



Appeal Decision

Site visit made on 4 July 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2023

Appeal Ref: APP/U5360/W/21/3270232

Area of Footpath, Clifden Road, Clapton, London E9 6EP

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Chris Weir (Hutchison 3G (UK) Limited) against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/2393, dated 14 August 2020, was refused by notice dated 20 October 2020.
 - The development proposed is a street pole with built-in cabinet, 3 no. separate cabinets with ancillary works.
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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) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination has been made on this basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies of the Hackney Local Plan 2033 (adopted 2020) (Local Plan), The London Plan, as well as the National Planning Policy Framework (Framework) and other referenced guidance documents insofar as they are material considerations 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 (i) the character and appearance of the area; (ii) pedestrian safety; and (iii) 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 forms part of the footway along Clifden Road, a predominantly residential street formed of two and three storey properties which are set back

a short distance back from the footway. The presence of trees and other planting along Clifden Road contributes to the softening of the generally consistent built form in the area.

6. The proposed mast and associated cabinets would be positioned close to a hospital building that the appellant identifies as being 6m high. Such telecommunications structures are commonly found in urban areas, but the proposed mast would, at 15m high, be over twice the height of this nearby building. Although the appellant has referenced efforts to minimise visual impact, and the height of the proposed mast has been reduced from 20m, it would nevertheless be significantly taller than other items of street furniture in the area, such as lamp posts. The height of the proposed mast would also limit the screening effect provided by trees along the road. As such, and despite the simplistic design and the opportunity to select a finished colour, the proposed mast would be a prominent, discordant addition to the streetscene.
7. The proposal also includes for a number of cabinets but as these would be low level structures, which would be set against a brick wall, I do not consider the siting and appearance of these element of the proposal would have a harmful visual effect.
8. On this issue, for the reasons set out, I conclude that the siting and appearance of the proposed installation would result in significant harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 115 of the Framework and Policies PP1, LP1 and LP11 of the Local Plan, which require, amongst other matters, for development to respond to local character and context.

Pedestrian Safety

9. The appeal site is situated close to an entrance into the hospital and along a footway where there was a regular movement of pedestrians at the time of my visit. The proposed mast and associated cabinets would not be aligned with other street furniture items, such as a nearby road sign and lamp posts that are situated in a linear zone close to the edge of the footway. This would reduce the width of the footway available for pedestrians.
10. Although reference has been made to a clear distance of 1.7m between the edge of the mast and the edge of the footway that would allow wheelchair and other footway users to pass, I was also able to see a street tree that is not shown on the proposed site plan. Given the position of this tree relative to the proposal, this would reduce the 1.7m clearance referenced by the appellant, constricting pedestrian movements. This would be particularly evident when pedestrians are travelling in both directions along the footway and could result in them having to use the vehicular carriageway. As such, I consider that the reduced footway width would unduly impede and cause unacceptable harm to pedestrian users.
11. I therefore conclude that the proposal, with respect to its siting, would have a harmful impact on pedestrian safety. It would therefore conflict with, insofar as they are material considerations, Policies PP1, LP41, LP42 and LP44 of the Local Plan and Policies 6.10 and 7.5 of The London Plan, which require, amongst other matters, for development to protect routes for walking and ensure high quality pedestrian environments.

Need

12. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage, which require base stations to be in close proximity to the area they serve, which in this case is in and around Clifden Road. A number of benefits have been set out but the appellant including supporting businesses, home working and for socialising. Reference has also been made to a number of documents that set out the importance of high speed digital communications infrastructure.
13. The appellant's alternative site assessment sets out a number of other sites that were considered and discounted and some of these, like the appeal site, were outside the intended target area. One of the sites considered, Chatsworth Road (D3) was said to be discounted for reasons including restricted pavement space and the presence of underground services. Although these factors may be constraints at one particular location, I have not been provided with details on other locations considered along Chatsworth Road, in the vicinity of the junction with Clifden Road that may able to support the proposal. Given that there may well be other locations that could potentially accommodate the proposal, I find the analysis by the appellant to be not sufficiently comprehensive to eliminate all other reasonable options.
14. I appreciate the need for this installation is to provide new 5G mobile coverage to the local predominantly residential area. It would bring a modern, high-speed communications service and this weighs in favour of the appeal. I have also no reason to question the need for a new site for this proposal and the adherence by the appellant to the sequential approach in considering mast / site sharing and existing buildings or structures. The proposal would, however, for the reasons set out above, be harmful to the character and appearance of the area and to pedestrian safety. On the evidence before me, I am not convinced that less harmful alternatives have been properly explored and it is my overall view that the need for the proposal does not in this case, outweigh the harm.

Other Matters

15. The site is not in a Conservation Area, but this is a neutral matter and not one which weighs in favour of the proposal.
16. My attention has been drawn to an appeal decision by the appellant. Whilst there may be some similarities with the appeal before me, each case should be determined on its own particular circumstances.
17. I note the appellant sought pre-application discussions with the Council who did not provide any formal feedback. This appeal follows the Council's formal decision, and I can confirm that I have assessed the development accordingly, on both its merits and impacts.

Conclusion

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

F Rafiq INSPECTOR