
Appeal Decision

Site visit made on 27 September 2016

by Daniel Hartley MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 September 2016

Appeal Ref: APP/N5090/W/16/3153667

Highways Land, Lyttelton Road, East Finchley, London N2 0ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Telefonica and CTIL against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/00035/PNT, dated 23 December 2015, was refused by notice dated 29 February 2016.
 - The development proposed is the installation of a 10 metre street works pole and 1 No ground based cabinet and development ancillary thereto.
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Decision

1. The appeal is allowed and planning permission is granted for a 10 metre street works pole and 1 No ground based cabinet and development ancillary thereto at Highways Land, Lyttelton Road, East Finchley, London N2 0ED, in accordance with the terms of the application Ref 16/00035/PNT, dated 23 December 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are (i) the effect of the proposal upon the character or appearance of the Hampstead Garden Suburb Conservation Area and (ii) whether or not a satisfactory assessment of alternative sites has been completed.

Reasons

Site and Proposal

3. The site is a grassed area forming part of a wider area of highway verge on Lyttelton Road. The road is wide and busy and includes mature trees/vegetation along its boundaries. There is a sense of space along the highway and the landscaping positively adds to the verdant character of the Hampstead Garden Suburb Conservation Area (CA). This part of Lyttelton Road is predominantly residential in character with both flats and dwellings that are set well back from the highway. There is a bus stop, street lamps and street signage within close proximity to the appeal site, although the trees/vegetation continues to define the area.
 4. It is proposed to erect a ten metre high "dual stack Pandora" telecommunication street pole along with an associated cabinet. The development would be positioned within a few metres of an existing 12 metre high street light albeit positioned closer to the footpath. The proposal would
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face the junction of Blansford Close with Lyttelton Road and would be in front of a block of apartments located off Burney Way.

Conservation Area & Alternative Sites

5. The proposal would introduce an additional structure(s) into Lyttelton Road and would be constructed on land which is currently green and open. However, the street pole would be positioned in very close proximity to an existing street lamp. It would be slightly wider than the street lamp, but lower in height. It would be seen in the context of a number of other street lamps, highway signage and bus stops in this part of the CA. Furthermore, the cabinet would be positioned against the backdrop of mature trees/vegetation and would be finished in a green colour. In this sense, I do not consider that the cabinet would appear materially out of place in the street-scene: there are other green cabinets in the locality.
6. The proposal would have some impact upon the mainly open and green highway verge. However, in the context of the existence of other street furniture in the immediate vicinity of the appeal site, I consider that there would be only a marginal failure to preserve the character and appearance of the CA. In the context of Paragraphs 133 and 134 of the National Planning Policy Framework (NPPF), I conclude that the harm to the significance of the CA would be less than substantial.
7. The Council does not dispute the fact that there is a deficiency in respect of mobile phone coverage in the area. The National Planning Policy Framework (the Framework) sets out the importance of an advanced high quality communications infrastructure for sustainable growth and makes specific reference to the development of high speed broadband technology. The substantial public benefit arising from improved mobile phone coverage in the area is a positive material planning consideration which weighs in favour of allowing the proposal.
8. The Council considers that the appellant has not fully explored all alternative sites which could potentially meet the same coverage requirements, and without causing the same harm. I have considered the appellant's assessment of alternative sites and I am satisfied that such an assessment was thorough and robust. I note that additional sites have been considered as part of this appeal, and that further searches have not revealed any sites that are any more suitable/available and that would meet the coverage objectives of both operators.
9. As I am satisfied that the alternative site search assessment is satisfactory, I conclude that the very limited harm that would be caused to the CA would be outweighed by the public benefit that would arise from improving communications infrastructure. Therefore, whilst there would be minor conflict with the conservation aims of Policy CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012; Policies DM01, DM06 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document (DMP) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the substantial public benefit resulting from this proposal outweighs the very limited harm to the CA. As the assessment of alternative sites is satisfactory, I conclude that there would be no conflict with Policy DM18 of the DMP.

Other Matters

10. I have taken into account the comments made by other interested parties. There is no evidence to suggest that the proposal would be dangerous or that it would have an adverse health impact. The appellant has completed the ICNIRP certificate and paragraph 46 of the Framework states that local planning authorities *"should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure"*.
11. The Courts have held that the effect of a proposal upon property values is seldom a material planning consideration. In any event, I have not been provided with any objective evidence to substantiate the claim that the proposal would have an adverse effect upon property values.
12. I note that a planning application was previously, and recently, refused for a telecommunications structure in close proximity to the appeal site. However, that was for a larger pole and with more cabinets. In any event, I have determined this appeal on its individual planning merits.
13. I do not consider that the proposal would cause harm to matters of pedestrian or highway safety. The Council did not raise any concerns in respect of such matters. I note the references made by interested parties to the O2 website and the level of coverage compared to the predicated coverage plots included with the planning application. I am satisfied that the more detailed plans submitted by the appellant do show a clear deficiency for good quality 3G coverage in the area (and also noting that 4G coverage is proposed), and I have no reason to doubt the information provided. I also note that the Council has not raised any issues with the detailed information submitted by the appellant.
14. None of the other matters raised outweigh my conclusions on the main issues.

Conditions

15. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
16. Planning permission is granted subject to the standard three year time limit condition. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.

Conclusion

17. For the above reasons, and taking into account all other matters raised, on balance, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 100C, Drawing No 200I and Drawing No 300H.