



Appeal Decision

Site visit made on 14 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal Ref: APP/A5270/W/23/3322768

Havelock Roads Street Works, London UB2 4NU

- 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 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 Ealing.
 - The application Ref 223858PNT, dated 6 September 2022, was refused by notice dated 2 December 2022.
 - The development proposed is described as 5G 16m telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Council 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 there is no requirement to have regard to the development plan as there would be for a development requiring planning permission. Nevertheless, Policies D4 and D8 of the London Plan (2021) (LP) and Policies 7.4 and 7B of the Development Management Development Plan Document (2013) (DMDPD) are material considerations as they relate to issues of siting and appearance. The National Planning Policy Framework (the Framework) is also a material consideration, and this includes policies for supporting high quality communications.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, 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

5. The appeal site is an area of footpath at the crossroads of Havelock Road, Merrick Road and Guru Nanak Road. There are a number of vertical features near to the site, including street lights, traffic lights, road signs and a number

of trees. The surrounding area is predominantly residential, comprising two storey dwellings.

6. The appeal scheme has been designed with urban roadside locations in mind, would not affect the free flow of pedestrians and is said to be the minimum height necessary to achieve the required service levels. However, at 16 metres to the top of the tower, the proposal would be significantly taller than the existing street lights which are the tallest items of street furniture at present. While the nearby trees would provide some mitigation of the visual effect of the proposal and despite being described as slimline, the monopole would be noticeably broader than the existing street furniture and would have relatively bulky antennas. As such, the proposal would not blend into the street scene.
7. The entire mast and cabinets would be clearly visible in views along the adjacent highways as well as the footpaths and would be conspicuous from several directions, by virtue of its corner location. It would also be seen by occupiers of nearby residential properties, in particular on Rectory Park to the rear of the appeal site, from which the visual intrusion of the proposed development would be readily apparent.
8. The appellant suggests that the installation could be coloured grey to minimise its appearance. However, given the site's prominent location, and the proposal's height and design, this would not resolve the visual effect of the proposal. While I note that the proposal meets guidelines for non-ionising radiation protection and the area is not subject to heritage or other policy constraints, the mast would nevertheless be a visually intrusive feature.
9. For the above reasons, the siting and appearance of the proposal would be harmful to the character and appearance of the area. Accordingly, insofar as they are a material consideration, the proposal would be in conflict with Policies D4 and D8 of the LP and Policies 7.4 and 7B of the DMDPD. Amongst other things, these policies require development to make a positive contribution to the public realm and to be of a design that complements local character and ensures a positive visual impact. It would also be contrary to the overarching principles of the Framework for development to achieve well-designed places for the long term.
10. Paragraph 114 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should also support the expansion of electronic communications networks. The scheme is required to improve digital wireless mobile coverage through a 5G service, and the appellant has demonstrated that there is a need to improve coverage in this densely populated area. I also acknowledge the numerous economic and social benefits arising from a 5G network. The proposal, therefore, has clear public benefits.
11. In line with Paragraph 117 of the Framework, the appellant has set out the sequential approach in relation to suitable alternative sites for the proposed development. Site sharing is said to have been investigated and exhausted and the cell search area for the required new installation is constrained due to the operational requirements. Alternative locations for the siting of the proposal within the search area are assessed and have been discounted by the appellant for reasons including visibility splay issues and insufficient pavement width.

12. However, the information provided is limited with a list of discounted options and a brief and somewhat vague explanation on why other sites have been discounted. Moreover, there are areas within the search area where no evidence has been provided that alternative sites have been assessed and in these intervening areas, I observed locations where there are wide footpaths. Therefore, based on the evidence before me, I am not satisfied that a robust review of the availability of alternative sites for the appeal scheme have been properly explored, in line with the provisions of Section 10 of the Framework. Consequently, it has not been demonstrated that the appeal site represents the only viable option.

Planning Balance and Conclusion

13. I acknowledge that the appellant has demonstrated a requirement to upgrade the network to provide improved coverage and capacity, most notably in relation to 5G services.
14. The Framework supports the expansion of electronic communications networks, including next generation mobile technology and there would be important social and economic benefits from the proposed development which weigh in favour of the appeal. However, I afford significant weight to the harm to the character and appearance of the area arising from the siting and appearance of the proposed development. Given my above findings, the availability of less harmful alternative sites has not been properly explored and, therefore, the need for the development in this location does not outweigh the harm.
15. For the reasons given, and having regard to all relevant matters raised, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR