



Appeal Decision

Site visit made on 3 October 2023

by K Lancaster BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2023

Appeal Ref: APP/N5090/W/23/3319439

High Road Street Works, High Road, Barnet, N2 8AN

(Grid Ref Easting: 526989, Grid Ref Northing: 189952)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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) Limited against the decision of the Council of the London Borough of Barnet.
- The application Ref 22/6052/PNT, dated 21 December 2022, was refused by notice dated 6 February 2023.
- The development proposed is described as a "5G telecoms installation: H3G 20m street pole and additional equipment cabinets".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site was the subject of a recent appeal decision¹, which was dismissed. The primary difference between the proposal and the previous scheme is the proposed siting of the mast and associated cabinets and the overall height of the mast, being 20 metres rather than 15 metres. The appeal decision is a material consideration in the determination of this appeal.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under 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. My determination of this appeal has been made on the same basis.
4. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
5. Nevertheless, Policy CS5 of the Barnet Core Strategy 2012 (CS) and Policies DM01, DM06 and DM18 of the Development Management Policies 2012 (DMP) are material considerations insofar as they relate to issues of siting and appearance as well as heritage assets. Policy CS9 of the CS and Policy DM17 of the DMP are also relevant as they relate to safe travel. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration in

¹ Appeal Ref: APP/N5090/W/21/3271788

respect of supporting high quality communications and the sympathetic design of telecommunications infrastructure.

Main Issues

6. The main issues of the appeal are the effect of the siting and appearance of the proposal on:

- the character and appearance of the area, including with regard to nearby listed buildings;
- pedestrian safety; 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

7. The appeal site is located within a footpath which is adjacent to a grass verge, a school playing field and High Road, which is a busy road. There are on-street parking bays are situated directly in front of the appeal site.
8. Alongside the grass verge there are a number of trees, which may provide some screening for an installation of this height, particularly in longer range views. However, the mast and associated cabinetry would be set forward of these features, located within the footpath and would therefore appear distinctly separate. The mast would also project above these nearby trees.
9. I acknowledge that there are other examples of vertical street furniture present in the vicinity, including streetlights, signage, and traffic signals. However, the proposed mast and antennas, which would measure 20 metres in height would be of a much greater height and bulk than these other features. This would result in the introduction of an awkward arrangement of cabinets and the mast which would add clutter to the street scene. Due to its location within the footpath and when viewed against the open backdrop of the playing field, the appeal proposal would be a dominant and incongruous feature within the streetscape. The proposal would also be an dominant feature projecting above the trees in views from the playing field.
10. There are two Grade II listed buildings identified as being in close proximity to the appeal site, East Finchley Library and East Finchley Baptist Church Hall. The significance of these buildings lies primarily in their architectural interest. Whilst the proposal would be visible in some views of East Finchley Library, it would not harm the architectural significance of the building or the setting in which it would be viewed. East Finchley Baptist Church Hall, which is located on Creighton Avenue, a side street accessed off High Road, has by virtue of intervening buildings a greater degree of separation to the appeal site. Accordingly, I therefore find that the proposal would have a neutral effect on the setting of these listed buildings.
11. I therefore conclude on this main issue that whilst the proposal would have a neutral effect on the nearby listed buildings, the proposal would result in significant harm to the character and appearance of the area.

12. Insofar as they are a material consideration, the proposal is therefore contrary to Policy CS5 of the CS; Policies DM01 and DM18 of the DMP and Policies D1, D3 and D4 of the Mayor's London Plan (2021). These policies require, amongst other things, high quality design that preserves or enhances local character.

Pedestrian Safety

13. The proposed equipment would be located within the existing footpath, which combined with the presence of on street parking bays which utilise part of the footpath would lead to an unacceptable reduction in pavement width. The siting of the equipment in the proposed location would result in a pavement width of approximately 1 metre, which would leave inadequate space for users of the footpath, particularly children and parents walking to and from the nearby St Martins Primary School.
14. I therefore find that the siting of the proposed development would cause harm to the free flow of pedestrians, which would be detrimental to pedestrian safety.
15. Insofar as they are a material consideration, the proposal would be contrary to contrary to policies CS9 of the CS; and Policy DM17 of the DMP. These policies require, amongst other things, the safety of all road users is taken into account and that proposals will maintain freedom and ability to move at will.

Alternative Sites

16. Paragraph 117 of the Framework sets out that evidence must be supplied to demonstrate that alternatives have been taken into consideration. The appellant has undertaken a sequential approach to site selection with all the alternatives discounted.
17. The Council has not disputed the appellant's need for improved 5G coverage, and I see no reason to take a different stance. For new masts, the Framework requires evidence be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structures.
18. The supporting documentation refers to the very small search area for the new installation and states that no site sharing or opportunities or existing structures were identified. However, I observed that there were a number of buildings in the area which may be suitable for the location of antenna, and the appellant has not set out why these were discounted. Six other sites were considered and discounted for several reasons, including being located in residential areas, having unsuitable pavements or visibility splay issues. Whilst some of these alternative locations are similar to the proposed site it is not clear why these would be more harmful than the proposed location. On this basis, the appellant's sequential approach would not appear to be suitably robust.
19. Therefore, I cannot be satisfied that this is the only site on which the development could be located or that the discounted options are the only reasonable alternatives that could have been considered.
20. I am mindful of the economic and social benefits of providing and enhancing electronic communication infrastructure, as set out in the letter from the Department for Digital, Culture, Media and Sport of 27 August 2020. The appellant emphasises that the 5G service provides faster speeds and handles

large amounts of data. Furthermore, Paragraph 114 of the Framework advises that advanced, high-quality, and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported.

21. These matters weigh in the proposal's favour. However, it has not been demonstrated that these benefits would not be possible on sites in the vicinity of the appeal proposal which are more suitably located in respect of character and appearance. These benefits therefore carry limited weight in favour of the appeal. In any case, the harm identified above would be significant, and even if I were to accept the appellant's assessment of alternative sites, that would not justify granting approval in this case.

Conclusion

22. Consequently, I therefore conclude that the siting and appearance of the proposed installation would harm the character and appearance of the area and be detrimental to pedestrian safety. I am not convinced that less harmful alternatives have been properly explored and in any case, I consider that the need for the installation does not outweigh this harm.
23. For the reasons given above, the appeal is dismissed.

K Lancaster

INSPECTOR