



Appeal Decision

Site visit made on 1 August 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/V5570/W/23/3316441

Highways Land, Essex Road, Canonbury, London N1 3AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the London Borough of Islington.
 - The application Ref P2022/3866/PRA, dated 2 November 2022, was refused by notice dated 20 December 2022.
 - The development proposed is installation of 17m pole inc. antennas, ground based apparatus and ancillary development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the GPDO¹ 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. In addition, the provisions of the GPDO do not require that regard be had to the development plan. Nevertheless, development plan policies are material considerations in so far as they relate to matters of siting and appearance. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration which includes (among other things) sections on conserving and enhancing the historic environment; and supporting high quality communications.
4. Policy CS9 of Islington's Core Strategy 2011 (CS) refers to the historic environment. While this policy is not referenced in the Council's decision notice, it is referenced in the officer report that considered the planning application. Having regard to the evidence submitted, this policy is materially relevant in so far as it relates to matter of siting and appearance.
5. The Council advised that in July 2023, a report regarding the emerging London Borough of Islington Local Plan (EP) had found that plan to be sound, with binding recommendations upon the Council to make modifications. The Council further detailed those policies it considered to be relevant to the appeal before me. No comments on this matter were made by the appellant. I have taken account of this matter in my decision, only in so far as the policies of the EP relate to matters of siting and appearance.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the setting of the East Canonbury Conservation Area, and upon the setting of the grade II listed building at Annette Crescent and attached railings, 246-290 Essex Road; 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

7. While the proposal includes a number of elements, the dispute centres on the proposed pole and antennas. The appeal site is a short section of footway at the back of a wide pavement in front of Ashby House, which is a six-storey block of flats, separated from the road by a deep area of private open space to include grass and trees, bounded by a low-level brick plinth wall with railings above and hedging behind.
8. On the opposite side of the road is the East Canonbury Conservation Area (CA), which includes the grade II listed building Annette Crescent. The significance of these heritage assets is drawn from their architectural attributes including 18th and 19th century-built forms with fine architectural detailing, which creates a harmonious character and appearance. Annette Crescent is a stuccoed terraced row in a shallow crescent formation, well set back from the road, separated by a deep area of open space extensively planted with trees and bounded by railings. The listed building entry details an extensive range of fine architectural detailing to its elevations.
9. Due to the wide nature of the highway together with the deep frontages to Ashby House, Annette Crescent and other built forms, and the presence of trees within the private and public realm, the character and appearance of the area is open and verdant.
10. Although the Council did not explicitly reference the setting of the listed building in its reason for refusal, it is located within the CA. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of a listed building. Paragraph 195 of the Framework also sets out that the significance of any heritage asset that may be affected by a proposal should be taken into account, including its setting, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
11. The setting of such assets is not fixed, but rather in the way in which it is experienced. The attributes I have described above combine to permit wide and lengthy views along Essex Road in both directions, within which the settings of the CA and Annette Crescent are experienced. Such views are experienced from within the public realm, and from the flats and private amenity space at Ashby House. These views allow the special features of these heritage assets to be appreciated, both from within and outside the CA.
12. I accept that the proposed pole design is the least obtrusive option out of those detailed by the appellant. Nevertheless, the pole height would be commensurate with the height of Ashby House, and it would still be much taller than the built form within the CA, the nearby trees at Ashby House and other

- trees within the public and private realm. It would be taller and wider than other street poles such as those supporting street lighting. These factors would result in it appearing as a prominent feature within the street scene.
13. Due to the siting of the proposed antennas, the pole would have a top-heavy appearance. The intervening space between the proposed pole and the built form of Ashby House, in combination with its height and appearance would draw further attention to its prominence within the street scene in this location. The existing trees would provide limited screening, even less so when not in full leaf, and thus the proposed pole with its antennas, due to its height and appearance would detract from the character and appearance of the area and the street scene.
 14. The intervisibility between the appeal site and the concave portion of the terrace at Annette Crescent is limited. However, the listed building entry also references the units at the end of the terrace which have fronts parallel to Essex Road. In this regard, the end of the terrace at the corner of Halliford Street has a more direct intervisibility to the appeal site, and to Ashby House.
 15. Consequently, due to the way in which the setting of the CA and Annette Crescent are experienced, as I have described above, the siting and appearance of the proposed pole and antennas would detract from the setting of the CA and Annette Crescent. While the planning application details the colour of the pole to be grey and sets out that it could be of any other colour as considered appropriate, I do not consider that a change in colour would mitigate the harm that I have found.
 16. In reaching this view, I have had regard to the appeal decision² submitted by the appellant. I accept that the necessary technical requirements of such installations result in a utilitarian and tall feature, and that the design of such masts does not count in favour of a proposal. However, in that decision, there is no reference to heritage assets, which is a significant factor in the case before me.
 17. I therefore conclude that the siting and appearance of the proposed development would harm the character or appearance of the area, including the setting of the East Canonbury CA and the setting of the grade II listed building (Annette Crescent). In so far as relevant to matters of siting and appearance, the proposal conflicts with Policies CS8 and CS9 of the CS; Policies DM2.1, DM2.3 and DM2.7 of Islington's Local Plan: Development Management Policies 2013; the Islington Urban Design Guide 2017; and Policies PLAN1 and ST3 of the EP. Taken together these policies and guidance seek (among other things) to conserve heritage assets in a manner appropriate to their significance; and that telecommunications equipment is sited to minimise visual impact and does not harm the character and appearance of an area.
 18. As I have identified harm in relation to the first part of the main issue, I must consider whether the appellant has provided the necessary evidence to justify the proposed development, as required in paragraph 117 of the Framework. The appellant has considered some 14 sites, all of which are ground-based solutions, based on a position that no existing masts were available to share, and that no tall buildings were considered suitable. However, this position is not evidenced in compelling detail. Furthermore, the reasons for the rejection

² Appeal Decision APP/B5480/W/20/3251086

of the other ground-based solutions are presented in summary form without reference to each site. I am therefore not satisfied that a thorough search for a site that is less harmful than the appeal site has been undertaken. I therefore conclude that the need for the installation to be sited as proposed, taking into account any suitable alternatives has not been robustly demonstrated.

19. In reaching this finding, the need for the proposed installation is not questioned, and it is accepted that there are a variety of factors that limit the siting of such installations, including but not limited to the capacity of roofs to accommodate such equipment, clipping and other operating requirements.
20. In accordance with the Framework, the harm I have identified is less than substantial. In these circumstances, the harm must be weighed against any public benefits of the proposed development. The Framework requires that great weight is given to the asset's conservation, irrespective of whether the level of harm is less than substantial.
21. I have taken into account the appellant's detailed submissions in regard to public benefits, and the supporting documents from various bodies including government. Although it is clear that policies GG1, GG5 and SI 6 of the LP support and recognise the importance of digital infrastructure to the economy and to communities, my consideration of such policies in this appeal is limited to matters of siting and appearance. I have had regard to the costs decision³ submitted by the appellant, in which it was found that a council did not properly balance matters in regard to a telecommunications proposal. In this regard, the appellant only seeks to draw my attention to a proper consideration of the matter before me.
22. The Framework is clear in paragraph 114 that the provision of high-quality communications infrastructure is essential for economic growth and social wellbeing. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported. The proposal would facilitate 5G coverage and network capacity, and I have had regard to the public benefits of this technology to communities, visitors and businesses in the area and beyond. Cumulatively, these factors and public benefits weigh in favour of the proposal.
23. Having regard to all of the above, the weight that I attach to the public benefits in favour of the proposal would not be sufficient in this case to outweigh the less than substantial harm I have found, to which I must apply great weight.

Conclusion

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

J Moore BA (Hons) BPL MRTPI

INSPECTOR

³ Costs Decision - APP/G5180/W/16/3151769