



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/23/3314467

Cheam Common Road Street Works, London KT4 8RW

- 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 DM2022/01818, dated 6 October 2022, was refused by notice dated 24 November 2022.
 - The development is a proposed 5G 18m telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015) for the siting and appearance of a proposed 5G 18m telecoms installation: H3G street pole and additional equipment cabinets at Cheam Common Road Street Works, London KT4 8RW in accordance with the terms of the application Ref DM2022/01818, dated 6 October 2022, and the plans submitted with it: 002 site location plan; 215 proposed site plan; and, 265 proposed site elevation.

Preliminary Matter

2. The provisions of the 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.

Planning Policy

3. 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

4. Having regard to the above, and the Council's reasons for refusal, the main issues with this appeal are the effect of the siting and appearance of the

proposed development upon the character and appearance of the area, and pedestrian safety.

Reasons

Character and appearance

5. The appeal site is in the middle of a wide pedestrian area on one quadrant of a busy and relatively open crossroads between London Road (A24), Cheam Common Road and Malden Road. Immediately near to the appeal site is an array of street furniture, including seats, a bin, a cabinet, and landscaping, including 2 no. street trees. The building nearest to the appeal site and at the back edge of the pedestrian area is two-storey and contains shops at ground floor level. Other buildings nearby are much higher, including 3 and 4 storey properties. There are also tall street lighting columns both in the centre and along the sides of the roads in the immediate area.
6. Whilst the proposed street pole will be much taller than the nearest buildings and street lighting column, given the other taller buildings, street trees, and the much taller street lighting columns nearby, its height and vertical extent in this wider context would not be obtrusive or particularly imposing. In addition, although much shorter than the proposed street pole, the adjoining street trees would also form an effective backdrop to the street pole and assist with its integration into the wider streetscene. Close-up views of the proposal would be against the backdrop of the nearest building, busy crossroads, together with the many other different structures, varying building heights and moving traffic, and its appearance would not be inconsistent with the area. Views of it from beyond the crossroads junction would largely be in the context of the surrounding roofscapes of other tall buildings and vertical structures, as such it would not be overly prominent.
7. It is noted that the proposed monopole would be wider than the nearby street lighting columns, however, it would remain a relatively narrow structure, which would not be visually jarring. The light grey colour of the street pole would also be similar to some of the nearby tall lighting columns. I note the Council's preference for a dark green or brown finish, however, in this context, its proposed external finish would be consistent with the character and appearance of the area.
8. The proposed cabinets, whilst adding to the amount of street furniture in this area, would, as a result of their scale and design assimilate with nearby furniture such that they would not be intrusive in the streetscene.
9. To conclude, the siting and appearance of the proposals would respect the character and appearance of the surrounding area. Insofar as they are material planning considerations, the proposals would also accord with the relevant parts of Policies 23 and 28 of the Sutton Local Plan, dated February 2018 (SLP) which amongst other things require development to be a high quality design that respects and responds to local character, and for telecommunications development not to be intrusively sited in the street scene. In addition, I found the proposals to be consistent with paragraph 115 of the Framework, insofar as it requires new phone masts to be sympathetically design and camouflaged where appropriate.

10. I note that the Council referred to the proposals being in conflict with paragraph 113 of the Framework, however, I did not find that paragraph to be directly relevant to the effect of the proposal upon the appearance of the area, as it relates to the requirement for a transport statement or assessment.

Pedestrian safety

11. Near to the appeal site is tactile paving for a controlled crossing point across Cheam Common Road.
12. Although the proposals would utilise space on this pedestrianised area and add to the existing street furniture, this pedestrian area is relatively large, and the siting of the equipment would be between the crossing point and the footway that runs directly in front of the shop units that face onto this area. The siting of the proposals would not alter the width of the crossing point and satisfactory space for pedestrians to safely wait and cross the road would be available, whilst also retaining the desire lines for pedestrian flows. In addition, the proposals would not cause unacceptable obstructions, including for those with wheelchairs or pushchairs, or those having sight impairment when using the pedestrian areas and crossing point. In reaching this view I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 and the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In reaching my decision, I have kept this at the forefront of my mind. However, such protection is qualified and interference may be justified where it is in the public interest. The concept of proportionality is key.
13. I recognise the paramount importance of pedestrian safety, particularly for those persons with sight impairment or limited mobility in this particular case, and obstructions to pedestrians should be avoided where possible, and kept to a minimum when necessary. Any such impacts would weigh against the proposal in these respects.
14. The siting of the proposal would allow pedestrians, including those in wheelchairs and with sight impediments to safely navigate between the crossing point and the other parts of the footway and pedestrian areas, including those leading along Cheam Common Road or towards London Road. The proposed development is not directly adjoining the tactile paving and will allow space to be retained for the safe operation of the existing controlled crossing point. Furthermore, the footway is considerably wide, and notwithstanding the existing street furniture, spaces would be retained to allow pedestrian movements to the sides of, and between the street pole and the cabinets, allowing easy access to the shop units at the back edge of the footpath and to the footway that leads either along London Road or Cheam Common Road. Consequently, I do not find the proposal would obstruct pedestrian movements.
15. I therefore conclude that the siting of the proposed development would not be harmful to pedestrian safety. Although not determinative, the proposals would also accord with the relevant parts of Policy 28 of the SLP, which amongst other things require the siting of development to be inclusive and accessible for all. I also find the proposals to be consistent with paragraph 112 of the Framework that amongst other things seek new development to ensure priority for pedestrians, allow good access to public transport, address the needs of

people with disabilities and reduced mobility, and avoid unnecessary street clutter. In addition, I found that allowing this appeal is also consistent with paragraph 111 of the Framework, that states development should only 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.

16. The Council referred to the proposals being contrary to Policy 23 of the SLP in respect of pedestrian safety, however, as that policy relates to telecommunications development more generally, I did not find it to be directly relevant in respect of pedestrian safety.

Other Matters

17. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
18. As I have identified that the siting and appearance of the proposed development would be acceptable, it is unnecessary for me to consider the detailed merits of any potential alternative site. Although I do note that the appellant has also stated that the search area is small in order to deliver the required 5G coverage, without interfering with existing installations, to support the delivery of high-quality communications and digital connectivity. It is also noted that both the appellant and the Council have not identified any other suitable alternative sites in this case.
19. Concerns have been raised regarding future maintenance and works to the cabinet equipment and the effects upon pedestrian safety, although no evidence has been submitted to substantiate that such works could not safely take place in the pedestrianised area. Moreover, given the large width of the pedestrian areas there would still likely be adequate space for safe pedestrian movements alongside any maintenance works.
20. Whilst the proposed street pole could be visible from properties in the immediate area, I am satisfied that by virtue of its narrow width, along with the surrounding built context, the proposal would not have a harmful effect upon the outlook for occupiers of such properties. I am also aware of concerns about another telecommunications installation nearby, although I do not know the planning history for that installation. Nevertheless, given the separation between it and the proposal, I am also content that their cumulative effect would be not harmful to the outlook for nearby occupiers.

Conditions

21. Any planning permission granted for this proposed development, in accordance with Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 2015 is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning

authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

22. For the above reasons, the appeal is allowed and prior approval is granted.

A Hunter

INSPECTOR