



Appeal Decision

Site visit made on 28 February 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/W5780/W/23/3323133

Tomswood Hill street works, Tomswood Hill, Redbridge IG6 2QS

Easting (x): 543680 Northing (y): 191535

- 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 of the Town and 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 Redbridge.
 - The application 3947/22, dated 8 December 2022, was refused by notice dated 25 January 2023.
 - The development proposed is the proposed 5G telecoms installation: H3G 20m 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 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.
3. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, the appellant refers to Policy LP25 of the Redbridge Local Plan (2018) which is a material consideration as it relates to issues of siting and appearance. In particular, the policy expects telecommunications proposals to be sited and designed in such a way that they do not disrupt the appearance of the surrounding area.
4. The National Planning Policy Framework (2023) (the Framework) is also a material consideration, and this includes policies for conserving and enhancing the historic environment and a section on supporting high quality communications.
5. 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.

6. Whilst not included in the Council's reason for refusal, the Council's officer report and Statement of Case identify harm to the living conditions of nearby occupiers. The appellant's Statement of Case also provides evidence in relation to the impact of the proposal on the living conditions of nearby occupiers. For this reason, I have considered the impact of the proposal's siting and appearance on the living conditions of neighbouring occupiers.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposal upon:
 - the living conditions of nearby residents, with particular regard to outlook for the occupiers of 274 and 276 Tomswood Road; and
 - the character or appearance of the area, including on the setting of the Claybury Conservation Area (CCA) 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

Living conditions

8. The proposed street pole and associated equipment would be sited on a grass verge on the opposite side of the road to 274 and 276 Tomswood Road. These residential properties are set back from the highway behind small car parking areas. Both properties have ground floor bay windows facing the appeal site which serve habitable rooms.
9. The proposal, including the high and wide base cabinets, would be directly in front of and clearly visible in the outlook from both 274 and 276 Tomswood Road. Whilst there are trees located on the grass verge, these would be behind the street pole and cabinets and would therefore not screen or filter views from the properties. Given its significant height, the street pole would be a particularly oppressive feature. Overall, the proposal would feel very overbearing and would unacceptably affect the outlook of the occupiers of this dwelling within their home, to the detriment of their living conditions.
10. On the above basis, the proposal, through its siting and appearance, would harm the living conditions of occupiers of 274 and 276 Tomswood Road, with particular regard to outlook.

Character and appearance

11. To the rear of the site is a cluster of two and three storey dwellings located within the CCA. The site is outside but close to the eastern boundary of the CCA, which covers an extensive area and is characterised by its part residential suburb, part parkland and part semi-natural woodland character. It retains evidence of distinct phases of development from Georgian country house, Victorian asylum through to modern residential development. Insofar as it relates to this appeal, the significance of the CCA is primarily derived from the relationship of the historic built fabric with the natural, green areas surrounding it.

12. The site of the proposed street pole and associated equipment is on a section of green verge on the western side of Tomswood Hill. The rear of the verge is lined by trees which are approximately 8-10 metres in height. Whilst the opposite side of the road is marked by a frontage of houses, the verge that the appeal site is located on is free from built form, including street furniture. As a result of its current green and uncluttered appearance, it makes a positive contribution to the setting of the CCA and the street scene outside of the conservation area.
13. The proposed street pole would be of considerable height at 20 metres and it would be a conspicuous and intrusive feature in the surrounding area, with a noticeable projection above the nearby trees and the streetlights and telegraph poles which are the tallest street furniture at present. While the proposed street pole would occupy only a small proportion of any views into and out of the CCA, it would appear significantly taller than other vertical elements nearby. As such, it would be starkly incongruous and would contrast with the more verdant qualities of this side of the road and the nearby CCA.
14. In views along Tomswood Hill, the proposal would appear jarring against the trees and vegetation which provide a soft backdrop. The large size and utilitarian appearance of the street pole would appear out of scale and overly prominent despite the noted presence of the existing mast some distance to the south of the site and other existing street furniture. The proposed grey colouring of the pole would not disguise its appearance in closer views along Tomswood Hill or from within the CCA.
15. Having regard to the above and taking into account my findings that the proposal would be a conspicuous and intrusive feature in the surrounding area, it follows that I find that the proposal would have a harmful effect on the setting and significance of the CCA. I find that the siting and appearance of the development would also have a moderately harmful visual effect on the street scene of Tomswood Hill outside the CCA.
16. Given the localised impact of the development, the harm that I have identified would be 'less than substantial' harm to the contribution that the setting makes to the significance of the CCA. The Framework indicates that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification. Where a development proposal will 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.

Public benefits

17. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. There is clear need for, and importance of, the rollout of the 5G network.
18. The proposal would upgrade the digital telecommunications network in the local coverage area by allowing for additional coverage and capacity, including the introduction of 5G technology to the area. This would contribute towards

economic growth, social inclusion and well-being, with a key benefit for residents, businesses, students and visitors of the area being faster mobile download/upload speeds.

19. The appellant sets out that no mast or site sharing opportunities or appropriate existing buildings or structures were identified, in accordance with Paragraph 121 c) of the Framework. This is not disputed by the Council.
20. I note the evidence within the Site Specific Supplementary Information and Planning Justification Statement, which identifies the target search area. I also note the four discounted site options and the reasons they were discounted. As described by the appellants the sites were discounted for a variety of access and highways reasons and because three of the sites were considered to be in close proximity to residential properties. However, this is not an extensive list and little detailed information has been provided to show these alternative sites and why they are unacceptable.
21. In the intervening areas, I observed locations where there are wide grass verges, and which are not located directly in front of residential properties. Moreover, there are areas within the search area where no evidence has been provided that alternative sites have been assessed.
22. I am unpersuaded from the available evidence that the location chosen is necessarily the least harmful in terms of its visual effects on the outlook from neighbouring residential properties, or the character and appearance of the area having particular regard to the setting of the CCA. Therefore, it has not been demonstrated that the discounted sites would be more harmful than the appeal scheme and this attracts limited weight. Overall, I am not satisfied that the submitted evidence adequately or conclusively demonstrates that a less harmful alternative site, which would secure the same public benefits, is not available.

Other Matter

23. Concerns have been raised in relation to the proximity of the proposal to houses and the potential impact on the health of those nearby. 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.

Planning Balance and Conclusion

24. 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.
25. However, for the reasons set out above, the siting and appearance of the proposed development would cause harm to the character and appearance of the area and the living conditions of neighbouring occupiers. The resultant harm would amount to less than substantial harm to the setting of the CCA.

26. Having regard to the requirements of paragraphs 205 to 208 of the Framework, I find that the great weight I attach to the identified harm would not be outweighed by the weight I attach to the benefits of the proposal that would be delivered through the provision of improved mobile communications networks. Therefore, there is no clear and convincing justification for the harm.
27. As such, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR