



Appeal Decision

Site visit made on 25 April 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Appeal Ref: APP/N5090/W/22/3310886

**Lyttelton Road Streetworks, Lyttelton Road, Hampstead Garden Suburb,
London Borough of Barnet, London N2 0DW**

Grid Ref Easting: 526145, Grid Ref Northing: 188974

- 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 & 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 Barnet.
 - The application Ref 22/4323/PNT, dated 19 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 wraparound Cabinet at base and associated ancillary works.
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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 wraparound Cabinet at base and associated ancillary works at Lyttelton Road Streetworks, Lyttelton Road, Hampstead Garden Suburb, London Borough of Barnet, London N2 0DW Grid Ref Easting: 526145, Grid Ref Northing: 188974 in accordance with the terms of the application, Ref 22/4323/PNT, dated 19 August 2022, and the plans submitted with it 002 A, 210 A and 260 A.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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. Part 16 of the GPDO 2015 establishes that the proposal is permitted development. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.

4. Nevertheless, where they relate to issues of siting and appearance, development plan policies are material considerations. In this case, this applies to policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document, 2012, policies DM01, DM06, DM17 and DM18 of Barnet's Local Plan Development Management Policies Development Plan Document, 2012 and, policies SI6, D3, D8 and HC1 of the London Plan, 2021. Amongst other matters, these policies seek to ensure that, telecommunication installations are appropriately designed, coloured and landscaped and would preserve or enhance the character and appearance of heritage assets. These policies also require that all development proposals respect local context and character, ensure that public realm functions appropriately, whilst unnecessary street furniture should be refused.
5. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on supporting high quality communications, achieving well-designed places, and conserving and enhancing the historic environment.
6. Finally, the proposal is within a conservation area and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Main Issue

7. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the Hampstead Garden Suburb Conservation Area.

Reasons

8. The appeal site is located within Hampstead Garden Suburb Conservation Area (CA). Buildings within the garden suburb exhibit distinctive architectural detailing and the suburb contains a significant quantity of listed buildings. The CA contains a variety of public open spaces together with many trees and hedgerows, and this provides for a verdant character. Framed views towards notable buildings, including the Central Square buildings, are available from many points and routes through the CA. The garden suburb origins of the area, its planned form and the quality of the architecture and landscaping all contribute positively to the character and appearance of the CA and its significance.
9. The appeal site forms part of a footpath beside Lyttelton Road and is next to a signalised junction. At this junction there is a concentration of commercial premises situated within 3 to 4 storey buildings. Lyttelton Road is a wide carriageway with multiple traffic lanes and, in the vicinity of the junction, there is a central reservation with railings and dual headed lampposts. Furthermore, although the particular section of footpath on which the proposed mast and cabinets would be situated is free of street furniture, nearby, there are also traffic lights, road signs, railings, equipment cabinets, bins and bollards and this provides for a cluttered street scene. Adjacent to the appeal site there is a grass verge containing a tree with further verges and trees close-by.
10. To the west of the junction there are further commercial properties fronting onto a stretch of the road and this comes to another junction similar in

character to that beside the appeal site. A little farther east of the appeal site the character of Lyttelton Road changes. The commercial character gives way to one which is more residential with the road lined by houses and flats many of which exhibit traditional detailing. There are more trees and grass verges whilst the road is not separated by a central reservation with its associated railings and dual headed lampposts. The distinctive properties and verdant character of the area to the east is reflective of the overall character of the CA. However, the appeal site itself is a hard surfaced footpath adjacent to a heavily trafficked junction with much existing street clutter. Therefore, the site itself does not share the same positive elements which are exhibited elsewhere in the CA.

11. In the proposal, the mast would be tall, have a quite considerable girth and include unshrouded antennas. Coupled with the grouping of lower cabinets, an array of further utilitarian features would be introduced to the area. The precise scale and appearance of the development would differ to other features in the area, some of which may have been in place for some time. Nevertheless, given the site context I have set out above, the proposal would introduce a development of a nature which would not be out of keeping. Furthermore, the galvanised and grey coloured finishes to the development would be sympathetic to existing street furniture and represents a commensurate approach to the finished appearance and camouflaging of the proposal.
12. Reaching 15m, the proposed mast would be the same height as the adjacent building Lyttelton House and, similar in height to other buildings at the road junction. Therefore, the proposed mast would not be out of scale with built development within the area. Furthermore, these existing buildings would provide a built backdrop to the development in some views and obstruct views of it in others.
13. Although a grass verge is nearby, the proposed installation would not be within it and, therefore, would not reduce its size or harm any planting within it. This grass verge contains only a single tree which is lower in height than the proposed mast. Given this and with no additional planting proposed within the site, from closer vantage points landscaping would not screen the development proposed. However, elsewhere farther to the east and west, there are more trees including those of greater maturity which line the roadside. Consequently, in these more distant vantage points the number of trees and, their maturity would provide some effective screening and softening of the development especially in the months when the trees would be fully in leaf.
14. The cluttered street scene is formed by a prevalence of both low level and taller, more vertical structures of a utilitarian appearance, as referenced above. By reason of their height, top heavy appearance, number and distribution - with only short distance intervals between them, the dual headed lampposts form particularly imposing features. The existing clutter does not have a positive impact on the character or appearance of the area. Nevertheless, it still partly characterises this part of the CA and thus forms a key part of the context for the proposed development.
15. Therefore, in this particular context, whilst the development proposed would be utilitarian in design, it would nevertheless acceptably assimilate into its surroundings. As such, its siting and appearance would preserve the character and appearance of the CA.

Other Matters

16. The Council's reason for refusal cites harm to an adjacent, locally listed building. However, the Council have not elaborated further upon this within their officer report or appeal statement. Given such circumstances and given that in the main issue I have identified that no harm to the character or appearance of the CA would result from the proposal, I have no firm basis on which to conclude that there would be any harm to any locally listed building.
17. The Council has drawn to my attention 3 appeal decisions, each of which were dismissed. The first relates to a site also on Lyttelton Road and within the CA¹. However, that site is situated further to the east which, as set out above, reflects a different and more positive character to the site before me. The context also differs insofar as the streetscape is more spacious and verdant. There are also specific differences in that the mast in that case would have been taller than nearby buildings whereas the mast before me would be the same height as Lyttelton House. Moreover, that mast would have been located on the grass verge compared to the back of a pavement in this case. Therefore, despite the proximity of the sites, there are marked differences in context and likely effects.
18. The remaining appeal decisions at Mays Lane² and at Strawberry Vale³ each relate to sites much farther from the appeal site. In the Mays Lane case, the proposed mast would have discordantly towered over the suburban townscape of the area. This would not be the case in the appeal proposal. At Strawberry Vale, nearby buildings are, at 2 storeys, again lower than those adjacent to the appeal site. Furthermore, the mast proposed at Strawberry Vale was 5m taller than that in the appeal proposal. There would, therefore, be clear differences between the effects that would be wrought by the proposal and the other cited schemes. Accordingly, the findings of the Inspectors in each of the 3 appeal decisions do not weigh against the proposal.
19. I have had regard to the advice at paragraph 117 of the Framework and the content of development plan policies which, amongst other matters, state that telecommunication installations should be justified and alternative site and design options be explored. Alternative locations for new ground-based mast site options are submitted by the appellant and are discounted for varying reasons, including insufficient pavement widths. I have no substantive reasons to disagree with their findings. The nearby Heathfield Medical Centre is a tall building and no detailed exploration of siting antennas on that building as an alternative to the proposal has been made. However, such antennas have technical and operational requirements and, the existing building may not be suitable to house them. Moreover, in the main issue I have identified that the character and appearance of the CA would be preserved, and I have no reason to conclude that any harm would arise from the siting and appearance of the proposal. Given this lack of harm, even if alternative siting and design options do exist, this is not a determinative factor in my decision.

¹ Appeal Decision Reference APP/N5090/W/21/3276591

² Appeal Decision Reference APP/N5090/W/21/3267445

³ Appeal Decision Reference APP/N5090/W/20/3257724

Conditions

20. The GDPO 2015 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.
21. I note the consultation response from the Council's Environmental Health Department which suggests conditions in relation to noise emissions. For the above reasons, if unacceptably harmful noise effects would arise from the proposal, I could not ensure any mitigation through the imposition of conditions. However, given that the appeal site is located so close to a heavily trafficked road prevailing noise levels are likely to be quite high, especially during the day. Given this and together with the separation distances that would be maintained between the proposed installation and residential properties, I have no substantive evidence to conclude that the proposal would cause any harmful noise related effects upon nearby residents. Therefore, in this particular case, that I cannot impose further conditions has no bearing upon my decision.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be given, subject to the conditions set out in the GPDO 2015.

H Jones

INSPECTOR