



Appeal Decision

Site visit made on 31 January 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/N5090/W/21/3276591

**Lyttelton Road, Hampstead Garden Suburb, London Borough of Barnet,
London N2 0ED**

- 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 UK LTD against the decision of London Borough of Barnet.
 - The application Ref 21/2163/PNT, dated 11 April 2021, was refused by notice dated 21 May 2021.
 - The development proposed is a 15m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no dispute that the proposal would accord with the requirements of Schedule 2, Part 16, Class A Paragraph A.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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.

Planning policy

3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (The Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the Hampstead Garden Suburb Conservation Area (HGSCA), and

- whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

Character and appearance / Historic environment

5. Lyttelton Road is a wide carriageway with footways set away from the kerb edge by generous grass verges. Built form, close to the appeal site, consists of a variety of building styles and scales ranging from large traditional dwellings to substantial residential blocks. Buildings are set back from the highway a generous amount. Furthermore, trees and hedge planting are within most front boundaries of plots near to the site. The grass verges ahead of these boundaries are largely open. The main visual intrusions within this space are the regular interval of streetlights along both sides of the carriageway. This commonality is not eroded by the existing small mast seen opposite Blandford Close due to its modest scale. Furthermore, the position of buildings, set predominantly behind landscaping, create a streetscape which is both spacious and verdant. The appeal site is within the grass verge, which therefore makes a positive contribution to the character and appearance of the area.
6. The site is within the HGSCA and in front of Lyttelton Court, a non-designated heritage asset. The significance of the conservation area derives from its garden suburb origins and the quantity of listed buildings within. Its buildings are largely arranged in regimented rows and small pockets of housing with a strong emphasis on verdant and ordered public realm. The conservation area includes cohesive areas of private and public spaces, resulting in a place that the Council's appraisal¹ describes as "leafy and visually attractive". I note that Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, relating specifically to conservation areas, does not apply in this instance as the proposal seeks prior approval. Nevertheless, appropriate consideration can still be given to the provisions under Section 15 of the Framework in this regard.
7. The proposed mast would be located within a prominent setting. It would draw attention as a stark and strident addition which would be an incongruous feature in the street. It would be significantly taller than existing trees and Lyttelton Court. These would therefore only provide a backdrop when viewed from a point directly opposite the site and would be less effective at framing the proposal from the more common views of observers travelling along the highway. Consequently, while tree planting may offer some background screening it would not be to the extent that the proposal would appear appropriate within this setting, particularly during periods of the year where these trees have reduced foliage.
8. Accordingly, there would be a high degree of visibility of the proposed mast within the street with the proposal appearing prominently either in the foreground or background depending on the vantage point. Although not affecting the setting of Lyttelton Court, it would be an obtrusive addition to the wide linear space which defines this part of the conservation area. As such, the proposal would appear visually disruptive within the setting of the street and consequently harm its significance. Furthermore, a condition to require the mast to be a specific colour would not mitigate the harm identified. As the

¹ Hampstead Garden Suburb – Character Appraisal

proposed mast would not integrate well with the street it would harm the character and appearance of the area.

9. Insofar as they are material considerations, I have also had regard to policy CS5 of the Barnet Core Strategy DPD (2012) and policies DM01, DM06 and DM18 of Barnet Development Management policies (2012). These policies, among other matters, seek development to protect the areas heritage, be based on an understanding of local characteristics and for telecommunication equipment to have no significant adverse effect on the space in which it is located. As I have found that the proposal would not integrate well with the local streetscene it would not satisfy these policies.

Location of proposal

10. The Framework encourages the reuse and adaption of existing base stations. Furthermore, it states that proposals for new masts should evidence the possibility of erecting antennas on an existing building, masts or other structures. This therefore establishes a sequential approach first favouring the reuse of existing sites.
11. The location presents constraints due to the high concentration of residential properties in the area and the constrained search area. The site is away from immediate views from occupiers of residential properties and would not obstruct users of the footway. The Appellant states that the area suffers poor access to digital services with a limited service available within the East Finchley area. The map at figure 5 of the Appellant's evidence shows that the site is within an area of poor coverage.
12. The Appellant identifies that the upgrading of existing sites is not available. Furthermore, in consideration of the five alternative base station locations, the Appellant also indicates that no suitable alternative site exists. However, some of these are outside the conservation area and could present sites in less visually sensitive locations.
13. Furthermore, the discounted options are all roadside sites along the A1. This shows a limited search area which has not fully explored the wider search area defined by figure LP1 of the Appellant's Statement. The evidence is also absent a compelling reason why tall buildings within the area have not been considered for roof top antennas. I am therefore unconvinced that a more suitable site, within the cell search area, does not exist.

Planning Balance

14. Paragraph 200 of the Framework states that any harm to the significance of a designated heritage asset should require clear and convincing justification. The harm to the character of the conservation area would be calibrated as less than substantial in this case. Paragraph 202 states that where less than substantial harm to a designated heritage asset has been identified this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
15. The Framework places importance on decisions that support the expansion of electronic communication networks. It states that new masts should be sympathetically designed. Such equipment should be consistent with the needs of consumers, the efficient operation of the network and provide reasonable capacity for future expansion.

16. I note the suggested benefits of the proposal include the improved 5G mobile coverage for users of the UK H3G network in the area, along with the economic and social opportunities that this may bring. Moderate weight is attributed to these benefits given that the improved coverage would be limited to users of this network and the broad scope of the suggested economic and social opportunities.
17. The Framework seeks decisions to support the delivery of an advanced, high quality and reliable communications infrastructure for economic growth and social well-being. Nonetheless, the proposed mast would be highly prominent in the street and be taller than the adjacent streetlights. Moreover, the absence of screening would emphasise views of the proposed mast. Accordingly, the constrained nature of the area and the need for local coverage would not outweigh the harm identified to the character and appearance of the area.
18. Consequently, the suggested public benefits of the appeal proposal would not outweigh the identified harm to the character or appearance of the HGSCA, or the limited evidence demonstrating why the proposal could not be more appropriately located on an alternative site. Accordingly, the identified harm and conflict with the development plan, and the Framework, as it relates to siting and appearance, is not outweighed by other material considerations.

Conclusion

19. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR