



Appeal Decision

Site visit made on 17 November 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2023

Appeal Ref: APP/N5090/W/22/3298358

The Ridgeway, Barnet, Greater London NW7 1QS

- 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) ('GPDO').
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of London Borough of Barnet.
 - The application Ref 21/6301/PNT, dated 1 December 2021, was refused by notice dated 11 January 2022. The development proposed is Proposed 5G telecoms installation: H3G Phase 8 18m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the local planning authority and therefore the Secretary of State 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. The Council has referred to several development plan policies. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO. Nevertheless, in determining this appeal I have had regard to policies DM01, DM06, DM15 and DM18 of the Development Management Policies SPD (Adopted September 2012) and London Plan policies HC1 and G7, but only insofar as they are a material consideration, relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - i) Whether or not the proposal would preserve or enhance the character and appearance of the Mill Hill Conservation Area ('the CA') having regard to other designated heritage assets and protected trees; and
 - ii) In the event that any harm is identified whether that harm would be outweighed by the need to site the installation in the location proposed and any benefits associated with the proposal.

Reasons

Character and appearance

5. The proposal is intended to improve digital wireless, mobile coverage within the area with new equipment to facilitate part of an integral requirement to expand Fifth Generation (5G) coverage. This would comprise a 18m monopole incorporating a wrap-around cabinet at its base, along with further separate cabinets adjacent to this.
6. The appeal site comprises part of a grass verge along the side of The Ridgeway towards the junction with Hammers Lane. A pedestrian path is set behind the grass verge which abuts a boundary of trees that are protected as part of a Tree Preservation Order. The site also falls within the Metropolitan Green Belt.
7. The CA covers approximately 152 hectares of land towards the northwest corner of the Borough. It includes a scattering of institutional buildings and houses strung out for a mile along the high ground of The Ridgeway.
8. Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 places a duty to require special attention to be paid to the desirability of preserving or enhancing the special character or appearance of a conservation area, including its setting. Paragraph 195 of the national Planning Policy Framework ('the Framework') also requires me to assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).
9. In particular, the Mill Hill Conservation Area Character Appraisal Statement, Adopted (April 2008) ('Character Appraisal') identifies a number of key locations, views, focal points and landmarks within the CA. Amongst the most notable buildings and landmarks is the war memorial, which is Grade II Listed, in front of Mill Hill School. This is located about 50m southeast of the appeal site along the grass verge. Also located on the grass verge and nearer to the appeal site is the Grade II Listed Milestone. Together, because of their similar architectural forms, these heritage assets positively contribute to the significance of the CA.
10. Furthermore, the Character Appraisal acknowledges that trees and planting make a very important contribution to the character and appearance of the CA, stating that: 'The attractive linear views along the length of the Ridgeway, down Highwood Hill, Milesplit Hill and Hammers Lane are enhanced greatly by the intermittent trees and hedges, which form a distinct boundary to the road. They provide a strong green barrier to the traffic and the properties that they enclose. They also add to the rural and open character of the conservation area.'
11. The backdrop to the appeal site is a hedge and open land beyond this. Because of this, the existing trees and the wide grass verge, the appeal site has a particularly open and verdant appearance and positively contributes to the character and appearance of the CA. This backdrop also provides a setting which gives prominence to the Grade II Listed Milestone and War Memorial in views from along The Ridgeway which includes the adjacent path. Thereby, contributing to the significance of these heritage assets and the CA.
12. Whilst some of the nearby trees are similar in height to the proposed 18m monopole, the proposal would be located in the grass verge, forward of these. As such, the existing trees would have a limited effect in reducing the visual impact of the monopole. Despite the monopole and cabinets being finished in green,

because of their utilitarian form and siting, these would be conspicuous enough to undermine the natural appearance of the established trees and landscaping.

13. The monopole would also not visually integrate with the nearby street lighting and telegraph poles due to its appreciably greater height and column width and more bulky and visibly distinct headframe design in relation to the supporting column.
14. The position of the monopole and cabinets in proximity of the roadside and a path would not be discrete and would further contribute to the visual dominance of the proposal as perceived by passing drivers and pedestrians, particularly in views from along The Ridgeway.
15. For the above reasons, in views from along The Ridgeway, the monopole and cabinets by reason of their form and siting would appear incongruous in the context of the Grade II Listed Milestone and to a lesser extent the Grade II Listed War Memorial.
16. Consequently, the proposal would introduce a stark and visually obtrusive feature within the street scene, which would unacceptably detract from the setting of the Grade II Listed Milestone and War Memorial and would fail to preserve the character and appearance of the CA.
17. The proposed equipment would also be in proximity of the protected trees. Whilst I note the appellant's intentions not to damage these trees, the installation of the proposed equipment would require some below ground infrastructure. To this end, and in the absence of any substantive supporting arboricultural information, I cannot be certain that siting of the proposal would not unacceptably impact on these trees. This is a matter of considerable concern, given that these trees positively contribute to the character and appearance of the CA.
18. Drawing on the above reasons, the siting and appearance of the proposal would harm the character and appearance of the CA and the significance of this and other heritage assets. The harm that would occur to the significance of these heritage assets would be 'less than substantial' within the meaning of the Framework.
19. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use. I shall undertake this balance later in my Decision.

Other Matters

20. The appellant has referred to a scheme that was allowed at appeal in Walworth, London. Based on the limited information available to me in respect of this, it would appear that the main issue in dispute related to pedestrian safety and there is nothing to suggest that the site is in a Conservation Area. Accordingly, in the absence of any notable similarities, I have given it limited weight.
21. The fact that the proposal would meet the ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines for public exposure is a requirement of prior approval and does not influence my findings on the main issue.

Other Considerations

22. Support for the delivery of advanced, high quality and reliable communications networks is afforded by the Framework under part 10. Supporting high quality communications, by other government documents and the development plan and London Plan, and such networks bring significant social and economic benefits. Furthermore, the proposal would support new 5G coverage to the local area.
23. Paragraph 117(c) of the Framework outlines that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be submitted.
24. The appellant advises that consideration was given to sharing any existing telecommunication structures in the immediate area, then to utilising any suitable existing structures or buildings and thirdly, sites for freestanding ground-based installations were investigated. However, I have not been provided with details of the extent of any existing telecommunications structures, buildings or other structures that could support the proposal. Indeed, the Council alleges that the appellant has not considered communications infrastructure across the road from the appeal site, adjacent to Sheepwash Pond. Whilst there may be none available in the search area or that options are unviable, there is little information before me on those sites, and I am not able to form my own view on the matter.
25. The proposal does consider alternative locations and discounts them. However, the justification for discounting these is limited and one of the alternative locations (option 'D3-High Street') appears to be outside the identified coverage area. Consequently, I am not persuaded that the site selection process was sufficiently robust and that a less harmful location could not be found.

Planning Balance and Conclusion

26. Whilst I have found that the harm to the significance of the designated heritage assets would be 'less than substantial'. Having regard to Paragraph 199 of the Framework, this is a matter of considerable importance and weight.
27. I acknowledge that there is need to site the installation in the search area and have found that the proposal's public benefits including the economic and social benefits of upgrading electronic communication infrastructure to be significant, in addition to the support given by the development plan, London Plan, the Framework and other government publications for such developments.
28. Taking these factors into account, while I give significant weight to the public benefits identified in this instance and the locational needs of the appellant, I do not consider them to be sufficiently forceful to outweigh the less than substantial harm that I have identified. I have also found that the unacceptable impacts would give rise to clear conflict with the Framework and the Planning (Listed Buildings and Conservation Area) Act 1990.
29. For the reasons given above, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR