
Appeal Decision

Site visit made on 31 January 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/W5780/W/22/3302374

Manor Road, Chigwell, London IG8 8BX

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 1088/22, dated 29 March 2022, was refused by notice dated 25 May 2022.
 - The development proposed is a 15.0m Phase 9 super slimline Monopole and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require an assessment of the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
3. While referenced by the appellant in their appeal statement, the relevant provisions of the GPDO do not require regard to be had to the development plan. I have had considered these policies only in so far as they are relevant to matters of siting and appearance. They are not, in themselves, determinative.
4. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of the GPDO, and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, the principle of the development proposed is acceptable.
5. I note the appellant has referred to the decision notice, within which the refusal reason cites to a lack of compliance with paragraph A.2 of Schedule 2, Part 16, Class A of the GPDO. The appellant states Part A.2 refers to development not permitted with regards to building based apparatus. However, Part A.2 refers

to the conditions of permitted development, including at A.2(c)(i) - the siting and appearance of any development which is visible from a site which is article 2(3) land. The extract of the appellant's evidence appears to refer to paragraph A.1(2). For the avoidance of doubt, I have not assessed the proposal on the basis of any building-based apparatus.

Main Issues

6. The main issue is the effect of the siting and appearance of the mast on the character and appearance of the area, including the Woodford Bridge Conservation Area (WBCA).

Reasons

7. The appeal site is a section of footpath located adjacent Manor Road in an area of mixed residential and commercial uses. Although located close to the boundary, the site is within the WBCA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
8. The submitted drawings show the height of the mast would be significantly taller than nearby buildings, trees, and street furniture such as streetlights and the bus stop. While I appreciate that the mast cannot be placed on existing structures and must be taller than these nearby objects and obstructions in the vicinity in order to operate efficiently, the large size and utilitarian appearance of the proposed equipment would appear out of scale and overly prominent within its immediate setting.
9. I have not been provided with an appraisal of the WBCA. From my own observations on the site visit, the significance of the heritage asset is derived in part from its mix of built form and areas of open space which reflect the area's development over the years. This is exemplified by the open area of green space to the west of the appeal site. This space is central within the WBCA and provides an open and verdant character which has remained free from development despite its location within a built-up area. This has led to the area retaining a somewhat semi-rural character and is a very positive contributor to the WBCA.
10. Due to the location of the appeal site adjacent this open space, the structure would be extremely prominent, and I disagree that the mast would be screened in any significant manner. Its height and ancillary equipment such as the antennas would jar with both the historic and domestic scale of these nearby buildings and the area of open space.
11. Overall, the effect of the proposed development on the area would be harmful and adversely affect the significance of the WBCA. In the parlance of the Framework, this level of harm would be less than substantial. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
12. I therefore conclude that the siting and appearance of the development would have a harmful visual effect on the character and appearance of the local area and cause less than substantial harm to the WBCA.

Other Matters

13. The Framework is supportive of high-quality communications, and the proposal would bring some significant benefits in that respect in terms of increasing network coverage. In that context the appellant has pointed to a lack of alternative available sites because of the area that the proposed mast would serve and that transmitters for the 5G network cannot be placed on existing masts which transmit older wireless signals and that there are constraints to placing antennae on buildings.
14. There is clear need for, and importance of, the rollout of the 5G network. The Framework is clear in paragraph 114 that the provision of high-quality communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported. The proposal would facilitate 5G coverage and I have had regard to the public benefits of this technology to residents and businesses in the area. Cumulatively, these factors and public benefits weigh in the scheme's favour significantly.
15. I have also taken into account that the scale of the mast, which has been reduced from earlier applications and is of slimmer profile than a previous appeal decision¹ on the same site. This is said by the appellant to be the minimum size possible to accommodate multiple-generation technologies. I acknowledge that telecommunications equipment is now a common feature of the built environment and the appellants have advised suitable colours for the equipment could be the subject of a condition to aid in its integration of the streetscape. However, I have found that the proposal would harm the character and appearance of the local area and the significance of a designated heritage asset.
16. Moreover, the information that I have with regards to alternative sites is of a limited nature, especially as to whether alternative locations would be as prominent, harmful to the visual amenity of the area or the WBCA. The Framework states in paragraph 117 that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. Such evidence is lacking as it pertains to alternative sites in this case.
17. The appellant advises that no objections were received from statutory consultees, including a landscape professional, although I note the Council's Heritage Officer did offer comments in objection to the scheme. In any event, a lack of objection would be neutral in the planning balance rather than weighing in favour.
18. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. As such, adherence to the ICNIRP guidelines does not overcome the harm I have identified with regards to other matters at hand.

¹ APP/W5780/W/21/3277217

19. I acknowledge the letter from the Department for Digital, Culture, Media and Sport offering support for proposals of this type. Given changing work patterns, including increasing numbers of home workers, the need for suitable telecommunications infrastructure has become very apparent in many people's lives during the pandemic and the ensuing recovery. This carries some weight in favour of the proposal. I have attributed the necessary weight to these arguments, but they do not outweigh the harm as detailed above.
20. I have had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, which was not forthcoming. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits. Accordingly, neither that, nor any other matter is sufficient to outweigh the harm that would result.

Conclusion

21. For the foregoing reasons, and having taken account of all relevant material considerations, I conclude that the appeal should be dismissed

C McDonagh

INSPECTOR