



Appeal Decision

Site visit made on 19 May 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2023

Appeal Ref: APP/E5330/W/22/3311194

Nightingale Place, Greenwich, London SE18 4HD

- 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 Royal Borough of Greenwich.
 - The application Ref 22/2847/T3, dated 19 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is a 15.0m Phase 9 slimline Monopole and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Order 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 Order, and the provisions therein do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. Policies DH1, DH3, DH(c), DH(h) and DH(i) of the Royal Greenwich Local Plan Core Strategy (2014) and Policies HC1, D3 and D8 of the London Plan (2021) are material considerations as they relate to issues of siting and appearance and heritage assets.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the area having particular regard to the setting of the Woolwich Common Conservation Area (WCCA) and the setting of the listed building Government House, and if any harm would occur, whether this would be outweighed by any public benefits of the proposed development.

Reasons

6. The appeal site comprises an area of grass verge adjacent to a footpath on the northern side of Nightingale Place. It is situated close to a busy road junction with the A205 (South Circular). The surrounding area is predominantly residential in character with properties being in varying ranges of flats and houses. The verge in which the development is proposed separates the residential properties of Caldwell Close and Gunner Lane. It contains a number of trees, which the plans state are approximately 10m in height, with streetlighting columns of a similar height.
7. The appeal site is adjacent to the boundary with the Woolwich Common Conservation Area (WCCA) which runs along the rear of the properties in Gunner Lane then along the northern side of Nightingale Place. The WCCA is characterised by the large common land area and the historic military buildings.
8. The appeal site is also situated close to the Grade II listed Government House which is located on the corner junction between Nightingale Place and the A205 (South Circular). This is a three-storey building dating from the early 1800s and is constructed of yellow brick with stuccoed porch and string course. It is prominently positioned and highly visible on the corner junction, where it makes a positive contribution to the significance of the WCCA.
9. The proposed installation has been amended from a previous proposal that was dismissed at appeal¹. The Council have set out that the design of the current proposal has been altered and the installation has been moved further east. The proposed installation is also 1m lower in height than the installation previously considered.
10. In the previous appeal, the Inspector dismissed the appeal on the grounds that, the less than substantial harm to the WCCA and the setting of the listed building was not outweighed by the public benefits of the proposal. The Inspector considered that given its location, appearance and height, the proposed development would be highly visible against its backdrop and the skyline, visually competing with and distracting from important views into and out of the conservation area and the setting of the listed building. It was held that the proposed development would fail to preserve or enhance the character or appearance of the Conservation Area and the proposed development would also unacceptably harm the setting of a listed building. Although I am not bound by the previous Inspector's findings and have considered the appeal proposal on its own individual planning merits, the decision and its findings are a material consideration which I have given significant weight.
11. I acknowledge that the current proposal has gone some way to addressing the previous concerns, particularly in relation to the reduction in height and the relocation. The reduction in height of 1m is however relatively minimal and the relocation is by a minor amount in terms of its proximity to the WCCA. Due to its overall height when compared to the surrounding environment it would nevertheless remain a highly prominent installation, being over 5m taller than the street lighting columns. I acknowledge that the nearby trees would provide an element of screening. From my site visit however, I observed that the tree closest to the proposed installation is not as tall as indicated on the submitted

¹ APP/E5330/W/22/3290665

plans which show it being a similar height to the streetlighting columns. Whilst I acknowledge that the height is 'approximate' it is nevertheless those trees further from the proposed site that are of a similar height to the lighting columns. There would therefore be less screening from the trees as the plans would suggest. Either way, the proposed installation would be significantly taller than the trees, and any screening would be reduced when the trees are not in leaf.

12. The Council have referred to the lack of information relating to the impact on the nearby trees. I consider that these trees positively contribute to the character and appearance of the area and they should not be unnecessarily harmed by the proposed development. Although the appellant has set out the compliance with the general guidance for works close to trees², there is nothing specific to the appeal site or proposal that would assure me that the development would not cause harm to the health of the trees. The lack of certainty on this matter weighs against allowing the appeal due to the possible harmful effect the siting of the equipment would have on existing trees that positively contribute to the character of the area.
13. The installation would be sited in a grass verge forward of the residential development on Caldwell Close. The combination of its height and siting would result in the development appearing exposed and highly discernible. For these same reasons, the proposal would appear isolated and stand out as an incongruous feature. It would conflict with the Framework, which requires, amongst other things, that equipment on new sites be sympathetically designed and camouflaged where appropriate. The appellants suggestion of using an alternative colour would not overcome the harm I have identified.
14. The appellant has referred to the modern housing development at Caldwell Close and that this would both screen the installation and act as 'a buffer between the old and the new'. The plans however show that the installation would be significantly taller than the housing. It would also be sited well forward of the housing, which is set back behind the verge and small front gardens. The installation would be significantly further forward in the street-scene, and whilst the housing is not before me, it appears to have been designed having regard to the setting of the nearby listed building, and its location within the WCCA.
15. Being situated so close to the WCCA, the proposed development due to its design, height and siting, would be highly noticeable and prominent in terms of views into and out of the WCCA which is mainly characterised by two and three storey buildings. The site also displays a clear visual relationship with the listed Government House building. The proposed development would be seen in conjunction with the listed building, particularly when viewed from the junction with Woolwich Common, where due to its overall design and height it would cause harm to its setting.
16. Having regard to paragraph 202 of the Framework I find that there would be less than substantial harm to the setting of the WCCA and also less than substantial harm to the setting of the listed Government House building. I consider that cumulatively, there would be less than substantial harm to heritage assets overall. As required by paragraph 202, this harm must be weighed against any public benefits of the proposal.

² NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees

17. Paragraph 199 of the Framework also outlines that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 200 goes on to state that significance can be harmed or lost through development within its setting, and such harm should have clear and convincing justification.

Public benefits

18. Paragraph 114 of the Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology such as 5G. The proposed installation would provide 5G network services to the local area.
19. The appellant has outlined that due to the technological constraints and the extremely constrained nature of the search area for the cell, the proposal is the only feasible option. The appellant has set out a number of discounted options. In the previous appeal, the Inspector set out the submitted evidence in this regard was limited and they were not satisfied that it adequately or conclusively demonstrated that a less harmful alternative site, which would secure the same public benefits, was not available. This is also the case in the current appeal, and I am therefore likewise not convinced that less harmful alternatives have been fully considered and this weighs against allowing the appeal.
20. There are significant benefits to the public at large from being able to access high quality mobile communications, a point which the Council acknowledges. I consider that these would be public benefits which carry significant weight in favour of the proposed development.

Overall balance

21. The siting and appearance of the proposed development would cause harm to the character and appearance of the area. The resultant harm would amount to less than substantial harm to the setting of the WCCA and there would be less than substantial harm to the setting of the listed Government House building. As such, the proposal would fail to comply with those policies of the Royal Greenwich Local Plan and the London Plan which seek to ensure that development does not harm character and appearance or heritage assets.
22. Having regard to the requirements of paragraphs 199 to 202 of the Framework, I find that the great weight I attach to the identified harm would not be outweighed by the weight I attach to the benefits of the proposal that would be delivered through the provision of improved mobile communications networks. Therefore, there is no clear and convincing justification for the harm.

Conclusion

23. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR