



Appeal Decision

Site visit made on 30 April 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/Y5420/W/19/3222650

Telecommunications Site, Dukes Mews, London, N10 2QR

- 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 Cornerstone Telecommunications Infrastructure Limited against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2018/3084, dated 9 October 2018, was refused by notice dated 5 December 2018.
 - The development proposed is described as 'retrospective application for a 20 metre high Elara pole (19.74m to top dual stack antenna) and 3no. equipment cabinets and ancillary development thereto.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The mast is already in situ but appears to be sited in accordance with the submitted plans, against which I am considering this appeal.

Background

3. The evidence before me indicates that prior approval was granted on the appeal site in May 2017 under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for '*the replacement of existing 17 metre high monopole with a 19.74m high dual stack antenna support pole, an equipment cabinet to be placed in the existing compound and associated development (GPDO).*' However, following the installation of the mast which now exists on site, the Council was of the view that the dimensions of the mast exceeded those permitted by the GPDO, and that planning permission was required. This appeal follows the Council's decision to refuse planning permission for the development as described in the banner heading.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the appeal site and its surroundings, having particular regard as to whether the scheme would preserve or enhance the character or

appearance of the Muswell Hill Conservation Area.

Reasons

5. The appeal site lies within Muswell Hill Conservation Area (CA). There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a CA.
6. A Conservation Area appraisal for the CA has not been submitted to me but from my site visit and the evidence before me, I consider that the significance of the CA derives, in part, from the height, design and presence of a number of period buildings and other buildings of architectural interest which provide a rhythm and visual interest to the surrounding streets.
7. The principle of a mast in this location has previously been established and it appears that a 17m pole and associated apparatus were in situ within the appeal site for a period of at least 10 years. According to the evidence before me, which includes plans and photographs of the previous, permitted, and current masts, the most significant difference in visual terms is the additional height of the current mast (the mast) which is approximately 3m taller than the previous mast, the larger diameter of the pole, and the larger shroud at the top of the mast.
8. The mast is sited close to existing mature trees albeit slightly further away from the trees than the previous mast. I visited the site when trees were not in full leaf but even so, I was able to ascertain that the trees allowed only limited views of the mast from Muswell Hill. The site is somewhat hidden away from the main streets in the surrounding area which significantly reduces obtainable mid and long-distance views. Where views are obtainable, the mast is largely seen against the backdrop of existing trees or nearby buildings.
9. However, in closer views, particularly when approaching the site along Dukes Mews, the mast is prominent. The narrowness of Dukes Mews and the proximity of the mast to existing buildings means that it appears obtrusive in this setting. There are obtainable views of the site from Dukes Avenue where it lies to the rear of, and in between, an imposing and decorative red-brick church building which is Grade II listed, and a row of attractive three-storey buildings with shop fronts at ground floor level. These buildings are one of a number which contribute to the significance of the CA.
10. Whilst I appreciate that the previous mast would have been visible from all these viewpoints, and prior approval has been granted for a replacement mast within the appeal site, neither of these would have been as prominent as the appeal scheme given the additional height and scale of the mast and shroud in situ. Painting the mast a different colour would not markedly decrease its prominence. In this manner the development appears incongruous on this narrow street, and dominant and out of character with the listed church and other residential buildings. The development neither preserves nor enhances the character or appearance of the CA. In accordance with paragraph 196 of the National Planning Policy Framework (the Framework), this harm is less than substantial.

11. The evidence submitted in support of the planning application states that, in part, there is a requirement for the mast due to an existing telecommunications site, 77 Muswell Hill, being decommissioned in the future. The decommissioning of the site would mean the current mast at the appeal site would allow two operators to pool their network infrastructure and share the appeal site facilities.
12. A third party has made me aware of a prior approval application at 77 Muswell Hill to replace the existing antenna and cabinets which was submitted to, and received no objection from, the Council in September 2018. Furthermore, the appellant's evidence submitted with the appeal does not imply that the current mast is being used as a mast share, only that it would allow another operator to deploy services from the mast in future. Therefore, based on this uncertainty, I have applied only limited weight as a public benefit regarding the use or future use of the mast as a shared facility, in the context of paragraph 196 of the Framework.
13. As the land falls away to the south and east, it would not be feasible to site the infrastructure outside the CA. The appellant has provided me with a list of alternative locations for the equipment. They were discounted for several reasons, including insufficient coverage, technical construction reasons, or the proximity to tall buildings. However, as I am unclear on the future use of the existing site at 77 Muswell Hill, I do not know if it would be an appropriate alternative site for the appeal development and I am unable to discount it. Therefore, I cannot rule out the possibility that an alternative site might be found elsewhere to address the need, in terms of the evidence before me. In this regard the development is contrary to DM3 of the Haringey Development Management DPD July 2017 (the DPD) and contrary to paragraph 115 of the Framework.
14. The mast is required to increase 4G coverage in the area and, with minimal further alteration, would allow 5G to be installed in future. The previous smaller mast was unable to deliver these technologies. The mast supports the expansion of electronic communications networks, including next generation mobile technology. Such development for high quality communications infrastructure is supported by Policy DM54 of the DPD, subject to compliance with Policy DM3. I have applied significant weight in favour of this as it constitutes a form of public benefit.
15. In conclusion, the development appears incongruous in the street, harming the significance of the CA, thus fails to preserve the character and appearance of the CA. According to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, this is a matter which carries considerable importance and weight.
16. As a result, the development conflicts with Policy 7.8 of the London Plan 2016, Policies SP11 and SP12 of the Haringey Local Plan Strategic Policies 2013 – 2026¹ (LPSP) and Policies DM1 and DM9 of the DPD which collectively seek to ensure development enhances and enriches the built environment and conserves the historic significance of heritage assets. The development fails to address the requirements of Policy DM3 of the DPD which, amongst other matters, requires proposals for telecommunications equipment to be located so they do not detract from the character and

¹ Consolidated with alterations since 2017

appearance of the area, including heritage assets, and require that opportunities for sharing existing facilities have been fully explored. There is conflict with paragraph 115 of the Framework which requires development for electronic communications development to be justified by exploring the possibility of erecting antennas on an existing building, mast or other structures.

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. There is an identified need for a facility which attracts significant weight in favour of the appeal scheme. However, I do not know if an alternative site may yet be found and the public benefits are insufficient to outweigh the identified harm to the CA. Therefore, the development conflicts with the development plan.

Other Matters

18. Despite concerns about potential health impacts, the appellant has provided a certificate to confirm that the development has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Paragraph 116 of the Framework explains that in such instances, health safeguards are not for the decision-maker to question. As there is no substantive evidence to suggest that the ICNIRP guidelines would not be met, there are insufficient grounds to depart from the position explained in the Framework.
19. Concerns have been raised by a number of local residents regarding the impact of the mast on their living conditions, primarily through loss of outlook. I agree with the Council that, whilst views of the mast are obtainable from a number of properties within the nearby 'Pinnacle' development, it is sufficient distance away from them, and not of considerable bulk and mass, so does not result in an unacceptable loss of outlook from either the internal living space or balconies associated with these properties.
20. I have considered the numerous objections received from local residents, a number of which I have addressed above. With regards to the other matters that have been identified by these residents, as my appeal does not turn on these concerns and they have no bearing on my decision to dismiss, it is not necessary for me to pursue them any further as part of my decision.
21. The appellant considers that permitted development rights would have allowed the previous mast to be increased in height to 20m with no restriction on the width of the replacement antennas. However, one of the conditions in the GPDO² sets a limit on increases in width of any existing mast when compared to that being replaced. Furthermore, any new mast in this location would be subject to prior approval in respect of its siting and appearance. I have no evidence from the appellant describing how any such development would otherwise benefit from permitted development rights. Given the Council's concerns in respect of the visual impact of the appeal scheme, I have no confidence that permitted development rights represent a realistic fall-back position for the appellant. As the previous mast has been

² The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016

removed and replaced with the mast that is in situ, I am obliged to determine the current planning appeal on its merits, which I have done here.

22. The appellant has made reference to an appeal decision on a different site which was allowed by the Inspector. However, I am not satisfied that the circumstances of this case are sufficiently similar to the appeal scheme such that it would warrant me reaching a different conclusion on the main issue.
23. I have found harm to the character and appearance of the CA and a lack of objection from the Council's heritage officer, whilst noted, does not alter my findings on this matter.

Conclusion

24. For the reasons given above, the appeal is dismissed.

Matthew Woodward

INSPECTOR