



Appeal Decision

Site visit made on 9 November 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2022

Appeal Ref: APP/E5900/W/21/3274487

Area of Footpath, The Highway, St George in the East, London E1W 2BB

Easting: 534600 Northing: 180706

- 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 Hutchison 3G (UK) Limited against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/20/02746, dated 23 December 2020, was refused by notice dated 16 February 2021.
 - The development proposed is the 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 allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed erection of an 18 metre high Phase 8 telecommunications pole with built-in cabinet, 3no. separate cabinets and ancillary works at area of Footpath, The Highway, St George in the East, London E1W 2BB dated 23 December 2020, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require such proposals to be assessed on the basis of the proposal's siting and appearance, taking into account any representations received, and the policies of the development plan and National Planning Policy Framework (the Framework) only in so far as they are material considerations in relation to siting and appearance.

Main Issues

3. The main issues are the effects of the proposed development's siting and appearance upon:
 - The character and appearance of the surrounding area; and
 - Highway and pedestrian safety.

Reasons

Character and appearance

4. The Highway is a busy main road which, on one side is lined by a pleasant tree-lined pavement and on the other a backdrop of commercial warehouses and showrooms. Although the Council suggest that the appeal site lies within an area experiencing rapid and clear change away from a predominantly commercial character to one more mixed with residential uses becoming more widely established, the proposed monopole and cabinets would stand directly in front of a two-storey self-storage warehouse building. Further commercial buildings lie to either side of the storage building in front of which the appeal proposal would be located.
5. Where there are currently existing residential areas nearby, the avenue of street trees on the northern side of the road provides a robust and continuous screening presence between the site and residential uses. Even though the trees are deciduous, they are of a sufficient scale and the branch structure and canopies sufficiently dense, even when not in leaf, as to provide effective visual mitigation.
6. The monopole and cabinets would be sited at the rear edge of the pavement, adjacent to a line of bollards immediately in front of the self-storage building. Whilst it would be substantially taller than the building it would be sited immediately in front of, so too is the nearby streetlight column. However, installations such as that proposed are increasingly common in urban areas as next generation mobile technology, such as 5G mobile coverage, is rolled out.
7. The height of the monopole would not be an incongruous, unsightly or uncommonly tall structure in the current context of the surrounding area and buildings. Nor would its positioning within the pavement cause harm to the character or appearance of the surrounding area. The Council are concerned that it would disrupt the possibility of an active building frontage towards the street and, whilst the evolving nature of The Highway is noted, I am satisfied that the proposal would not compromise the character or nature of the area immediately surrounding the appeal site in this respect in the current context.
8. I am, however, mindful of references to the changing nature of the area as set out by the Council and concerns that the proposal would prejudice neighbouring development potential. It has subsequently been clarified that the planning application referred to on a nearby site¹ remains outstanding awaiting completion of a section 106 planning agreement. A further proposal, relating to the self-storage building site (and a neighbouring site) to which the appellant alluded has been lodged as a formal application for planning permission² but is undetermined at the current time.
9. An objection to the appeal proposal seeks to demonstrate that the monopole would be sited directly in front of a residential element of a redevelopment scheme for that site and would compromise access to the 'core' of that building as well as to an integral sub-station within the building. Furthermore, as the proposed building would be set back from the rear edge of the pavement the monopole would be an isolated and free-standing presence within a wider area of pavement, thereby increasing its incongruous appearance and siting.

¹ LPA Ref No: PA/19/00559

² LPA Ref No: PA/21/02513

10. Whilst mindful of these matters, I cannot be certain that either scheme would be constructed in their currently proposed forms, or indeed even be certain that permission will eventually be forthcoming for one, or other, or both schemes. Even if they were, the taller and larger buildings proposed in those instances would provide a more substantial backdrop to the proposed monopole which, as set out above, are increasingly common in urban areas, including those of residential character. The weight that I give these planning applications as a material factor is therefore limited as a result.
11. The National Planning Policy Framework (the Framework) recognises the essential nature of advanced, high quality and reliable communications infrastructure to economic growth and social well-being. Recent Covid-19 related lockdowns and changes in work patterns, particularly homeworking, have further raised the importance of high quality and reliable communications infrastructure as society becomes ever more 'connected'.
12. Tower Hamlets Plan (THP) policy D.DH11 sets out the Council's approach to telecommunications proposals. The proposal's siting and appearance would, for reasons set out above, minimise the impact on the streetscene and would not detract from the amenities of surrounding properties, whilst I have no reason to believe that the proposal would pose unacceptable risks to the health and well-being of nearby residents or users of surrounding sites.
13. Although the appellant's conclusions in respect of alternative sites and opportunities for co-location and site sharing are somewhat limited, I am satisfied that the acceptable nature of the proposal's siting and appearance is sufficient to ensure that the proposal would appropriately minimise its impact on the streetscene. Nor, for the reasons set out above, would the proposal be in conflict with THP policies S.DH1 or D.DH2 which together seek to secure high quality design and attractive streets, spaces and public realm.

Highway and pedestrian safety

14. That the Highway is a busy road is not disputed. Whilst it does not currently provide a particularly pleasant pedestrian environment the footway is at least relatively generous in the width afforded to pedestrians.
15. The proposed mast would be located towards the rear edge of the footway, immediately adjacent to a line of metal bollards that run along the adjacent site frontage. There are other items of street furniture, including further bollards, a road sign and a street light column located towards the roadside edge of the footway.
16. Although the proposed monopole and cabinets would impinge on the clear path between the existing street furniture, they would not do so in a manner that would compromise the usability of the footway or break the continuity of pedestrian desire lines. Sufficient space between existing pieces of street furniture would be retained for direct and unimpeded access along the footway whilst the monopole and cabinets would not be so large or intrusive within the footway as to force pedestrians and other users of the pavement to deviate unacceptable or dangerously towards the road itself.
17. The proposal would be sited adjacent to the rear edge of the currently usable pavement and would minimise undue clutter and direct obstacles within the pavement. As a result, it would not compromise the ease or safety of use of

the pavement for pedestrians or other users of the footway. For these reasons, I am satisfied that the proposal's siting would not be in conflict with the provisions of THP policies S.DH1, D.DH2 or D.DH11 in respect of highway and pedestrian safety.

Other Matters

18. The Council have highlighted shortcomings in the appellant's site selection process and the consideration of alternative sites. I agree that the list of alternative sites considered by the appellant is not extensive, nor is the reasoning for discounting each site particularly comprehensive or enlightening. However, as I have concluded that the proposal's siting and appearance is acceptable and would not cause harm to the character and appearance of the surrounding area, this is not fatal to the proposal.

Conditions

19. The Council have submitted two suggested conditions in the event that the appeal should succeed. Of the suggested conditions, condition 1 states that development should be begun before the expiration of three years from the date of this permission. As the provisions of the condition set out in the Order at paragraph A.3(11) allow for a period of 5 years, not 3, I have not imposed this condition. With regard to suggested condition 2, which is a 'plans' condition requiring that development be carried out in accordance with the approved plans, as this duplicates the provisions of the condition set out in the Order at paragraph A.3(9) I have not imposed the suggested condition.

Conclusion

20. There are undetermined applications for the redevelopment of sites and buildings close to, and immediately to the rear of, the proposed monopole's location. However, neither planning application to which I have been referred has been formally approved and I cannot therefore be certain that permission will ultimately be forthcoming, let alone the respective schemes implemented and built out. Whilst these factors carry some weight against the proposal, that weight is limited.
21. The Framework recognises the importance of advanced, high quality and reliable communications infrastructure to economic growth and social well-being. It goes on to state that planning decisions should support the expansion of networks, including next generation mobile technology such as 5G. Recent periods of Covid-19 linked lockdown and changing work patterns, including working from home, have further highlighted the importance of such infrastructure. This is a matter to which I attached significant weight in my consideration of this proposal.
22. For the reasons set out above, the siting and appearance of the proposal would be acceptable and would not cause harm to the character or appearance of the surrounding area. Nor would it prejudice the safety of users of the pavement or highway network. For these reasons, and having considered all other matters raised, I conclude that the appeal should be allowed, and prior approval be granted.

G Robbie

INSPECTOR