. Insofar as they are material planning considerations, the proposal would accord with the relevant parts of Policies 23 and 28 of the SLP which amongst other things require development to be a high-quality design that respects and responds to local character, and that telecommunications development is not intrusively sited in the street scene. The proposal is also consistent with paragraph 115 of the Framework, insofar as it requires new phone masts to be sympathetically designed.
16. The Council stated that the effect of the proposals upon the character and appearance of the area was contrary to paragraph 117 of the Framework, however as this paragraph is mainly concerned with information that is required to accompany an application for a new telecommunication development, I do not find it to be directly relevant on this issue.

Alternative sites

17. As I have found above that the proposals would cause harm to highway and pedestrian safety, Paragraph 117 of the Framework requires that evidence of alternative sites is provided to justify the proposed development. In particular, it requires evidence to be provided as to the possibility of erecting antennas on an existing building, masts or other structures before considering a new free-standing mast.
18. The appellant's existing coverage map shows the immediate area around the appeal site already benefits from good coverage. The nominal point (preferred position for the mast) is located some distance away in an area with poorer coverage. Of all the possible alternatives shown, the appeal site is farthest from the nominal point. There is also no information provided, particularly in terms of a projected coverage map, to show how the proposed siting in this area would increase coverage in the areas that currently have limited or no coverage.
19. I saw on site that there are other mobile phone antennas on the roof of a tall building opposite the appeal site. Whilst the appellant has stated that there is no option to mast share and a new mast is the optimum solution in this case, there has been no evidence provided to substantiate these points, or any detailed evaluation why a location on a roof top of a nearby building could not be utilised. Furthermore, the appellant has not provided convincing evidence of why any of its other sites nearby cannot be upgraded to provide the additional coverage in this case.
20. Even if I accepted that a new monopole was required, apart from the site on Croydon Road, that was refused planning permission (ref. DM2020/01463), only very brief comments are made to discount the other 7 sites relating to them; being overlooked by, or in close proximity to residential properties; located on a bridge; and located on private land. These comments lack substantive evidence to properly explain why such circumstances would make the siting and appearance of a new monopole unacceptable on those sites, or if the permission of the private landowner has been sought.
21. Overall, based on the evidence before me, I am unconvinced that a thorough review of possible alternative site options within the search area has been conducted. Consequently, the arguments in favour of the appeal site, do not outweigh the identified harm to highway and pedestrian safety. Although not determinative, I also find that the proposal in this respect would be contrary to Policy 23 of the SLP and paragraphs 115 and 117 of the Framework, that amongst other things seek to avoid the installation of new masts when there has been no evidence as to why existing sites, masts, and buildings cannot be used in preference.

Other Matters

22. Reference has been made to various environmental, social and economic benefits that would arise, but these have not been taken into account in considering the matters of siting and appearance.
23. I note that the appeal site is not in a statutory protected area such as a Conservation Area or World Heritage Site, SSSI or National Park, however this is a neutral factor that neither weighs in favour or against the proposal.

24. The appellant has referred to requests for pre-application advice, which the Council say they have no record of receiving. Be that as it may, and whilst this may be a matter of dispute between the parties, it does not alter my conclusions on the proposal, as outlined above.
25. Whilst the appellant has stated that the approval of this proposal would in the future allow mast sharing, this argument on its own does not justify the siting of the new mast in this case. Moreover, its narrow width and relatively low height would appear to limit the amount of additional antennas that could be fixed to it.
26. The appellant has argued that this proposal has been submitted in response to an earlier refusal for a site at Croydon Road by lowering the height of the monopole by 5 metres to 15 metres. The Council has stated that site is approximately 0.8km from this appeal site. Given this, and the location of the nominal point, and my conclusions above regarding the search area and the harm to pedestrian and highway safety, this matter has not altered my findings.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

A Hunter

INSPECTOR