



Appeal Decision

Site visit made on 23 January 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/U5930/W/23/3322863

Forest Road Street Works, Forest Road, Hale End E17 4FT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Gallivan, CK Hutchison Networks (UK) Ltd against the decision of the London Borough of Waltham Forest.
 - The application Ref 223073, dated 25 October 2022, was refused by notice dated 12 December 2022.
 - The development proposed is proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant name, address and description in the banner heading has been taken from the planning application form, rather than the Council's decision notice or the appeal form. No evidence has been provided that a change was agreed.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposal 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.
4. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies CS7 and CS15 of the Waltham Forest Local Plan – Core Strategy (2012) and Policies DM14, DM29, DM30, DM35 and DM37 of the Development Management Policies – Local Plan (2013) are material considerations as they relate to issues of siting and appearance.
5. In particular, they expect proposals to respond to their context in terms of scale, height and massing whilst ensuring that development does not have a harmful impact on trees or on the walking and cycling environment. With regard to proposals for telecommunications, the Council expect apparatus to be located to complete or improve coverage, and that apparatus should not stand alone where site or mast sharing would provide equally adequate coverage.

6. Similarly, the National Planning Policy Framework (2023) (the Framework) is also a material consideration and this includes a section on supporting high quality communications.
7. The Government published a revised Framework in December 2023, replacing the previous version dating from September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

8. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area, including the effect on trees; and highway safety, in particular with regard to pedestrian and cycle movement 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

9. The appeal site is located close to a busy crossroads between Forest Road and Fulbourne Road, within a mixed residential and commercial area. The site, which is not within a conservation area, is on the pavement adjacent to a grass verge which provides separation from an adjoining three storey building known as Willow House. A number of mature, tall trees are present on the grass verge and pavement surrounding the site.
10. There is a variety of street furniture in the vicinity of the site such as streetlighting columns, street road pole signs, traffic lights, cycle parking hoops, bollards and small roadside equipment cabinets.
11. I understand from the evidence that 18 metres is the lowest height required to provide the improved 5G service need identified for the area. However, the submitted drawings indicate that the street pole would be 20 metres in height. As a result of its height the top of the monopole would project significantly above the top of the three storey adjoining building, Willow House, creating a looming presence.
12. The mature trees surrounding the site would provide some softening of the development especially in the months when the trees would be fully in leaf. However, due to the street pole's location, adjacent to an open crossroads it would be prominent when seen from views on Wood Street and the southern sides of Forest Road. There would be significant periods of the year when the trees are not in leaf. During these times the trees would provide limited filtering of views of the street pole in medium and long-distance views from Wood Street and Forest Road.
13. The street pole would also be bulkier, and more prominent than the existing street furniture in the area. It would appear as a dominant structure which would be incongruous in this context and would appreciably detract from public views. This is despite its proposed grey colour which the appellant suggests would assist its assimilation into the street scene.

14. The street pole and ancillary equipment cabinets would be in very close proximity to the surrounding street trees. Given their height and maturity it seems likely that their roots may spread beneath the area that the equipment would be installed.
15. The trees are subject to a Tree Preservation Order, and due to their prominence and maturity, have good amenity value and make a positive contribution to the character of the area. The effect of their screening of the proposal is also identified by the appellant as justification for its siting in this location. Whilst the GPDO requires the assessment of the proposal solely on the basis of its siting and appearance, were the installation to harm the nearby trees, this would reduce their ability to screen the proposal and would have a negative impact on the street pole's siting.
16. The submitted evidence does not provide details in relation to the potential effect of the installation on the long-term health of the trees. Crucially, the evidence before me does not indicate that the adjacent trees' roots would be unaffected by the siting of the proposal.
17. The proposed ancillary equipment cabinets would be of fairly modest size and would not be dominant features in the context of the other nearby street furniture, including the lampposts and existing cabinet boxes.
18. Whilst there are vertical elements in the street scene, in the streetlights and the existence of a three storey building nearby, the streetpole would be significantly taller than the streetlights and the adjoining building and bulkier and more prominent than the existing structures given its siting. Even if I were to accept that its verticality means that it is consistent with, and appropriate to the existing character of the street scene, I could not ignore the combined effects of its additional height and bulk. Taken as a whole, the development would be visually intrusive and dominant and this is compounded by the risk that nearby trees could be affected by the development, leading to their loss.

Pedestrian and cycle movement

19. I acknowledge that the Council are engaged in a pre application process for the adjoining Willow House site, and in the design of a walking and cycling scheme along the Forest Road corridor which includes a junction redesign at the Wood Street/Fulbourne Road junction with Forest Road. The Council indicate that the installation of the street pole would impact the implementation of forthcoming highways proposals.
20. However, the submitted evidence does not include details of the layout of the highways proposals, nor is there any guarantee that the highways works will be implemented in the future. I therefore do not find that the proposed siting of the proposal would harm the implementation of the highways works.
21. The existing pavement surrounding the appeal site is particularly wide, and noticeably wider than the pavement to the east and west of the site on Forest Road. Following the installation of the proposal a significant unobstructed pavement width would remain which would be sufficient to ensure that users of the footway including those with push chairs or in wheelchairs, have room to pass each other. Therefore, the proposal would not harm the pedestrian environment.

Other Matters

22. The new site is required to meet CK Hutchison Networks (UK) Ltd operational requirements and to provide much needed coverage to this densely populated area. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. I also note that decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically sited and designed, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
23. In this case, the appellant's evidence demonstrates that there is a need for a new mast in the area. In accordance with the advice at paragraph 122 of the Framework, the Council does not question the need for improved coverage.
24. Paragraph 121 of the Framework states that evidence must be supplied to demonstrate that alternatives have been taken into consideration. The appellant's evidence indicates the sequential approach as outlined in the Framework was adopted, and a desktop survey was undertaken. No mast or site sharing opportunities or existing buildings or structures were identified.
25. I note the evidence, including at Figure 4 of the Site Specific Supplementary Information and Planning Justification Statement, which identifies the target search area. I also note the six discounted site options and the reasons they were discounted¹. However, this is not an extensive list and little detailed information has been provided to show these alternative sites and why they are unacceptable.
26. In particular, it is not explained why the pavements are unsuitable for the proposed equipment (options D2, D3, D4, D5 and D6). Whilst this is a dense and built up area where the location of telecommunications equipment would be difficult, there is an open area containing street furniture on the crossroads, diagonally opposite the appeal site at the junction between Wood Street and Forest Road.
27. Although this open area is within the appellant's designated search area, from the submitted evidence, it is unclear whether it has been considered. Therefore, on the evidence before me I cannot be certain that the appellants have adequately explored whether there may be less harmful alternatives. The cumulative effect of all these matters is to significantly reduce my confidence in the robustness of the appellant's approach to site selection in this case.

Health

28. A certificate has been submitted by the appellant 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.

¹ Figure 2 and Table on Page 12 of the Statement of Case

Planning Balance and Conclusion

29. I have assessed the siting and appearance of the proposal mindful that it is permitted development and has been accepted in principle. It would meet a need to site an installation in this location. I give considerable weight to these matters in support of the proposal.
30. However, for the reasons set out above, I do not consider that the appeal proposal has been sympathetically designed as required by the Framework. I have concluded above that the development would be harmful to the character and appearance of the area, and do not consider that harm to be outweighed by the support in the Framework for high quality communications, when weighed against the wider requirements of the Framework.
31. As such, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR