



Appeal Decision

Site visit made on 14 February 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2024

Appeal Ref: APP/Z5630/W/23/3323347

King Charles Road Street Works, King Charles Road, Kingston Upon Thames KT5 9BE, Ordnance Survey Grid Reference 518988:166673

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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) Limited against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 22/03928/TEL.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G 15m 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), 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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. I have therefore had regard to the policies of the London Plan 2021 and the Royal Borough of Kingston upon Thames Core Strategy 2012 (Core Strategy) only insofar as they are relevant to matters of siting and appearance.
4. The National Planning Policy Framework (the Framework) is a material consideration, and includes relevant sections on conserving and enhancing the historic environment and supporting high quality communications. A revised Framework came into force in December 2023, while this appeal was under consideration and I have taken its provisions into account, to the extent that they are relevant to the prior approval matters.

Main Issues

5. In light of representations submitted by the Department for Education and other interested parties, the main parties have been given a further opportunity to comment on the relationship between the proposed development and an adjacent site where planning permission has been granted

for a new primary school. Whilst no comments were received from the appellant, the Council has provided details of the planning permission in question¹, and I have had regard to this matter raised in representations when reaching my decision.

6. Against that background, the main issues are:

- the effect of the siting and appearance of the proposal on the character and appearance of the area,
- its effect on the setting of the Fishponds Park Conservation Area,
- the effect of the proposed siting on safe and suitable pedestrian access to the proposed primary school, and
- if any harm would occur, whether this is outweighed by public benefits, including the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and Appearance

7. The appeal site is an area of pavement alongside a vacant former further education centre and opposite a children's playground. The area is otherwise largely residential, consisting mainly of two storey suburban housing, with areas of public open space. There is existing street furniture including slender street lamps, telegraph poles and road signs, but these are not of a comparable height to the proposed 15m mast.
8. The proposed installation would be in a visually exposed location, on the outside of a bend and visible from both directions along King Charles Road. It would also be directly opposite the children's playground in the Alexandra Recreation Ground. The trees in and around the Recreation Ground would provide a reasonable amount of screening in longer views across this area of Metropolitan Open Land. However, the mast would be much more conspicuous from the playground, which is not enclosed by vegetation or other screening. The playground provides a wide range of play equipment and areas of outdoor seating, and it was busy at the time of my site visit.
9. There are a few existing street trees alongside the appeal site, but most of them are relatively small and they do not form a coherent visual screen to filter views of the mast. The more extensive tree cover in Fishponds Park and the Recreation Ground would not provide screening in views along King Charles Road. Furthermore, the proposed mast would significantly exceed the height of the existing street furniture or the surrounding two storey dwellings. Although it would have a relatively slim form, it would be of significantly heavier proportions than the street lamps. As described above, it would also be in a particularly prominent location, next to a public open space which appears well used and is likely to be an important focal point for the local community.
10. While I note that the proposed installation is designed with urban, roadside locations in mind, it would nevertheless be a visually intrusive and prominent new feature. It would increase street clutter in an exposed location, within what is otherwise a low-lying suburban street scene. The visual intrusion would

¹ Royal Borough of Kingston Upon Thames planning application ref 21/03311/KPSID

furthermore be experienced by significant numbers of local residents, when they make use of the adjacent public open space.

11. For the above reasons, the siting and appearance of the proposal would be harmful to the character and appearance of the area. Accordingly, insofar as they are a material consideration, the proposal would be contrary to Policy D3 of the London Plan and Policies CS8 and DM10 of the Core Strategy. These policies, amongst other things, aim to protect the primarily suburban character of the Borough, by ensuring that development responds to distinctive local features and existing character and relates well to its surroundings.

Conservation Area

12. The appeal site is just outside the Fishponds Park Conservation Area, which includes Fishponds Park itself, on the opposite side of Hollyfield Road. Fishponds Park includes mature trees and areas of open parkland, accessible to the public. The significance of the Conservation Area includes the survival of this part of a larger estate around Fishponds House; a property with 18th Century origins which occupies a secluded location within the remaining parkland.
13. The open green space at Fishponds Park exposes the surviving parkland to view from the surrounding residential streets. As such, the opportunity is available to appreciate the area's status as a surviving element of a larger historic estate, despite the subsequent suburban development.
14. The proposed telecommunications installation would be prominently sited just outside the Conservation Area boundary, where it would introduce additional modern street clutter, of prominent siting and scale. This distracting new element in the street scene would detract from views of Fishponds Park. It would consequently fail to preserve the setting of the Conservation Area by undermining the existing opportunity for appreciation of this surviving element of the 18th Century parkland.
15. The harm to the setting of the Conservation Area would conflict with relevant requirements in London Plan Policy HC1 and Policies CS8 and DM12 of the Core Strategy, to the extent that they are a material consideration in this case. These policies, amongst other things, require that development has regard to the historic environment, avoiding harm and taking opportunities to preserve or enhance the setting of existing heritage assets.
16. Given that the Conservation Area is already surrounded by suburban housing and street furniture, the harm to its significance would be less than substantial. Paragraph 208 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. This is a matter to which I return below.

Pedestrian Access to Proposed School

17. Planning permission has been granted for a new primary school on the former further education site and the proposed mast and equipment cabinets would be on the adjacent pavement. Although construction has not yet commenced, planning permission was granted in August 2022 and evidence on behalf of the Department for Education, who are the landowner, states that construction is

due to commence in 2024, for opening in 2025. I have been presented with no evidence to the contrary.

18. Although the Council did not allege any harm relating to the proposed school, the relationship was highlighted in several representations from interested parties, including the landowner. Amongst other things, safety concerns have been raised, relating to the proposed siting of the mast and equipment cabinets within the pavement. In particular, the landowner explains that the appeal site is in the same location as a proposed access to the school site and would be close to play areas used by the youngest children. In consequence, this area of pavement is anticipated to be heavily used by parents and children, when entering and leaving the school premises.
19. While I have limited evidence as to the proposed layout, it is clear that the siting of a mast and associated equipment cabinets in this location would narrow the width of the pavement. Furthermore, it would be in a location which is likely to become significantly more congested with pedestrian movements, including people using buggies, cycles and scooters, once the school is operational. Given that the school has not yet been constructed, it is possible that there would be an opportunity to adjust the layout and/or boundary treatment, to mitigate these issues. However, the appellant did not respond to my invitation for comments on this matter and nor has any other party provided evidence that the harm could be mitigated. Furthermore, given the site's location across the road from an existing children's playground, it appears somewhat inevitable that there would be considerable foot traffic in this location, even if mitigating measures could be introduced.
20. As such, on the basis of the evidence available to me, I conclude that the proposed siting would be prejudicial to safe and suitable pedestrian access to the proposed school on an adjacent site.

Public Benefits, including Availability of Alternative Sites

21. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic communications networks, including 5G. This reflects more general Government support for digital infrastructure rollout.
22. The application is accompanied by evidence of the need for the proposed installation, to support the roll-out of 5G mobile coverage. The installation is designed to improve coverage within an area illustrated in Figure 1 of the appellant's Statement of Case. This shows an area of poor coverage to the east of King Charles Road, somewhat to the north of the appeal site. The search area is described as having a radius of 100m, centred on a nominal location which is also some distance to the north. However, the appeal site itself is beyond the area illustrated.
23. The application indicates that there are no realistic opportunities for mast sharing or utilising existing structures. Limited evidence has been provided, but the Council has also not proposed any suitable alternatives to avoid the need for a new base station. On that basis, I have no reason to doubt that a new base station is required, or that the proposed 15m height would be excessive in terms of the technical requirements.

24. Four alternative sites have been identified by the operator. The reasons why these have been discounted include the prevalence of residential properties, effect on visibility splays and unsuitable pavements. The appellant points out that the appeal site avoids siting the mast in the direct outlook from residential properties. They also consider that it would avoid obstructing the pavement, although I have reached a different view on this point.
25. The alternative sites are all to the north of the appeal site, closer to the area where poor coverage is identified. They are clustered in a relatively small area. No explanation has been provided for the apparent lack of investigation of alternative sites over a wider area, despite the fact that the appeal site itself is some distance from the nominal location.
26. The relatively narrow pavements and the effect on residential properties are likely to be a consideration throughout what is a relatively densely populated search area. However, while the appeal site does avoid intruding into the direct outlook from any particular residential property, it would be harmful in several other respects. The harm arising to the setting of the Conservation Area is a matter which carries considerable weight and I have also concluded that the proposal would be harmful from a safety point of view and would detract from the character and appearance of the area more generally.
27. The evidence on consideration of alternative sites is very limited and I am not persuaded that the public benefits of the proposal can only be achieved in this particular location. There is also little evidence that the site selection process gave adequate consideration to the effect on the Conservation Area, or whether this could be avoided through alternative siting. Based on the evidence provided, therefore, the less than substantial harm to the significance of the Conservation Area is not outweighed by the public benefits of improved telecommunications coverage. As such, the proposal conflicts with the Framework's provisions for conservation and enhancement of the historic environment.
28. Taking into account the harm to the Conservation Area, together with the additional harm I have identified, the overall harm would not be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Conclusion

29. For the above reasons the appeal should be dismissed.

Jane Smith

INSPECTOR