



Appeal Decision

Site visit made on 7 June 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2022

Appeal Ref: APP/H5390/W/21/3288693

Du Cane Road, Shepherd's Bush, London, W3 7DJ

- 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) (hereafter the 'GPDO').
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2021/03085/TEL56, dated 18 September 2021, was refused by notice dated 5 November 2021.
 - The development proposed is 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Main Issue

2. Schedule 2, Part 16, Class A of the GPDO makes provision for the installation of electronic communications equipment subject to the prior approval process set out in paragraph A.3. This says the developer must apply to the Council for a determination as to whether the prior approval of the authority will be required with respect to the siting and appearance of the development.
3. Consequently, and from the reasons given on the Council's decision notice, the main issue is the effect of the siting and appearance of the development on the character and appearance of the Old Oak and Wormholt Conservation Area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Policy

4. By virtue of Part 16 of the GPDO, the proposal is, in principle, permitted development. As such, there is no requirement to have regard to the development plan as there would be for a proposal requiring planning permission.
5. Nevertheless, policies DC1 and DC8 of the Hammersmith and Fulham Local Plan (2018) and policies D8 and HC1 of the London Plan (2021) are material considerations in so far as they relate to issues of siting and appearance. In particular, they seek to ensure development respects, and is compatible with, its context and conserves the significance of heritage assets. Also Local Plan policy DC10 is material as it relates specifically to telecommunications

equipment and refers to the need for such development to not unacceptably impact upon its setting, upon conservation areas and should share locations where appropriate. Similarly, the National Planning Policy Framework (the 'Framework') is also a material consideration as this includes a chapter on supporting high quality communications.

Reasons

6. The mast would be sited at the junction of Old Oak Common Lane, Du Cane Road and Erconwald Street. This junction is a commercial area with many shops and other public facilities around it. The wide pavements here add a sense of spaciousness too. The commercial area extends southwards along Old Oak Common Lane from the junction. However to the east along Du Cane Road, to the north-east on Erconwald Street, and to the north on Old Oak Common Lane, the area quickly becomes residential in character.
7. The site is within, but at the edge of, the Old Oak and Wormholt Conservation Area with the boundary running along the centre of Old Oak Common Lane. It is a largely suburban residential area with pockets of green space and commercial development and with the A40 dual carriageway running through its centre. The Old Oak & Wormholt Conservation Area Character Profile identifies this part of the conservation area as being the Old Oak Estate whose significance primarily stems, historically and architecturally, from the planned garden suburb layouts and cottage garden design of the housing. The Profile also identifies a number of key views, one being the view along Erconwald Street towards Old Oak Common Lane, and another being south along Old Oak Common Lane. The proposed mast would be visible in both these key views.
8. The mast would necessarily be taller than all the surrounding buildings, which are generally two storey, and other street furniture including street lamps. The shape and colour of the pole would be simplistic and comparable to the street lamp columns, albeit of a wider girth, and the cabinets would be modest in scale and not dissimilar to other equipment boxes, such as that just to the south of the site.
9. From the north and the south, the mast would be seen in the context of the wide pavements and the surrounding commercial development. However from Erconwald Street, the view of the mast would be flanked by the cottage garden designed houses and street trees indicative of the garden suburb setting. In this domestic context the commercial appearance of the mast would appear incongruous. Indeed, the street trees serve to screen most of the commercial background on Old Oak Common Lane and the openness of the junction, in contrast with the views from other directions. Instead, the mast would be the focus at the end of the street, and in the key view, appearing unduly prominent. Furthermore, it would be visible for a significant distance back along the road and would be readily visible from as far back as the underground station.
10. Overall, although the mast would be visually incongruous from a key view point, in all other aspects of its appearance it would respect its context. Consequently, although there would be harm from the development's siting and appearance to the character and appearance of the conservation area, that harm would be less than substantial. Paragraph 202 of the Framework requires the harm to the heritage asset to be balanced against the public benefits of the proposal.

11. The public benefit would be the boosted capacity of the 5G network in this area. Chapter 10 of the Framework identifies that high quality communication infrastructure is essential for economic growth and social well-being. The appellant has provided information showing nearby 3UK sites. However none of them appear to be overloaded or congested as none of the sectors of any of the cells are coloured red which, the appellant explains, would indicate a congested cell that justifies the installation of new equipment, such as that proposed, to offload the demand.
12. Moreover, although the appellant states that site sharing or installing additional equipment on an existing building has been discounted, there is no evidence of this. Indeed there are several tall buildings close to the site, such as the church on the opposite side of Old Oak Common Lane, which is closer to the search area than many of the other options that are shown to have been investigated. Similarly, there is also little clear evidence of an assessment of where other operator's sites are or if they could be shared. Paragraph 117 of the Framework and policy DC10 advise that site sharing and installations on buildings are both explored to justify a new mast or base station.
13. Overall, it has not been satisfactorily demonstrated that there is a need for the development to be sited here nor that other more suitable sites are unlikely to be available.

Conclusion

14. The siting and appearance of the development would cause less than substantial harm to the character and appearance of the Old Oak and Wormholt Conservation Area. However, it has not been satisfactorily demonstrated that there is a need for the 5G network in this area to be boosted by the proposal at this site, and it has also not been shown that other more suitable sites are unlikely to be available. Therefore I cannot give any significant weight to any economic and social benefits that may result from the development. As such these public benefits do not outweigh the harm.
15. Consequently, for the reasons given above, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR