
Appeal Decision

Site visit made on 18 May 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 22 June 2017

Appeal Ref: APP/E5900/W/17/3168787

Collingwood Street, London E1 5RP

- 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 CTIL, Vodafone Ltd and Telefonica UK Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/01670, dated 16 June 2016, was refused by notice dated 20 October 2016.
 - The development proposed is telecommunications installation and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for telecommunications installation and associated works at Collingwood Street, London E1 5RP in accordance with the terms of the application Ref PA/16/01670, dated 16 June 2016, subject to the following 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: 100 Rev A (site location maps); 200 Rev C, and; 300 Rev C.

Preliminary matters and main issues

2. Since the planning application was submitted and determined, the provisions of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016 took effect on 24 November 2016. This has the effect that permitted development rights for certain communications equipment have changed. Subsequently, the appellant argues that only issues of siting and appearance should be taken into account, as would be the case in an application for prior approval. However, the application was for full planning permission for the development, and as such it falls to be considered against all the relevant development plan and national policies. I have thus considered the appeal on that basis.
 3. The Council's first reason for refusal related to the effect of the proposal on the flow and safety of pedestrians using the pavement, on the basis that the siting of the installation would leave insufficient width for circulation. In response, the appellant has submitted amended plans 200 Rev C (proposed site plan) and 300 Rev C (proposed north east elevation) to address this matter. In my view, the amended proposal would not materially alter the proposed development such that to grant it would result in a development substantially
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different from that previously consulted upon. As such, I find that there is no prejudice that would justify re-consultation. I have therefore taken the amended plans into consideration.

4. The Council has indicated that they are satisfied with the revision to the location of the cabinets on the pavement, which in their view has addressed the first reason for refusal. There is no reason for me to take a different view, and so I have not considered the matter further in my decision.
5. The main issues of the appeal are therefore the effect of the proposal on the character and appearance of the surrounding area, and whether the proposal would prejudice the implementation of the Whitechapel Vision.

Reasons

Character and appearance

6. The development would comprise one Lancaster enclosure, two Ericsson cabinets, and one Jupiter pole which would be approximately 17.5m high. These would be located on the footpath on the west side of Collingwood Street, adjacent to the existing Sainsbury's site. On the opposite side of the road is Grindall House, which is a modern five storey housing development.
7. The footpath is relatively wide in this location, and is characterised by lamp posts and a series of mature street trees. The backdrop to the appeal site is provided by the Sainsbury's complex, which is a modern development of a markedly utilitarian character.
8. The proposed Jupiter pole would be a slender structure incorporating shrouded antennae. This is now a standard form for such equipment in urban streets. The height of the new pole would exceed that of the lamp posts, but it would nonetheless appear as a simple, uncluttered monopole. It would be painted light grey, which would blend with the surroundings. At around 13m in height, the nearby street trees are prominent vertical features in the streetscene, and so would provide a visual context for the new pole.
9. The proposed cabinets would be plain and simple in design, and would be painted green. They would be situated at the back of the pavement, which is fairly wide in this location. Whilst they would be visible to pedestrians and drivers, they would not be prominent in the streetscape due to their discreet location. The presence of the trees would help to soften the visual impact of the cabinets particularly when approaching the site along Collingwood Street from the north.
10. Therefore, whilst the development would undoubtedly introduce new visual elements to the street, I consider that its presence would not be unacceptably harmful to the character or appearance of the surrounding area. I thus find no conflict with Policy DM23 of the London Borough of Tower Hamlets Managing Development Document Development Plan Document (DPD, April 2013), which relates to streets and the public realm. The proposal would comply with DPD Policy DM24, insofar as it requires development to be sensitive to the local character and setting, and to take into account other streetscape elements.
11. I agree with the Council's position that the development would fall short of enhancing the local character or setting of the appeal site. As such, it would fail to meet this particular aspect of DPD Policy DM24. Nevertheless, having

regard to the policy's wider aims, it would otherwise not have an unduly harmful visual impact, and therefore would not be in conflict with the policy as a whole. I therefore find that the shortfall in this case would not be so harmful as to warrant the withholding of planning permission. The Council has not disputed the need for the installation in order to provide improved coverage in the area and I see no reason to disagree. This matter would thus also weigh in favour of the development.

The Whitechapel Vision

12. The Council's third reason for refusal relates to the provisions of the Whitechapel Vision Masterplan Supplementary Planning Document (SPD, December 2013). The overall purpose of the Masterplan is to manage the expected growth in Whitechapel and to create a place that secures the benefits of growth for the community. It provides guiding principles to support future regeneration and development.
13. The SPD identifies the existing Sainsbury's site as a key area for redevelopment. Specifically, the SPD envisages a new, larger store with high density residential development above. The planning officer's report voices concern firstly that the appeal scheme would prejudice the activation of the Collingwood Street frontage. The second concern is that the proposed development would unacceptably harm outlook, and hinder ingress and egress from, new dwellings if they were to be sited immediately behind the appeal site.
14. On the first matter, I accept the importance of achieving an active frontage on this part of Collingwood Street. However, the development would take up only a small proportion of the stretch of Collingwood Street that is marked on Figure 31 of the SPD as falling within the 'proposed active frontage'. Therefore, whilst the presence of the proposed development would have to be taken into account, it would not be so significant in scale or extent as to hinder redevelopment along the remainder of this area of Collingwood Street.
15. I have been referred to a planning application¹ for a mixed use development on the Sainsbury's site which proposes housing on the Collingwood Street frontage, close to the appeal site. I have been provided with some extracts from that proposal, but these are at so small a scale that it is difficult to make out the exact impact the appeal scheme would have on it. Moreover, the Council have since confirmed that planning permission was refused on 11 May 2017. As there is no extant planning permission for the redevelopment of the site, I am able to give little weight to this circumstance in any case.
16. If residential development was provided at upper levels, in line with the SPD guidance, the low height of the cabinets would not have an appreciable effect on outlook. Points of entry to any future redevelopment scheme could be designed around the proposed telecommunications development. At around 17.5m high, the pole would be more readily visible from residences. However, given that it would be a narrow structure, and would be situated on the side of the pavement nearest the road, I consider that any future development proposal for the Sainsbury's site could take its presence into account when considering outlook for future residents.

¹ PA/15/00837

17. Drawing these matters together, I conclude that the proposal would not prejudice the implementation of the Whitechapel Vision Masterplan SPD. There is no detailed or substantive evidence before me to show that the living conditions of future residents would be prejudiced, and so there would be no conflict with DPD Policy DM25, which seeks to protect the amenity of future residents. Furthermore, I find no conflict with DPD Policy DM3, which relates to the delivery of homes.
18. I note the Council's contention that the appellant has not conclusively demonstrated that they have carried out an exhaustive search for an alternative site location, or shown that the appeal site is the best choice for the development. However, as I have found that the development would not cause undue harm, there is no necessity to consider the availability or merits of alternative sites. In any case, there is no requirement in the National Planning Policy Framework or the GPDO for developers to select the best feasible siting.

Conditions

19. For certainty, it is necessary that the development is carried out in accordance with the approved plans.

Conclusion

20. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR