



Appeal Decision

Site Visit made on 17 March 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/G5750/W/20/3260377

Galleons Place, Cyprus, Newham, London, E6 5PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Hutchison 3G UK Ltd against the decision of the London Borough of Newham.
- The application Ref 20/00808/PRETEL, dated 17 April 2020, was refused by notice dated 16 June 2020.
- The development proposed is proposed telecommunications installation: proposed Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, the London Plan (2021) (the New London Plan) has been published by the Mayor of London and is now part of the development plan. The policies within the London Plan (2016) are therefore no longer extant. The parties have had an opportunity to comment on the New London Plan in relation to the case during the appeal process. I have taken this into account in my determination of the appeal. Having said that, there is no statutory requirement to have regard to the development plan in the case of prior approvals. However, the development plan does contain material that is relevant to the planning judgements to be made in respect of the matter before me.
3. In so doing I am satisfied that the appellant has had the opportunity to consider the provisions of the New London Plan and no-one's case is prejudiced by my taking them into account.

Main Issues

4. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GDPO) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received and provided that the apparatus is within the limits set out within the GDPO. My determination of this appeal has been made in the same manner.
5. Whilst I am satisfied that the proposal complies with the relevant limitations and restrictions set out in the GPDO, development under Part 16, such as the appeal scheme, is subject to a condition that the prior approval of the Council

must be sought for the siting and appearance of the development. The Council has withheld its approval on the basis that the proposal would cause harm by way of its effects on visual amenity.

6. Consequently, the main issues are the effect of the proposal on the character and appearance of the area and, in the event that any harm is identified, whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

Reasons

7. The appeal site is on a footway linking Cyprus Place to Cyprus Station on the Docklands Light Railway (DLR). The footway runs through a public open space between a wooded area and a more open grassed area containing a number of trees.
8. Existing street furniture in the area includes street lighting, information signage, bins, seats and railings, but is generally low in height. Whilst taller lighting columns exist nearby, in association with the vehicular carriageway, the street lamps on the footpaths through the public open space are significantly lower.
9. The area provides a spacious, verdant break within the urban landscape and this verdancy and spaciousness are positive features contributing to the character and appearance of the area. The site is approached from both Cyprus Place and the DLR station and would normally be a busy, bustling environment, and the verdancy and space would provide a degree of respite from the bustle of urban living.
10. The proposal would introduce a tall monopole antenna, rising from a cabinet, and three other cabinets to the side of the footpath, adjacent to an existing street lamp and in front of a tree. The cabinets would be of varying size and appearance.
11. Longer views of the cabinets and the monopole would be restricted, to a degree, by existing planting and built form. Nevertheless, views would remain from the wider area of public open space and surrounding public realm, particularly of the monopole which is of considerable height. There would also be some views of the proposal from nearby residential properties, particularly those fronting Cyprus Place. The extent to which the proposal would be visible would increase in winter as a significant number of the nearby trees are deciduous. The column, viewed from the DLR station exit and from the west, would appear against a backdrop of existing planting.
12. The proposed column would be sited alongside an existing lighting column, but, at some 20 metres in height, would dwarf that in scale, as it would much of the nearby planting. The varying size and appearance of the cabinets would lack coherency of design. Together the scale, prominence and incongruous nature of the column and its associated cabinets would be a stark, eye-catching feature, out-of-keeping with both the existing nearby street furniture and the planting. Notwithstanding that, in some views, the proposal would appear against the urbanised backdrop of the DLR station, this incongruity with the existing street scene would, in this case, amount to significant harm to the verdant, spacious character and appearance of the area which I have identified above.

13. The appellants have suggested that, independently, the cabinets could be installed as permitted development. However, there is little to suggest that, without the associated antenna, such development is likely to take place and so I have given this matter limited weight.
14. Whilst the colouring of the proposed equipment could be controlled by a suitably worded planning condition, I have no information before me to demonstrate that such measures would be effective in addressing the issues that I have identified above.
15. The proposal would therefore harm the character and appearance, and thus the visual amenity site and the surrounding area.
16. The appellants have undertaken an assessment of opportunities for the equipment to share existing facilities. Whilst this exercise concludes that no opportunities exist for sharing, from the information before me I am not convinced that the appellants have adequately explored whether there may be less harmful alternatives for a standalone location within the wider cell search area whose siting would be more in keeping with the visual amenity of its location.
17. I note that the proposed equipment would provide for future technologies and the support in the National Planning Policy Framework -2019- (the Framework) for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. My attention has been brought to policies within the Newham Local Plan -2018- whose aims highlight and support the provision of high quality, well connected communications networks and infrastructure. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
18. For the reasons set out above, I do not consider that the appeal proposal has been sympathetically designed as required by the Framework. I have concluded above that the development would be harmful to the character and appearance of the area, and I am not convinced that less harmful alternatives have been properly explored and it is my overall view that the need for the installation does not, in this case, outweigh the harm resulting from it.

Conclusion

19. I conclude that the harm to the character and appearance of the area would be significant. Furthermore, there are no matters of sufficient weight to outweigh that conflict and indicate that a decision should be taken otherwise.
20. As such, for the reasons given above, I conclude that the appeal should be dismissed.

I Dyer

INSPECTOR