



Appeal Decision

Site visit made on 6 December 2022

by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2023

Appeal Ref: APP/G5750/W/21/3285447

Area of Footpath, Church Street, London E15 3HU.

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of London Borough of Newham.
 - The application Ref 21/01892/PRETEL, dated 29 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is for the erection of an H3G Phase 8 18 metre high street pole complete with wrap-around cabinet and 3no. additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the area, most notably in terms of the setting of designated and non-designated heritage assets.

Reasons

3. The proposal would see the erection of a single 18m high mast with wrap around cabinet at ground level and various antennas towards the top of the pole together with three free-standing cabinets within an area of public space adjoining a small car park serving some shops and known locally as 'The Triangle'. The Triangle forms a prominent urban space at the junctions of Church Street with New Plaistow Road and Church Street with Church Street North.
4. The Council's decision notice relates to concerns only about the mast. In this, I have concluded that there are no concerns in relation to the cabinets and I have no reason to come to a different view. The same is true of its effects on highway safety. I have thus focussed my attention on the visual effects of the proposed mast, most particularly in terms of the setting of The Church of All Saints West Ham, a Grade I Listed Building.
5. The proposed equipment would be positioned on the back edge of the pavement in front of the paved area on Church Street. There is a mixture of street furniture and paraphernalia at this location, including a telephone kiosk, waste bins, lamp posts and a permanent white painted lockable newspaper stall. Although the variety of such utilitarian street furniture adds some degree

of verticality, they are substantially smaller than what is proposed here. In fact, the openness of the public space, which has some amenity planting on its peripheries adds considerably to the character and appearance of the area. Most importantly, this sense of openness allows the setting of the Grade I All Saints Church to be fully appreciated from some distance at this once important historic road junction.

6. Under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I am obliged to have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest. The National Planning Policy Framework (the Framework) advises that 'significance derives not only from the asset's physical presence but also from its setting'.
7. The Framework states that where new sites serving the telecommunication industry are required, equipment should be sympathetically designed and camouflaged where appropriate. Whilst some effort has been made to design the proposed mast as a standard, uncluttered monopole, it would nevertheless exceed the height of the tallest nearby street furniture by a significant margin. The proposed wide mast would stand out as an incongruous and dominant feature within the surrounding streetscape and would harmfully detract from the character and appearance of the area.
8. But, by far the greatest impact would be on the setting of the listed building. The Church of All Saints West Ham according to Historic England is of the highest historic and aesthetic significance dating from the 12th century. Its significance is derived from its evidential value, namely its surviving Norman nave, the 13th century nave extension and 14th century castellated west tower. Its late 16th century nave roof is also particularly fine.
9. The church moreover is located within its historic churchyard with its principal entrance accessed via the south-west gate close to the junction of Church Street and New Plaistow Road almost directly opposite the appeal site. The street pattern at this location, which includes The Triangle, adds considerably to the significance of the Church and its setting.
10. In finding that the proposed mast would be a distracting intrusion into the public space at this location, it would have a negative and harmful impact on the setting and significance of All Saints Church West Ham and on the significance of the space between the church and New Plaistow Road from which the church can be appreciated. The same is true of the impact on the non-designated heritage asset of the Kings Head (now the City View Hotel) to the north of the site. The significance of this particular building lies in its fine Victorian form and vibrant elevational treatment that includes the elegant, curved frontage facing The Triangle and Church Street.
11. Whilst the harm identified to the setting of the listed buildings may be considered less than substantial in the context of paragraph 202 of the Framework, this test requires that such harm be considered against any public benefit the development might offer. The provision of facilities to provide up-to-date telecommunications may in the broadest sense be deemed to be a public benefit. However, paragraph 199 of the Framework, states that great weight should be afforded to the conservation of heritage assets, which must also by definition, include their setting. The more important the asset, the greater the weight should be. Furthermore, in accordance with paragraph 203

of the Framework, I am required to form a balanced judgement in terms of the impact on the non-designated heritage asset, which I find unacceptable.

12. Consequently, any limited public benefits are significantly and demonstrably outweighed by the harm caused to the setting of the listed building in this instance; the same is true of the impact on the former King's Head. Moreover, the proposal would be contrary to the London Plan (2021) policies D1, D3, D4 & SI 6, and also to the London Borough of Newham Local Plan (2018) policies S6, SP1, SP3, SP5 & SP9. These policies while supporting telecommunications as a matter of principle, nevertheless, also seek to protect the character and appearance of the area and local identity and distinctiveness as well as designated heritage assets.

Need

13. The Framework contains a clear expression that advanced, high quality communications infrastructure is essential for sustainable economic growth, and, in this respect, there is encouragement to local planning authorities to support the expansion of electronic communications networks, including telecommunications. The proposal mast would facilitate improved coverage and provide a reliable 5G service in the current network gap.
14. The Council does not dispute the need to improve network coverage in the area, nor is there any contention of the substantial benefits to mobile connectivity and the network. I see no reason to take a different stance.
15. The Framework recommends at paragraph 117 that existing masts, buildings and other structures should be used, unless the need for a new site has been justified. The appellant has set out a number of alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued. However, it does not appear that the Council has undertaken any rigorous consideration of the alternative sites put forward by the appellant. This would under normal circumstances significantly weaken the Council's opposition.
16. From my perspective, I have no reason to dispute the appellant's identified search for alternative sites and the reasons for not putting them forward. Neither have I any evidence that there may remain a possibility that the use of alternative, less harmful locations may merit further consideration by the appellant. This runs contrary to the Framework, which requires evidence that the possibility of erecting antennas on existing buildings, masts or other structures has been explored.

Conclusions

17. There would be economic and social benefits associated with upgrading the existing infrastructure and against a wider objective of improving the communications network. These are aspects that weigh in favour of the appeal proposal. On the other hand, I am in no doubt that the proposal would be harmful to the character and appearance of the area.
18. Moreover, the overarching statutory duty for me to consider the desirability of preserving the setting of the listed building, a matter of considerable importance and weight, leads me to conclude, in the circumstances of this case, that the appeal should also not succeed on these grounds. Furthermore, the proposal would conflict with the development plan.

19. Finally, I am currently unconvinced that the appeal site is the least harmful location available through which coverage benefits could be facilitated, and this weighs against the proposal.
20. Taking all matters into consideration, including the Government objective to improve mobile connectivity and to deliver required network improvements, I conclude that the appeal should be dismissed

Gareth W Thomas

INSPECTOR

