



Appeal Decision

Site visit made on 29 November 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal Ref: APP/G5750/W/21/3275519

HSW13164 - Prince Regent Lane street works, Prince Street Lane, Silvertown, London Borough of Newham, London E16 3DH

- 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 Great British Communications against the decision of London Borough of Newham.
 - The application Ref 20/02874/PRETEL, dated 23 December 2020, was refused by notice dated 16 February 2021.
 - The development proposed is the proposed erection of an 18 metre high Phase 8 telecommunications pole with built-in cabinet, 3no. separate cabinets and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), under Article 3(1) and Schedule 2, Part 16, Class A, requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the surrounding area; and (ii) the living condition of occupiers of neighbouring properties with regards to outlook.

Reasons

Character and appearance

5. The area surrounding the appeal site is characterised predominantly by residential properties. The surrounding area is a typical urban area with common street features including street lighting, road signs, trees, bus stops and traffic lights.

6. The proposal would be significantly higher than existing features in the area and would appear out of keeping with structures such as nearby street lighting. There are some tall buildings and trees in the area however, given the style, size and height of the proposal, it would appear as an unusual feature that would dominate the street scene and detract from the visual setting of the surrounding area.
7. The proposal would be sited to the rear of the pavement adjacent to a wall with the equipment positioned in a single line and painted in black. Whilst the cabinet equipment would not be visually intrusive, the proposed mast would be a discordant structure that would not relate well to existing features in the street scene and would compromise the appearance of the area.
8. The proposal would be an incongruous feature that would be harmful to the character and appearance of the surrounding area. The proposal would fail to comply with Policies S1, S6, SP1, SP3, SP7 and INF4 of the Newham Local Plan 2018 (NLP), Policies D1, D4 and SI6 of the London Plan 2021 (LP) and the Framework which seeks development to be of high quality and be suitably located.

Living conditions

9. The proposals would be visible from the rear gardens and windows of neighbouring properties on Tree Road and Churchill Road. Due to the proposals massing, width and siting, it would not appear overly overbearing and would not adversely compromise the outlook from surrounding residential properties. The proposals would not have a harmful effect on the living conditions of occupiers of neighbouring properties with regards to outlook.

Other Matters

10. I have had regard to the appellants statement of case including reference to an appeal decision¹. Insufficient information has been provided with regards to this scheme and I cannot be sure that it is directly comparable with the appeal scheme, particularly with regards to location and scale. In any event, I have determined this appeal on its own merits.
11. The appellant indicates that the proposal would provide high-quality communications which is an objective of OFCOM and the Mayor of London. An International Commission on Non-Ionizing Radiation Protection (ICNIRP) certificate was submitted with the proposals. The appellant also indicates that local planning authorities are encouraged to support the expansion of telecommunications including written communication from the Department for Digital, Culture, Media and Sport.
12. I also note that the Council raised no concerns with the effect of the proposal on public safety.
13. Policy SP8 of the NLP and Policy D8 of the LP were included within the Council's reasons for refusal. Copies of these Policies were not submitted. This however does not alter my findings above and the conflict with other development plan policies.

¹ Planning Inspectorate Reference: APP/A5840/W/20/3254830

Planning Balance

14. The proposal would bring public benefits including 5G coverage that would provide residents, workers and visitors with a choice of high-quality communications. The appellant has indicated that in terms of cell area, the intended target area for coverage would be an approximate radius of 100 metres in order to reach a densely populated area.
15. The appellant has also submitted a sequential approach on site selection with around four sites identified and all discounted for various reasons including proximity to residential properties, pavement widths and coverage. Insufficient information, including technical data and relationship with buildings, has been submitted to clearly demonstrate why these other sites were discounted and not appropriate as potential alternative sites.
16. The proposal would result in public benefits to the area. However, from the evidence before me, I am not convinced that alternative options including other sites or redesign of the proposal have been fully explored. The benefits and matters described above therefore do not outweigh the substantial harm that I attribute to the effects that the proposal would have on the character and appearance of the surrounding area.

Conclusion

17. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
18. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR