



Appeal Decision

Site visit made on 13 June 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/N5090/W/23/3316443

Highways Land, Deans Lane, Edgware, London HA8 9HP

- 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 Hutchinsons Network (UK) Ltd. against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5398/PNT, dated 31 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is installation of 15m pole inc. antennas, ground based apparatus and ancillary development.
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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 (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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have had regard to the policies of the development plan 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.

Main Issues

4. The main issues are:
 - The effect of the siting and appearance of the proposed installation on the character and appearance of the area,
 - the effect of the siting on pedestrian movement, 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 is located along the footpath of Deans Lane, which is a wide main road. The appeal site is backed by fencing and vegetation which borders a large allotment area which due to the un-built nature of the allotments allows for extensive views to the rear of the appeal site. As a result, the area has an open character and appearance.
6. The opposite side of the road is residential with many of the dwellings facing towards the appeal site which allows for open views over the allotments.
7. The proposal is for a 15m pole with associated ground-based apparatus which would be located on the edge of the footpath. Street furniture in the immediate area is limited and predominantly consists of street lighting columns which are located on both sides of the road, however their slim design and spacing does not result in a cluttered street scene. The site is not subject to any design designations.
8. The proposed pole would be at a greater height to the lighting columns located in the area and whilst the pole has been designed to try and be the least intrusive and as narrow as possible, it would still be wider. I note that the GPDO does allow for a height of up to 25m and the proposal is 15m which is the lowest possible height for the needs of the proposal, however it still extends above the existing street furniture in the area.
9. Furthermore, the associated ground-based apparatus close to the pole would clutter the pavement. The vegetation would be located behind the proposal, with the proposal being much higher and as such it would provide very limited screening. As a result, the proposal would stand out on the street scene as an obstructive feature and harm the open character and appearance of the area.
10. I conclude that that the proposal would harm the character and appearance of the area. It would therefore be contrary to policies DM01 and DM18 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012 (DP) which amongst other things, seek to ensure development complements local character and appearance.

Pedestrian movement

11. The proposal would occupy part of the footpath of Deans Lane and as a result the width of a small section of the path would be reduced to 2.1m. This reduced width would however still enable pedestrians, including those using a wheelchair to pass each other and is broadly in accordance with guidance contained within the Inclusive Mobility¹ document.
12. The area is densely residential, and I noted during my site visit that there are several schools close to the appeal site. As a result, I acknowledge that at drop-off and pick-up times the footpath is likely to be highly trafficked, however as the footpath will still be wide enough for pedestrians to pass in both directions there would be little change in this regard.

¹ Department for Transport – Inclusive Mobility – A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure December 2021

13. I note that the to allow maintenance of the proposal the doors would open towards the road and therefore further reduce the width of the footpath. However, maintenance is likely to be infrequent and for short periods of time which would not unduly affect pedestrian movement.
14. I conclude that the proposal would not cause harm to pedestrian movements. I therefore find no conflict with policies CS9 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS), DM17 of the DP and T2 of the London Plan The Spatial Development Strategy for Greater London March 2021. Amongst other things, these policies seek to maintain the ability to move at will, ensure development does not increase the risk to vulnerable users and improve the balance of space to people to walk.

Alternative sites

15. I acknowledge that siting of the proposal is based on coverage and capacity to the surrounding area and in this regard the siting of the proposal is required within areas where service is used which is predominantly urban. In this regard, a street based solution has been proposed with Deans Lane being identified as the best location.
16. Notwithstanding my findings on pedestrian movement, I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area for the reasons given. The other options that might be available are therefore an important consideration. In addition, paragraph 117 of the Framework requires that, for a new mast, evidence be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
17. The supporting information refers to thirteen discounted alternative options for the proposed development, numbered D1- D13. Reasons are given as to why they have been discounted and these include greater impact on residential amenity, footway width, underground services, overhead wires and visibility splays.
18. However, the supporting information is unclear why the proposal needs to be sited in a prominent position on the footpath, particularly due to the grass verges nearby the site and roundabout close by. I also note the service road to the side of the railway which has its entrance close to the appeal site, the access road has wide grass verges and would be located off the footpath. I note this is a particular option that has been raised by several interested parties and based on the evidence before me the viability of this location does not appear to have been explored.
19. It has also not been demonstrated whether the options explored included the use of existing buildings, masts or structures, as required by the Framework. The appellant states that there are no existing masts to be shared. However, I have no evidence of the search area that has been explored for this.
20. I am therefore not satisfied that, based on the evidence, the appeal proposal represents the least harmful option, nor that the requirements of paragraph 117 of the Framework have been met.
21. I note the support in the Framework and by the Government for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-

being. There can also be environmental, healthcare and education benefits including facilitating access to services remotely and improving connectivity speed.

22. I acknowledge the changes to working patterns since the Covid-19 pandemic, with particular regard to working from home and the reliance on the communication network. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced.
23. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term.
24. In summary, the development proposed would cause harm to the character and appearance and I am not satisfied that less harmful alternatives have been properly explored. For these reasons I find the siting and appearance of the proposed development to be unacceptable.

Other Matters

25. I note the age of the Council's DP and CS and this predates the more widespread roll-out and support of 5G and connectivity. However, as explained above I have only had regard to these policies in so far as they are a material consideration relevant to matters of siting and appearance in which they are still relevant.
26. The appellant has submitted a costs award² from an appeal decision and consider that the Council have been unreasonable in not carrying out a balancing exercise of the public benefits of the proposal. However, I note that the Council, within their officer report and statement to case have considered the wider public benefits of the proposal and as such this does not alter my decision.
27. The appellant has included an appeal decision³ however no reference has been made to how this decision is relevant to the appeal proposal. In any case, I note that the site is located in a different area of London and based on the evidence before me, the character and appearance of the site would appear to be different.
28. I acknowledge that interested parties have raised a number of other concerns with the proposed development. However, as I am dismissing the appeal for other reasons I have not sought to explore these matters further.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

D Wilson

INSPECTOR

² APP/G5180/W/16/3151769

³ APP/B5480/W/20/3251086