



Appeal Decision

Site visit made on 9 May 2023

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 1 June 2023

Appeal Ref: APP/V5570/W/22/3310981

Hillmarton Road, Lower Holloway, London Borough of Islington, London N7 9JE

- 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 CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Islington.
- The application Ref P2022/3152/PRA, dated 21 August 2022, was refused by notice dated 17 October 2022.
- The development proposed is proposed telecommunications installation: proposed 15.0m Phase 8 Monopole c/w wrapround cabinet at base and associated ancillary works.

Decision

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed telecommunications installation: proposed 15.0m Phase 8 Monopole c/w wrapround cabinet at base and associated ancillary works at Hillmarton Road, Lower Holloway, London Borough of Islington, London N7 9JE in accordance with the terms of the application, Ref P2022/3152/PRA, dated 21 August 2022, the plans submitted with it and subject to the standard conditions set out in Schedule 2, Part 16, Class A of the GPDO.

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 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 do not require regard to be had to the development plan. Nevertheless, Policies D3, D4 and D5 of the London Plan (2021), Policies CS8 and CS9 of the Islington Core Strategy (2011) and Policies DM2.1 and DM2.3 of the Islington Local Plan Development Management Policies (2013), together with guidance contained in the Islington Design Guide and the Islington Hillmarton (CA32) Conservation Area Guidelines (2002) are material considerations, as they relate to issues of siting and appearance. In particular,

these policies seek to ensure all development is well-designed, minimise the impact of new telecommunications apparatus on visual amenity, safeguard the built and historic environment and safeguard pedestrian movement. The National Planning Policy Framework (the Framework) is also a material consideration, and it includes a section on supporting high quality communications.

Main Issues

4. The main issues in this appeal are the effect of the siting and appearance of the proposed installation on the character and appearance of the area with particular reference to the setting of the Hillmarton Conservation Area (the CA), 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.

Reasons

Character and appearance

5. The appeal site (the site) lies within a footway which forms part of the public highway of Hillmarton Road, close to the traffic signal controlled junction of Hillmarton Road and North Road with Caledonian Road, where there is a cluster of commercial uses. In the wider area, to the north, lie residential uses. The commercial buildings around the junction are limited to a single storey, whilst residential buildings vary, having two, or more, storeys.
6. Hillmarton Road is lined on both sides by mature street trees with extensive canopies. These help in softening the appearance of the area. The site therefore lies in an area that is urban in appearance, with a mix of residential and commercial buildings focussing on a busy traffic junction.
7. Whilst the Officer's Report and the Council's Statement of Case refer, at times, to the site as being within the CA, the Hillmarton (CA32) Conservation Area Design Guidelines show the site as being outside of the CA. The boundary of the CA lies a short distance to the north of the site. This is confirmed later in the Officer's Report and the Local Authority's questionnaire. In the area close to the site, the CA is characterised by residential properties of traditional design set back behind short gardens within an urban street and this contrast starkly with the busy, urban thoroughfares, and commercial units in the immediate vicinity of the site.
8. There are streetlights of slim design lining the local roads. In the immediate vicinity of the site these are interspersed with the street trees, and so are not prominent, whereas those immediately around the junction, along North Road and Caledonian Road are more noticeable features in the street scene. There is also lower-level street furniture, including a bus stop, traffic signals and controller boxes, guard railing, bollards, planting, and traffic and street signage in the vicinity of the site and these are much more prominent. Generally, street furniture is of a modest scale but is visually predominant in the immediate area.
9. The proposed 15 metre monopole and associated cabinets would be located between two mature trees in a wide area of footway in the vicinity of the junction. The scale of these trees would provide a substantial degree of screening from certain vantage points, particularly when looking out from the

- CA, both close to the site and from further away when in leaf. Even during the winter and spring, the substantial branches would provide a high degree of screening from these vantage points. However the monopole would be highly visible at the junction, particularly during the winter when the trees are bare.
10. Whilst there are streetlights in close proximity, they are of a much slimmer design, and only a little more than half the height of the proposed mast. The structure would be higher than any of the surrounding buildings and trees and would be much bulkier than any of the existing street furniture in the locality.
 11. The equipment would, therefore, be a highly visible, prominent and incongruous feature that would be out of proportion with the surrounding scale of the buildings and street furniture. Its harmful visual impact would be readily perceived by some residents and people passing along the roads through the junction.
 12. In longer views the lower part of the monopole and cabinets would be largely screened from view by existing development, including, when looking from the CA, the bus stop. Due to the dense urban development, views of the upper part of the monopole would be limited by the surrounding buildings. Consequently, its harmful impact would mainly be confined to the area immediately around the junction. As the lower part of the installation would be well-screened, the harm to the character and appearance of the area would be limited in these longer distance views.
 13. Views encompassing the monopole and cabinets, and the CA would be limited, by virtue of the mature trees and bus stop. The monopole and cabinets would principally appear in context of the utilitarian commercial buildings in the vicinity and the urbanised junction. I therefore consider that no significant harm would result to the setting of the CA.
 14. In arriving at this conclusion, I have considered the appellant's choice of colours, and I consider that the colour of the mast could be controlled by condition. However, whilst some colours may reduce the prominence of the proposed development to a limited degree, they would not successfully conceal its height, bulk, and incongruous presence in these suburban surroundings.
 15. The proposed installation would be quite close to the street trees. However, the pole would be outside the canopy spread of the trees, and excavations would only be required in a limited area, some distance from the trunks. Based on the evidence before me, I conclude that it is unlikely that there would be significant harm to the trees that would result in their loss or decline.
 16. For the above reasons, I conclude that the proposal would result in significant harm to the character and appearance of the immediate area, and limited harm in wider views. Consequently, I must consider whether this harm is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reason for installation, alternative sites and planning balance

17. As set out at paragraph 114 of the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Paragraph 117

of the Framework confirms that applications for telecommunications development should be supported with the necessary evidence to justify the proposal. This should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. It should also be noted that paragraph 118 of the Framework indicates that the need for electronic communication systems should not be questioned when determining applications.

18. The installation is required to fill a gap in 5G coverage in an area of residential and commercial uses surrounding the site, where access to digital services is poor. Paragraph 115 of the Framework advises that the number of telecommunications masts should be kept to a minimum, consistent with the needs of consumers, the efficient operation of the network, and the provision of reasonable capacity for future expansion. It also encourages the use of existing masts, buildings, and other structures. However, it does recognise that new sites may be required for new 5G networks. The evidence indicates that the sequential approach to site selection set out in paragraph 117 of the Framework has been followed, and that there are no opportunities for erecting antennas on existing buildings, masts, or other structures.
19. It is contended that, within a constrained search area, the appeal site presents the only viable solution, bearing in mind technical requirements. The appellant's evidence highlights seven alternative sites within the target coverage area that have been considered, but the reasons given for discounting them are brief. The site referred to as D1 was rejected due to the limited footway width within which to install the equipment. D2 was rejected due to the proximity of a bridge, a major heavy engineering structure crossing a railway. D3 was rejected due to proximity of a retaining wall whilst D4 was considered inappropriate due to footway clutter and the presence of underground services.
20. Sites D6 and D7 were rejected as the equipment would interfere with the visibility splays for nearby accesses.
21. The appellant identifies that Site D5, which is on a pedestrian island, raised coverage concerns. Further it was identified that footway space was limited. Any equipment would be co-located with other street facilities, including refuse bins and cycle parking, that occupy footway space and reduce the available space significantly. Sites D2 to D7 would also occupy prominent positions in the street scene, and, although in areas of a similarly urban character, would not, therefore represent less harmful locations for the installation.
22. The appellant has satisfactorily demonstrated that the proposed development is necessary for coverage of the locality and therefore, on the evidence before me, I conclude that the appeal site represents the least harmful alternative for a new installation to provide 5G coverage for the area.
23. Given the specific circumstances of this appeal, I find that the proposed development's benefits in terms of providing improved digital connectivity should be given significant weight.
24. Having considered the above, I am of the view that, taken together, very significant weight can be afforded to the public benefits of the proposed development, which would outweigh the significant harm to the character and appearance of the immediate area, and limited harm in wider views.

Other Matters

25. Whilst the site is situated in close proximity to large street trees and a bus stop serving several routes, which reduce the usable footway width, these are spaced apart and thus, although a series of obstructions would present to a pedestrian, they would not act cumulatively to reduce the footway to an unacceptable degree.
26. Concerns have been raised that the site is used for storage of materials whilst street works are taking place. However, these are temporary contingencies and there is no substantive evidence that use of this area is necessary for such storage.
27. Further concerns have been brought to my attention that, as the former coachworks at the corner of North Road and Caledonian Road has been developed into a film studio, the CA may be extended to encompass this area and that the site would be in the line of vision for important people being picked up or dropped off to the studio. I have considered the effect of the proposal on the character and appearance of the area above, and such consideration is not affected by the status of individuals. There is no substantive evidence before me to demonstrate that there will be a change to the limits of the CA and I have determined this case on its own merits, having regard to current policy and conditions.
28. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conditions

29. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
30. The Council has suggested limiting the commencement of development to within 3 years of the date of the permission. However, I see no justification for departing from the standard requirements of the Order in this case.

Conclusion

31. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

I A Dyer

INSPECTOR