



Appeal Decision

Site visit made on 25 October 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: APP/E5330/W/22/3308631

Pier Way Street Works, Pier Way, Greenwich SE28 0GP

- 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 Thomas Gallivan of CK Hutchison Networks (UK) Ltd against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 22/2237/T3, dated 2 July 2022, was refused by notice dated 26 August 2022.
 - The development is a proposed 5G telecoms installation: H3G street pole and 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 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. Reference is made within the submission to a proposal to widen the existing footpath. This goes beyond the development permitted by Part 16 Class A of the GPDO 2015 and it is not development ancillary to radio equipment housing referred to in Class A paragraph A.(c) of Part 16. As such my determination of this appeal proposal is limited only to the telecommunication development as outlined in the banner heading above, and which is permitted by Part 16 of the GPDO 2015.
4. 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

5. 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

6. One of the Council's reasons for refusal relates to there being no signed ICNIRP declaration. Whilst it is not a requirement of Part 16 of the GPDO 2015 to have such a declaration, both Policy DH(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies adopted July 2014 (RGLP) and paragraph 117 of the Framework, which are important material considerations, require new installations such as this to have a ICNIRP declaration. This issue will be addressed insofar as it relates to the proposal's siting and appearance.
7. Having regard to the above, and the Council's reasons for refusal, the main issues are the effect of the siting and appearance of the proposals upon the character and appearance of the area, pedestrian safety, and whether International Commission guidelines are met, 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

8. The appeal site relates to part of a pavement to one side of Pier Way. Except for street trees and lighting columns, there is no other street furniture nearby. The residential properties in the immediate area are of varying heights, including two storey properties on the opposite side of Pier Way, and a 5-storey building being constructed immediately adjoining the appeal site. These properties are set back from the highway and together with the street trees give the area an attractive open and spacious character.
9. Whilst it is said that the proposed street pole's 15 metre height is the lowest possible and that it is designed to be located to the side of roads in urban areas, the location proposed directly abuts the carriageway edge, which would make the proposal appear very dominant and overbearing in the streetscene. The discordant siting and jarring appearance of the proposal would harmfully contrast with the spacious character and appearance of the area and the position of buildings nearby, which are set much further back from the carriageway edge. Furthermore, it would be much taller than the nearby lighting columns and trees, and its utilitarian design and prominent siting would appear incongruous when viewed in either direction along Pier Way.
10. I acknowledge that the proposal would be sited immediately in front of a building that is partly constructed, which is taller than it. However, whilst from certain views the equipment would be read against the building's backdrop, in other views, including when travelling along Pier Way it would not.
11. Furthermore, the proposed street pole's grey colour would not help it assimilate against the backdrop of the many street trees, nor would its top-heavy shape reflect the natural shapes and colours of the aforementioned street trees.
12. The proposed 3 no. cabinets, particularly given their elongated siting, their height and their separation from the street pole, would be significant new features in an otherwise mainly open pavement. The siting and appearance of this new street furniture so close to the carriage edge would also harmfully contrast with the character and appearance of the area.

Pedestrian safety

13. The pavement width is already restricted in part, mainly due to street trees that are well spaced along it. However, the siting of the proposed development would significantly narrow this section of pavement even further and over a longer area than that occupied by each tree. I saw on my site inspection that this pavement is well used and with additional residential units being constructed adjoining the appeal site, use of the pavement is also likely to increase. The narrower width would unacceptably restrict movement of highway users along the pavement area, including vulnerable persons. As a result, pedestrians may have to walk on the carriageway to navigate around the proposed development when they meet, particularly if there is a wheelchair or pushchair involved.
14. To conclude, the siting and appearance of the proposals would be harmful to the character and appearance of the surrounding area and the siting of the proposals would be harmful to pedestrian safety. Insofar as they are material planning considerations, the proposals would conflict with the relevant parts of Policies D3 and D8 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies DH(c) and DH1 of the RGLP, which amongst other things, require high quality development, that positively contributes to the public realm and local context in terms of its scale and height, and ensures the visual impact of telecommunication development is minimised. The proposals are also inconsistent with the relevant parts of Policies T2 and T4 of the LP and Policies DH1, IM4 and IM(b) of the RGLP which amongst other things, require development to take account of the needs of pedestrians and facilitate their movements, protect footpaths, encourage sustainable travel and not increase road danger. The proposals are also inconsistent with paragraph 115 of the Framework, insofar as it requires new telecommunication equipment to be sympathetically designed, and paragraph 112 of the Framework in terms of ensuring priority is given to pedestrians, the needs of people with disabilities and reduced mobility, and avoid unnecessary street clutter.

International Commission guidelines

15. In view of the proposed siting of the proposals in such close proximity to pedestrian areas, and residential accommodation, confirmation of the proposal meeting the relevant International Commission guidelines is necessary to protect the health of persons who be close to the proposal. The document provided by the appellant purporting to be an ICNIRP certificate, does not provide equivocal confirmation that the International Commission guidelines would be met. Had I been minded to allow the appeal, this is something that I would have raised with the appellant, however as I am dismissing the appeal for other reasons, it was not necessary to do so.
16. In the absence of confirmation that the siting of the proposals would meet International Commission guidelines, the proposals would be contrary to paragraph 117 c) of the Framework and Policy DH(c) of the RGLP which are important material considerations and require new telecommunication development such as this to meet International Commission guidelines.

Alternative sites

17. As I have found above that the proposals would cause harm to the character and appearance of the area, pedestrian safety, and there is no confirmation the proposals would meet International Commission guidelines, 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. Although the appellant states that the search area for the proposals is small to deliver the required 5G coverage, the submitted existing coverage map shows the appeal site is located within an area already benefitting from good coverage. It is noted that there are some areas outside of the search area that do not have good coverage, but there is no map showing how the appeal proposal would increase coverage to those areas. Consequently, there is some doubt as to whether the appeal site is the most appropriate location to meet coverage requirements.
19. Notwithstanding the above, there is no exact information provided as to why any of the existing nearby telecommunication installations could not be utilised to increase coverage. In addition, there is no precise evidence within the submission as to why the roofs of any of the many tall buildings in the immediate area could not be used in preference to a new mast on the appeal site.
20. Furthermore, the 5 no. sites within and near to the search area that have been discounted by the appellant, are all pavement locations. As a result, the reasons for discounting those sites are very similar, relating to pavement width, visibility and proximity to residential properties. Whilst the reasons for discounting some of these alternatives appear reasonable, such as visibility, the reasons relating to being near to housing is not convincing and does not appear to be dissimilar to the appeal site. Moreover, there does not appear to have been any search for sites beyond pavement areas.
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. Although not determinative, I also find that the proposals in this respect would be contrary to Policy DH(c) of the RGLP and paragraphs 115 and 117 of the Framework, that amongst other things collectively require the siting of new telecommunications installations to be fully justified to minimise their impact.

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 has any environmental designation, and that it is said that proposal would not be detrimental to the living conditions of nearby occupiers. However, these are neutral factors that neither weigh in favour or against the proposal.

24. Whilst the appellant sought pre-application advice and engagement with the Council on the proposal, this does not outweigh the harm identified above or alter my conclusions on the appeal proposal.
25. The appellant has drawn my attention to an appeal decision (Ref: APP/A5840/W/20/3254830). That appeal decision related to whether the height of a proposal would constitute permitted development for the purposes of Part 16 of the GPDO 2015 and its effect upon pedestrian safety. There is no dispute in this appeal about the height of the proposal constituting permitted development. In that case my colleague Inspector concluded that the proposal would not be harmful to pedestrian safety as despite narrowing the pavement width, there would still be space for pedestrians to pass one another, including those with a baby buggy. This differs significantly from my conclusions above in regard to the unacceptable reduction in pavement width from the appeal scheme and the difficulties associated with pedestrians and those in wheelchairs or with pushchairs passing each other. I did not therefore find that earlier appeal decision to be directly comparable to this appeal, and I have attached limited weight to it.

Conclusion

26. For the reasons outlined above, I conclude that the appeal should be dismissed.

A Hunter

INSPECTOR