



Appeal Decision

Site visit made on 7 June 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/N5660/W/22/3313219

Land outside 14 Lower Marsh, London SE1 7AE

- 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 Cellnex UK Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/02716/G24, dated 28 July 2022, was refused by notice dated 15 September 2022.
 - The development proposed is installation of an 8m high slimline smart pole hosting three small cell antennas and ancillary electronic communications apparatus.
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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 the siting and appearance of an 8m high slimline smart pole hosting three small cell antennas and ancillary electronic communications apparatus at Land Outside 14 Lower Marsh, London SE1 7AE in accordance with the terms of the application, Ref 22/02716/G24, dated 28 July 2022 and the plans submitted with it.

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) 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. I have determined the appeal on the same basis.

Planning Policy

3. The provisions of Class A do not require regard to be had to the development plan. Nevertheless, Policies Q2, Q5, Q6, Q22, T9 and PN1 of the Lambeth Local Plan 2021 ('the LP') together with guidance contained in the Lower Marsh Conservation Area Statement 2007 are material considerations, as they relate to issues of siting and appearance. In particular, these policies include requirements that broadly seek to safeguard visual amenity, the character and appearance of an area, the significance of heritage assets, and the quality of the public realm. The National Planning Policy Framework ('the Framework') is also a material consideration, and it includes a section on supporting high

quality communications, as well as requirements seeking well-designed places, and the conservation and enhancement of the historic environment.

Main Issues

4. The main issues are (i) the effect of the siting and appearance of the development on the character and appearance of the Lower Marsh Conservation Area; and (ii) if any harm would occur, whether this would be outweighed by the need for the development to be sited on the appeal site having regard to any suitable alternatives.

Reasons

Character and Appearance

5. Lower Marsh is a busy, historic thoroughfare with side streets which is the focus of the Lower Marsh Conservation Area ('the CA'). It is closely lined by predominantly commercial buildings from the 19th and 20th Century which provide for a sense of unity and enclosure to the street, while street furniture and a street market provide for colour and visual interest. The market and varied commercial uses also bring activity that gives the area a bustling, vibrant quality. In my view, the layout and architecture of the buildings, the busy mix of activity and the generally high quality of the public realm are all features that contribute positively to the character and appearance of the CA and its significance.
6. The proposed 'smart pole' would be positioned on part of the footway to the front of 14 Lower Marsh. It would be of similar height and width to lampposts along Lower Marsh, and would not therefore be out of scale with existing street furniture in the vicinity. Although it would not match the form or traditional ornate detailing of the lampposts, the simpler overall appearance would ensure an impression of subservience to the lampposts while the similar colour and inclusion of banding detailing would provide a visual connection with elements of their design. In my assessment, the lampposts would remain the visually predominant street furniture on Lower Marsh overall, and the smart pole would be an unobtrusive feature that would not appear striking or out of place in the street scene. In addition, No 14 is a relatively modern addition to the street, and the development would be slim enough that it would not significantly obscure the frontage of the building in views from Lower Marsh or from Leake Street and the adjacent open space which are located broadly opposite the site.
7. In itself, I am therefore satisfied that the development would not be harmfully incongruous or dominant in the street scene and that the visual impact of the smart pole would be low.
8. However, the street furniture along Lower Marsh is typically well-spaced, with an impression of deliberate order that minimises clutter while providing visual interest that complements the setting of buildings. The smart pole would be positioned close to an existing lamppost which is also to the front of No 14. Although it would be visually subordinate to the lamppost, the close proximity and similar scale of the structures would result in unusual visual clutter that would detract from the attractive quality of the public realm and street scene.
9. Although I consider that the smart pole would not in itself appear discordant, I therefore conclude that the siting of the development would result in clutter that would adversely affect the character and appearance of the CA, causing

harm to its significance. That said, and despite the fairly prominent location of the development, I find having regard to its scale and understated appearance and the surrounding backdrop of buildings that the visual impact of its presence alongside the lamppost would be relatively slight within the wider street scene, and I consider that the harm would be very modest.

Need for Installation in this Location and Suitable Alternatives

10. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that the expansion of electronic communications networks should be supported. At the local level, Policy T9 of the LP supports the delivery of high quality digital infrastructure.
11. The smart pole is intended to improve digital connectivity and would host small cells that would enable 4G coverage for two mobile network operators to improve capacity and meet Ofcom licence obligations, as well as 'Smart Internet of Things' coverage. The Council has not challenged the appellant's evidence which identifies that there is an existing shortfall in mobile network capacity in the area around the appeal site. I also note comments on behalf of WeAreWaterloo Business Improvement District and Lower Marsh Market supporting the principle of improved mobile connectivity on Lower Marsh and throughout Waterloo in general.
12. The appellant indicates that there are no opportunities for erecting small cells on existing buildings, masts, or other structures to provide the required coverage. Other locations for a new structure have been discounted owing to technical and operational constraints such as the presence of underground services, existing street furniture and market stalls or the width of the footway.
13. The Council has not argued that there are potential suitable alternative locations for the development within the Lower Marsh CA that have not been considered by the appellant. It asserts that no justification has been provided in respect of locations outside of the CA, but the appellant explains that a location outside of the CA would not provide the required degree of coverage, especially along Leake Street. From the information before me, I have no firm reason to find differently. I further note that while interested parties have said that they would welcome further conversations to find a suitable location for the development, no suggested alternatives that have not been considered have been put forward.
14. From the information before me and having regard to the identified area of shortfall in capacity, I find the case that there are no more suitable alternatives to the appeal site to provide the required digital connectivity in the locality to be persuasive. The need for the installation to be sited in this location and the absence of any more suitable alternatives weighs considerably in favour of the proposal.

Planning Balance

15. I have found that the proposal would result in visual clutter that would harm the character, appearance and significance of the Lower Marsh CA. The harm would be modest, and certainly less than substantial in the terms of the Framework which indicates that the harm should be weighed against the public benefits of the proposal.

16. The Council suggests that the proposal would mainly benefit customers of the network provider. However, the smart pole would be shared, supporting coverage for two mobile network operators that would help to address an existing shortfall in capacity. Moreover, it would also offer coverage for the Smart Internet of Things which would support device connectivity and functions such as tracking and monitoring of assets, air quality monitoring, improved resource efficiency and future Smart Cities applications amongst other things. In this respect, it would bring wider social, economic and environmental benefits through enhanced electronic communications that would not be limited to specific customers.
17. The appellant highlights that the appeal site is in an area of heavy footfall, with high demand for digital connectivity which is likely to increase as a result of future investment and development in the area around Waterloo. From the information before me, I am in no doubt that meeting existing and future demands for electronic communications by residents, businesses and visitors to the area around the appeal site would help to support the success of the locality and its economic, cultural and social roles. In my judgement, the economic, social and environmental benefits of providing improved digital connectivity in this location would be significant public benefits of the proposal.
18. Even giving considerable importance and weight to the harm that would be caused to the significance of the CA as a heritage asset that is irreplaceable, I find that the modest harm caused by the proposal would in this case be outweighed by the significant public benefits of the development and the lack of realistic alternative sites to provide the required coverage.

Conditions

19. Development permitted under Article 3(1) and Schedule 2, Part 16, Class A is subject to standard conditions. These specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the submitted details, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required and the land restored to its condition before the development took place. It is not necessary to repeat these conditions, and I have not therefore imposed the Council's suggested condition specifying the approved plans.

Conclusion

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

J Bowyer

INSPECTOR