

Appeal Decision

Site visit made on 13 September 2016

by **Roy Merrett BSc(Hons) DipTP MRTPI**

Decision date: 03 November 2016

Appeal Ref: APP/H5390/W/16/3152657

Footpath at junction of Goldhawk Road and Cathnor Road, Hammersmith W12 9NS

- 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 Vodafone Limited against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2015/05631/FUL, dated 30 November 2015, was refused by notice dated 27 January 2016.
 - The development proposed is the installation of a 12.5 metre T range pole accommodating 6 no. antennas, the installation of 1 no. equipment cabinet, 1 no. meter cabinet and works ancillary thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's reason for refusal relates to the effect of the proposed mast and cabinets on the character and appearance of the Coningham and Lime Grove Conservation Area (CA). At the site visit, I saw that the proposed monopole would be situated in very close proximity to a tree at the junction of Cathnor Road, depicted on the appellant's drawing as being approximately 5 metres in height. Although the Council's case does not refer to the tree, third parties have raised concerns about the proximity of the mast to the tree and the potential implications of that for the future of the tree.
3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on me in coming to my decision, to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. With that duty in mind, and in the interest of fairness, the Council and the appellant were given the opportunity to make further comment on this matter. I have taken those comments into account in coming to my decision.

Main Issues

4. The main issues are the effect of the development on i) the character and appearance of the CA and ii) in the event that harm is identified whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.
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Reasons

Character and Appearance

5. The appeal site is located on the north side of Goldhawk Road, a busy commercial and residential street, characterised by buildings of varying height and design and lined by trees. It was apparent from my visit that trees, including that adjacent to the proposed monopole, make an important contribution to the character and attractiveness of the street, breaking up the hard edge of built development.
6. The appellant has confirmed an initial ground investigation revealed no tree roots, nor were any other constraints identified that would impede the development from a build perspective. The Council, however, considers that there is potential for the tree to be damaged by the development proposed, depending on the extent of foundations, the location of any cable trenching required and the construction methodology. It also raises concerns regarding future works that might be required to the tree in order to safeguard the function of the equipment.
7. Given the close proximity of the proposed monopole and its associated equipment to the tree, I share the Council's concerns. From the limited information that has been provided, I am unable to conclude with any degree of certainty that the development would not have significant implications for the health and longevity of the tree and thus that there would be no harm to the established character and appearance of the CA in this regard.
8. The proposed monopole would constitute a tall and bulky structure and would be in a location where there are no other structures of similar scale and design. However from further along Goldhawk Road both to the east and west, the pole would be viewed against tall adjacent background buildings one of which is currently under construction. Though the monopole would be marginally taller than this building, the presence of the tall buildings would have the effect of visually absorbing the structure such that it would not appear unduly prominent or incongruous in the streetscene. The visual impact of the pole would be further mitigated by its recessive brown colouring. However this does not overcome the concern I have raised above regarding potential impact on the tree.
9. The proposed cabinets, though relatively large would be positioned at the back of the footway and finished in a subdued dark green colour. Accordingly they would not appear visually intrusive and would not add significantly to any sense of street clutter. I have not been provided with the approved drawings of the building currently under construction however I am satisfied that the relatively limited scale of the cabinets would not obstruct the frontage of that building to any significant degree and there would be no harm to its appearance. The CA character profile does not cite any opposition in principle to the positioning of cabinets at ground level in the vicinity of buildings.
10. A number of locally listed buildings of merit are located opposite the appeal site. The Council has not set out the heritage significance of these buildings in its supporting information. It seems to me that the significance of these buildings lies in their form and appearance in relation to the street. Whilst the appeal site lies within their setting, in that they can be experienced from the appeal site, the design and siting of the proposed development is such that it

would not have any significant impact on this experience. It would not therefore cause harm to their heritage significance.

11. However drawing together the above considerations, if the adjacent tree were to be lost to the development, which cannot be ruled out on the information before me, there would be harm to the character and appearance of the CA. Whilst that harm would be less than substantial, in terms of the guidance in the National Planning Policy Framework (the Framework), there would still be real and serious harm which is a consideration of significant weight.
12. In such circumstances, where harm is identified to the significance of a designated heritage asset, the Framework requires that this harm is weighed against the public benefits of the proposal. I have considered such benefits later in my decision.

Alternative sites

13. The appellant has provided technical information to demonstrate how the development is necessary to improve 3G and 4G signal coverage in the locality and that it would be part of a split cell requirement. That evidence is not disputed by the Council. Moreover, the proposal would provide facilities for two telecommunication providers which would potentially contribute to reducing the proliferation of masts and which is generally recognised as good practice.
14. A range of alternative site possibilities have, according to the evidence provided, also been explored. Some of these alternatives have been discounted for technical reasons and others on the basis that the respective landlords have not responded to approaches from the appellant.
15. However, no evidence has been provided of written correspondence between the parties on this. I am mindful, in this regard, that paragraph 45 of the Framework makes it clear that, amongst other things, applications such as this should be supported by the necessary evidence to justify the proposal, including evidence that the appellant has explored the possibility of erecting antennas on an existing building, mast or other structure. In this case, whilst I have been provided with brief explanations as to why some alternatives are not suitable for technical reasons, the evidence in relation to other sites being discounted because of landlord unwillingness is anecdotal.
16. For example, I have no copies of the letters sent to the respective landowners, nor any copies of their responses where relevant. To my mind, that does not meet the requirement of evidence as required by the Framework. Moreover, one of the alternative sites has been discounted by the appellant on the basis that the building in question was undergoing refurbishment and a potential extension. There is no evidence, in this regard, as to whether the owners of that building would rule out an agreement with the appellant once the refurbishment or extension work is completed. After careful consideration, I am not persuaded that the evidence that is before me clearly demonstrates that an alternative site is not available.

Other Matters

17. Concern has been raised regarding the effect of the monopole on outlook for future occupiers of the adjacent building currently under construction. The agent acting on behalf of the developer of that site has provided an elevation drawing demonstrating the position of the monopole in relation to the front of

the building. This representation indicates that the pole would be offset towards the edge of the nearest windows. Therefore combined with the separation of the structure from the front elevation of that building I do not consider that it would dominate or unduly harm the standard of direct outlook from the windows in question.

18. The Framework states that if a proposal meets International Commission guidelines for public exposure it should not be necessary to determine further health safeguards. The appellant has submitted evidence that demonstrates that the proposed equipment would comply with the International Commission on non-ionising radiation protection guidelines. I have not been provided with any compelling evidence to suggest that a different approach is required in this specific case. Accordingly the approach taken by the Framework does not support the health fears expressed by local residents.
19. With regard to concerns that the proposal would lead to an increase in pavement clutter and obstruct the highway I am satisfied that sufficient space would remain for this not to be a problem.
20. Whilst my attention has been drawn to a previous unsuccessful appeal for telecommunication equipment at this site, that case involved a different proposal at a time when the adjacent site was not subject to re-development and therefore the visual context was different. Similarly from the limited information provided it is not clear that the other appeal decisions cited would be directly comparable to the current appeal based on the site specific circumstances of this case which I have decided on its own merits.

Planning Balance

21. The Framework sets out that the Government is strongly committed to the expansion of the electronic communications network and this objective is echoed in the London Plan. I give weight to this consideration. Furthermore I acknowledge that the Government in a recent ministerial statement has set out its intention to further extend permitted development rights for telecommunication development proposals.
22. However, given that it is not possible to conclude on the basis of the anecdotal evidence before me that an alternative site could not be found, the need for the installation at the appeal site does not weigh significantly in favour of the development and does not outweigh the harm I have identified.
23. Drawing together the above considerations, the proposed development would be in conflict with Policies 7.1, 7.4 and 7.6 of the London Plan 2015, Policy BE1 of the Hammersmith and Fulham (H&F) Core Strategy 2011 and Policies DM G1 and DM G7 of the H&F Development Management Local Plan 2013 insofar as they seek to protect the character and appearance of the Borough's Conservation Areas, protect local character and enhance the public realm.

Conclusion

24. For the above reasons and having regard to all other matters raised the appeal should be dismissed.

Roy Merrett

INSPECTOR