

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/16/3153807

Footpath between Alverstone Avenue and Oakleigh Park Railway Station, Barnet EN4 8DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CTIL and Telefonica Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/0380/PNT, dated 18 January 2016, was refused by notice dated 2 March 2016.
 - The development proposed is the installation of a 12.5 metre high street works pole and 3 No radio equipment cabinets, a 6.5 metre x 6.5 metre compound and development works ancillary thereto.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a 12.5 metre high street works pole and 3 No radio equipment cabinets, a 6.5 metre x 6.5 metre compound and development works ancillary thereto at Footpath between Alverstone Avenue and Oakleigh Park Railway Station, Barnet EN4 8DS, in accordance with the terms of the application Ref 16/0380/PNT, dated 18 January 2016, subject to the conditions set out in the attached schedule.

Procedural Matter

2. For the avoidance of doubt, I have determined this appeal in accordance with amended drawing Nos 100F, 101E, 201H, 301I which were received by the Council on 2 March 2016. The Council's refusal notice refers to such plans.

Main Issues

3. The main issues are the effect of the proposal upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of Nos 2, 4 and 4A Alverstone Avenue in respect of outlook.

Reasons

Site and proposal

4. The appeal site is located to the west of Oakleigh Park Station off a footpath between Netherlands Road and Oakleigh Park North (to the west). It is within a wooded area which forms part of the railway embankment and Alverstone
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Avenue is to the east where there are a number of dwellings, the nearest of which is about 25 metres from the site.

5. It is proposed to erect a 12.5 metres high "Hutchinson Elara" column with a shrouded antenna section at the top. It would be set within a compound which would measure approximately 6.5 metres by 6.5 metres and including three equipment cabinets and a meter cabinet. The pole and cabinets would all be finished in a green colour (RAL 6009).

Character and appearance

6. Whilst the proposed development would not be totally screened from public views, it would nonetheless assimilate well into the tree lined railway embankment and would be seen in the context of a number of other vertical structures including street lighting columns and telegraph poles which are all positioned within very close proximity to the site. In this context, coupled with the partial screening that would be afforded by the existing trees/vegetation around the appeal site and the green colour for the mast and equipment cabinets, I do not consider that the proposal would look materially out of place in the area. I reach this conclusion in the knowledge that at certain times of the year, when the deciduous trees are without leaf, the development would be more visible than at other times of the year.
7. I accept that the proposal would be noticeable from more localised view points including from the footpath adjacent to the site. However, mast proposals are very much typical features of urban environments, and the slim line nature of the development would ensure that it did not appear incongruous when viewed by passers by. I also note that similar proposals have been allowed on appeal for other masts in the immediate vicinity of the site (albeit that they have not implemented) with Planning Inspectors also reaching similar conclusions.
8. For the above reasons, I conclude that the proposal would not have a significantly detrimental impact upon the character and appearance of the area, and that it would accord with the design aims of Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) and Policies DM01 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP).

Living conditions

9. The mast and cabinets would be positioned about 25 metres from the nearest residential property. The development would be at an angle to the rear elevations of Nos 2, 4 and 4A Alverstone Avenue and there would be an intervening area of established trees and other vegetation separating the respective land uses.
10. Whilst, the occupiers of the aforementioned properties would see glimpses of the proposed development, owing to the orientation of the dwellings, separation distances involved, and the intervening trees/vegetation, I do not consider that the proposal would have a significantly overbearing impact. Furthermore, it is proposed that the mast and cabinets would be finished in a green colour, and hence this would ensure that the development did not appear as a striking contrast to the essentially verdant character of the area.
11. In addition to the above, I note that in allowing a 12.5 metre high telecommunications stacked column in 2006 (Appeal reference No

APP/N5090/A/06/2016280), which was in very close proximity to the current appeal site (albeit closer to Alverstone Avenue), the Inspector commented that *"the mast would be set further back from Alverstone Avenue. I consider that when seen from the limited vantage points from here, and from the small number of residential properties from where there would be direct views, it would not appear as a significantly strident, dominant or overbearing feature at odds with its surroundings"*. Whilst the planning policy position is now different from that which existed in 2006, and the proposed mast would be slightly wider, I do not consider that there have been any material changes in site circumstances which would lead me to conclude any differently from the Inspector who considered a similar proposal in 2006. Whilst the mast would be slightly wider than that approved in 2006, this would not be by a significant amount, and furthermore the development would be further away from properties on Alverstone Avenue.

12. For the above reasons, I conclude that the proposal would not have an overbearing impact when viewed from Nos 2, 4 and 4A Alverstone Avenue (or any other property), and therefore would accord with the amenity aims of Policy CS5 of the CS and Policy DM01 of the DMP.

Other Matters

13. I note that the appellant has undertaken a search of alternative sites, and I have no reason to disagree with the conclusions reached by the appellant that there are no better suitable/available sites to meet the coverage requirements for the area. The Council have also raised no issue in this regard.
14. The proposal would lead to an improvement of 3G and 4G services in the area thereby allowing mobile phone users to use ultra fast speeds when browsing the internet, streaming videos and sending emails. This would be in accordance with one of the 12 Core Planning principles in the National Planning Policy Framework (the Framework) which states that planning should *"proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs"*. I therefore attach a degree of positive weight to the fact that the proposal would improve mobile phone coverage in area which is currently identified as being deficient.
15. I note the representations made by Mrs J Marsh of 6 Alverstone Avenue who disagrees that there is a need for a street works pole in the area. Whilst there may now be Wi-Fi available at Oakleigh Station, this does not negate the need for improved mobile phone signal coverage in the area. On the evidence before me, I have no compelling reason to disagree with the appellant's data which demonstrates that there is a need for the proposal. The Council appear to have reached a similar conclusion as in their appeal statement they comment that *"the appellant has submitted information to prove that there is a need for the additional mast based on the coverage map which they attached in the original planning application, and they have also submitted the ICNIRP Certificate to prove the compliance of the proposal with the non-ionised radiation guidelines"*. Reference has been made to approved telecommunications sites in East Barnet (ie Church Hill Road) where coverage has been improved: however, these sites are outside of the search area for the appeal proposal.

16. Comments have been by a number of other interested parties about the effect of the proposal upon the health of those who live close to the site. However, paragraph 46 of the Framework states that *"local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure"*. Therefore, I do not consider that the proposal would lead to any adverse health issues.
17. I do not doubt that the appeal site provides a habitat for some wildlife: it is designated as a 'site of local importance for nature conservation'. However, I have not received any objective evidence to indicate that the proposal would cause harm to any protected species. Given the scale of the proposal, I do not consider that the proposal would cause demonstrable harm to the area in terms of its use by wildlife.
18. Comments have been made about land stability. I do not have any specific evidence to indicate that it would not be possible to erect the development on the land from a land stability point of view.
19. I acknowledge the concerns raised by The Rt. Hon. Mrs Theresa Villiers MP about the use of the footpath to gain access to the appeal site. However, construction work would be temporary and once the pole and cabinets were in place I can see no good reason why it would be necessary to close the footpath for long periods of time. Whilst there may be some inconvenience for users of the footpath at construction stage, this would be relatively short lived. I do not consider that any such inconvenience would justify dismissing the appeal.
20. None of the other matters raised outweigh my conclusions on the main issues.

Conditions

21. 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.
22. The matter of commencement time is already subject to a standard conditions imposed by Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. 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.
23. In the interests of the character and appearance the area it is necessary to impose a planning condition relating to materials.

Conclusion

24. For the above reasons the proposal would not have a significantly harmful effect upon the character or appearance of the area, or the living conditions of the occupiers of surrounding residential properties (including the occupiers of Nos 2, 4 and 4A Alverstone Avenue). Therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 100F, 101E, 201H, 301I
- 2) The materials to be used in the external surfaces of the development shall match those specified in the Supplementary Information Document.