



Appeal Decisions

Site visit made on 26 April 2021

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 MAY 2021

Appeal A Ref: APP/E5900/W/20/3252998

Western footpath on Harford Street to the north of the junction with Essian Street, Mile End, Tower Hamlets, London E1 4PY, Mile End, Tower Hamlets, London E1 4PY

- 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 EE Ltd & Hutchison 3G UK Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/01274, dated 11 June 2019, was refused by notice dated 5 May 2020.
 - The development proposed is described as 'Proposed upgrade to existing telecoms site. Proposed phase 7 monopole c/w wrapround cabinet at base and associated works'.
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Appeal B Ref: APP/E5900/W/20/3258762

Western footpath on Harford Street to the north of the junction with Essian Street, Mile End, Tower Hamlets, London E1 4PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 EE Ltd & Hutchison 3G UK Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/20/00960, dated 6 May 2020, was refused by notice dated 7 July 2020.
 - The development proposed is described as 'Proposed Telecommunications upgrade. Proposed 20.0m AGL Phase 7 monopole c/w wrapround cabinet at base and associated ancillary works'.
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Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Preliminary Matters

3. For Appeal A and Appeal B I have amended the address of the appeal site to improve clarity, in accordance with the respective site plans.
4. As set out above, there are two appeals on the same site for what, in physical terms, would be the same development. One appeal concerns the refusal of

prior approval for permitted development rights under Schedule 2, Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The other appeal concerns the refusal of planning permission for the erection of the same telecommunications equipment, located in the same position within the street.

5. I have considered each proposal on its individual merits and with appropriate regard to relevant legislation, policy, and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
6. The London Plan¹ 2021 was published after these appeals were lodged but prior to their determination. Consequently, I contacted the Council and the appellant and sought their comments in relation to the publication and these appeals. No responses were received within the specified timescales.

Main Issue

7. For Appeal A and Appeal B, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

8. The appeal site is located on the footpath on the western side of Harford Street, opposite and to the north of the junction with Essian Street. The footpath is next to the eastern boundary of Shandy Park, which is marked by metal railings.
9. Shandy Park has a pleasant appearance and contains grassed areas, footpaths, and benches, together with recreational equipment for both adults and children. The park also contains mature trees, many of which are positioned towards the eastern edge, close to the appeals' site.
10. This is a largely residential area containing predominantly 3-storey buildings of various designs, with a small school campus to the northeast, by Commodore Street. Opposite the appeals' site is a prominent, 3-storey, brick and stone building, which was formerly a school and now contains flats.
11. There is an existing telecommunications mast, some 14.7m high and located a short distance to the south of the appeals' site on the Harford Street footpath, close to the park railings. There are five ancillary equipment cabinets by the existing mast, of various heights and designs, and which are located a similar distance from the park railings as the mast.
12. These are prominent features in the streetscene, yet effort has been taken to reduce their physical presence and visual impact, such as by the painting of the mast and several of the cabinets, and particularly by siting them at the back of the footpath. These measures mean that the existing equipment is seen in close juxtaposition with the metal railings and mature trees within Shandy Park, particularly in views along Harford Street and Essian Street.
13. The appeals' proposal would entail the erection of a 20 metre high telecommunications mast, together with six ancillary equipment cabinets, in the footpath close to the kerb. The proposals are both described as upgrades

¹ Spatial Development Strategy for Greater London March 2021

- to facilitate 5G coverage and the existing mast and three of the five existing equipment cabinets would be removed as part of the proposed works.
14. The National Planning Policy Framework 2019 (the Framework) contains guidance for making telecommunications applications, including that applications should be supported by the necessary evidence to justify the proposed development. For a new mast, such as is proposed, this should include evidence that the use of existing masts, buildings or structures has been explored, amongst other things.²
 15. The appellant's interpretation of this sequential approach is not compelling and includes a number of statements that are not well-substantiated, and in some cases somewhat ambiguous.
 16. The proposals are referred to as the upgrading of an existing site or facility. Some existing equipment cabinets would be re-used. However, the siting of the proposed mast, which would be manifestly new, and the additional equipment cabinets, in a significantly different location along the street and within the footpath, means that I am not satisfied the proposals can be adequately described as an upgrade to an existing site. The proposed site footprint is significantly different to the existing site, albeit with a small overlap with the two retained cabinets; the site location plan³ does not include all of the existing site.
 17. In any event, no substantive evidence has been provided to demonstrate that this location was identified through the sequential approach contained in the Framework or is the most appropriate. Such information is said to have been considered as part of the assessment of the original installation but is not in the evidence before me.
 18. I also note that the appellant has not provided all of the information listed on the Site Specific Supplementary Information document, including a map showing the cell centre and adjoining cells. The existing mast was also installed some time ago and to serve different networks (3G and 4G).
 19. Consequently, I am not satisfied that 'this site is the only viable solution and is in the most appropriate location', as the appellant claims.
 20. The proposed new mast would be significantly different to the existing mast it would replace. The diameter of the proposed mast would be substantially greater than the existing, with the rectangular base considerably larger. Furthermore, it would be taller, and located well away from the park railings, towards the front of the footpath.
 21. The mature trees in the park would continue to offer a visual context to the proposed mast as they do for the existing mast and would offer some screening in views along Harford Street and from within the park. However, the design, height, bulk, and position within the footpath of the proposed mast would significantly reduce the benefits currently provided by the mature trees. Whilst there are also streetlights in the area, these would not provide a supportive visual context; the proposed mast would be almost twice as tall and considerably bulkier than the streetlights.

² Paragraph 115.

³ Drawing No 1253243_TOH174_59325_E0541_M001 A

22. Even if the proposed new mast were to be finished in a sympathetic colour scheme, its design, height, bulk, and position to the front of the footpath would make it a highly prominent feature and considerably more intrusive than the existing mast, thereby detracting from the character and appearance of the area.
23. The appellant states that the additional equipment cabinets are permitted development and do not require prior approval. However, it is not clear from the evidence that this is the case. Furthermore, the appellant makes a number of references to the cabinets and mast, rather than just the mast, in their evidence.
24. Even if I were to accept that the proposed cabinets were permitted development without requiring prior approval, the impact of the proposed mast alone would still cause substantial harm to the character and appearance of the area, as set out above.
25. The mast and ancillary cabinets would be part of the 5G telecommunications network in the area, and I note that the Government supports the expansion of such networks⁴, which can provide a range of social, economic, and environmental benefits. I also note that the area is said to suffer from poor access to 3G and 4G services, particularly at peak times, to the detriment of local residents and businesses.
26. The impacts of the Covid-19 pandemic on telecommunications networks are not currently known in detail, although there is likely to have been a substantial increase in demand for such networks over the past year. Two networks and the emergency services would utilise the proposed equipment, and the appellant has submitted a declaration of conformity with ICNIRP⁵ guidelines.
27. However, the design, height, bulk, and position within the footpath of the proposed mast would cause significant visual harm to the area. Furthermore, based on the limited submitted evidence, I am not satisfied that the proposed mast is positioned so as to minimise its visual impact at this location, whilst still being able to serve the cell, or that there are not more suitable locations that could be used to serve the cell.
28. For these reasons the proposal for Appeal A and for Appeal B would cause significant harm to the character and appearance of the area, which in these cases, would outweigh any benefits. They would therefore conflict with Policies S.DH1 (delivering high quality design), D.OWS3 (open space and green grid networks), D.DH2 (attractive streets, spaces and public realm) and D.DH11 (telecommunications) of the Tower Hamlets Plan 2031, and with the Framework.
29. For Appeal B I have had regard to the development plan and to the Framework only insofar as they relate to the matters for which prior approval was sought.

Conclusion

30. For the reasons given above, I conclude that Appeal A is dismissed and that Appeal B is dismissed.

Andrew Parkin

INSPECTOR

⁴ The Framework Chapter 10 – *Supporting high quality communications*.

⁵ International Commission on Non-Ionizing Radiation Protection