



Appeal Decision

Site visit made on 18 September 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Appeal Ref: APP/A5270/W/23/3318321

Footpath of Carlton Road, Ealing, London WT 2AQ

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the London Borough of Ealing.
 - The application Ref 224240PNT, dated 30 September 2022, was refused by notice dated 30 November 2022.
 - The development proposed is described as 'The installation of a 20metre high slim-line monopole, supporting 6 no. antennas with 1 no. wraparound equipment cabinet at the base, 2 no. equipment cabinets, 1 no. electric meter cabinet, and ancillary development thereto, including the installation of a GPS module'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As this is an application for prior approval, the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, 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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require consideration of the development plan. Nevertheless, I have had regard to the policies of the development plan, and the National Planning Policy Framework (Framework), in so far as they are a material consideration relevant to matters of siting and appearance.

Background and Main Issue

4. The Council's refusal reason contends that the proposal falls outside the provisions of Schedule 2, Part 16, Class A of the GPDO. However, the parties agree that the proposed installation would meet the limitations in Part 16. I am satisfied therefore that the proposal would constitute permitted development, subject to prior approval being granted.
5. The officer report sets out the Council's concerns in relation to the effect of the siting and design of the proposed development on the character and appearance of the area, including the setting of the Haven Green Conservation

Area. As the appellant has had sight of the officer report and is therefore aware of the issues raised therein, no injustice would occur if I determined the appeal on that basis.

6. The main issue is therefore the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the setting of the Haven Green Conservation Area (CA) and, if any harm is identified, whether that harm is outweighed by the need for the installation in the location proposed, having regard to any suitable alternatives.

Reasons

7. The appeal site forms part of the footpath which runs along Carlton Road, close to its junction with Castlebar Road. The surrounding area is predominately residential in character, comprising 2 storey dwellings as well as larger scale flatted development. The mature street trees, together with the semi mature specimens in the triangular parcel of green space opposite the site and mature residential gardens contribute to the pleasant verdant character of the area.
8. The site lies outside but close to the CA, the boundary of which runs along Carlton Road. The proposed mast would therefore be within the setting of the CA. The significance of the CA is derived from its predominantly residential character, comprising Victorian and Edwardian housing fronting the highway. The built form within its setting provides further residential context and together with the mature trees contributes to the setting of the CA.
9. The presence of mature trees within the surrounding area adds considerable height to the street scene, there are also various items of street furniture nearby including lamp posts, highway signs, metal railings and seats. The appeal submissions indicate that the design and height of the proposed monopole is the minimum required to clear surrounding clutter, including trees, to achieve suitable coverage due to new technology requirements.
10. The 20m high monopole would be a sizeable structure, significantly taller than nearby buildings and trees. It would also be substantially greater in height and bulkier in appearance than nearby lamp posts. As such, whilst the lower part of the monopole would be viewed against the backdrop of the nearby buildings and trees, due to its height it would rise significantly above the canopies and would protrude above the skyline. The monopole would therefore be perceptible both in longer distance and short-range views towards the site, where it would have a dominant visual impact. Whilst the intervening trees would partially conceal the lower part of the monopole in some views, this would be limited to the summer months.
11. For these reasons, the monopole would be a discordant feature that would be at odds with the prevailing character of the area, including the more discreet street furniture in the immediate locality. Due to the visual dominance of the proposed monopole, it would appear as a stark and incongruous feature within the street scene. I therefore conclude that it would harm the character and appearance of the area and unacceptably detract from the pleasant verdant setting of the CA.
12. I have considered the appellant's willingness to amend the colour of the monopole. However, this would not mitigate the effect so as to overcome the visual harm I have identified. Moreover, there is no authority in this type of

case to apply any conditions beyond those as set out in the relevant part of the GPDO.

13. The Framework is clear that the need for an electronic communications system should not be questioned nor should competition between different operators be prevented. However, paragraph 117 of the Framework, indicates that the requirement for the development should be justified, including that for a new mast, evidence should be provided that shows the possibility of erecting antennas on an existing building, mast or structure has been explored.
14. I note that there are no other existing base stations within the target area therefore site sharing is not an option and that there are no suitable structures or properties that would support a rooftop/site share/upgrade installation. In addition, alternative sites have been discounted due to site constraints such as a narrow footway and others are beyond the target area.
15. The appeal submissions indicate that the need to improve coverage specifically in this location means the extent of the target area is very constrained. However, the reasons for such a restricted search area are unclear. Although alternative sites have been considered, it is not clear from the submitted evidence whether this exercise represents a comprehensive search of all potential sites. Thus, it has not been robustly demonstrated that less harmful alternative sites have been fully explored or that other options are unavailable or unsuitable. As such, I cannot be certain that the harm that would be caused by the appeal proposal is unavoidable, such as to make it the 'least worst' option. As such, I cannot be certain that the harm that would be caused is unavoidable.
16. Given the effect on the significance of the CA through harm to its setting would be localised, it would therefore be less than substantial in terms of the Framework. In finding harm, this is something to which I have given considerable importance and weight to. Paragraph 202 of the Framework indicates that the less than substantial harm to the designated heritage asset should be weighed against the public benefits of the proposal.
17. The social and economic benefits of the proposed installation are implicitly recognised by the grant of planning permission under Article 3(1) of the GPDO, subject to the prior approval of siting and appearance. The Framework also supports the expansion of electric communications networks, including 5G mobile technology and sets out that access to advanced, high quality and reliable communications is essential for economic growth and social well-being.
18. There is no dispute the development would facilitate the delivery of 5G signal coverage and strengthen the existing 3G and 4G telecommunications network in the area. This would offer benefits in terms of an enhanced communications network for businesses, residents and visitors and would support the Government's levelling up agenda. This is a public benefit to which I attach moderate weight. However, in view of my findings above, these benefits would not outweigh the harm to the character and appearance of the area or the setting of the CA.

Other Matters

19. My attention is drawn to several appeal decisions¹ where prior approval was granted despite the proposed installations being greater in height than the surrounding structures and resulting visual impact. However, unlike the appeal proposal, the sites in those cases were not within the setting of a CA. Furthermore, I do not have full details in respect of such works so I cannot be sure of the specific circumstances of such cases. In any event, I have determined the appeal on its own merits, based on the evidence before me.
20. I have had regard to the other appeal decisions brought to my attention by the appellant² in relation to the availability of alternative sites. However, in both cases, the Inspectors concluded that the installations would not harm the character and appearance of the area. Consequently, as no harm would arise because of the proposals, there was no need to consider further alternative sites.

Conclusion

21. The proposal would harm the character and appearance of the area and the setting of the CA. This harm is not outweighed by public benefits. Moreover, the evidence fails to robustly demonstrate that there are no alternative sites and that there is a need for the installation to be sited as proposed.
22. For the foregoing reasons, I therefore conclude that the appeal should be dismissed.

E Worley

INSPECTOR

¹ APP/G4240/W/21/3268575, APP/M5450/W/20/3244354, APP/P4225/W/21/3283532, APP/G5750/W/20/3249160

² APP/E5330/W/16/3159250, APP/J4423/W/17/3188962