



Appeal Decision

Site visit made on 12 December 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2024

Appeal Ref: APP/N5090/W/23/3323120

Parson Street street works, Parson Street, Barnet NW4 1QX

- 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 Cignal Infrastructure UK Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5951/PNT, dated 15 December 2022, was refused by notice dated 18 January 2023.
 - The development proposed is described as a "proposed 5G telecoms installation: H3G 18m street pole and additional equipment cabinets".
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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 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach. Where I have referred to a specific paragraph of the Framework, the numbering used is that of the revised version.

Planning Policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. Nevertheless, Policy CS9 of Barnet's Local Plan Core Strategy Development Plan Document September 2012 (CS), Policies DM01, DM17 and DM18 of Barnet's Local Plan Development Management Policies Development Plan Document September 2012 (DMP), Policies G7 and T2 of the London Plan 2021 (LP) and the guidance within the Pedestrian Comfort Guidance for London Guidance Document 2019 (PCGL) are a material consideration as they relate to issues of siting and appearance. In

particular, they seek, among other things, to ensure development proposals preserve or enhance local character and safeguard trees and highway and pedestrian safety. Similarly, the Framework is also a material consideration, and this includes a section on supporting high quality communications.

Main Issues

5. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area, with particular regard to trees,
- the effect of the siting and appearance of the proposed installation on highway and 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

6. The appeal site is located on the back edge of the pavement on Parson Street, at a point where land levels rise up in a northerly direction. There is a row of boundary trees adjacent to the appeal site, some of which are protected by a Tree Preservation Order. Together with nearby trees and grassed verges, they give the area a verdant feel. Building heights are relatively low and largely comprise two and three storeys, with taller buildings typically set back away from the highway and partially screened by trees and other vegetation. Vertical structures in this area predominately comprise slim streetlamps and road signs, which are of modest heights. The trees, grassed verges, vegetation and siting of buildings give the area an open, spacious and verdant feel, which contributes to the character and appearance of the area.
7. While the monopole and cabinets would be coloured grey to assist with their assimilation and noting the location of adjacent trees and street furniture, the proposed development would result in an incongruously tall, robust and conspicuous feature, located in a highly prominent position that would be readily visible along Parson Street for some distance.
8. Although noting the mast is the absolute minimum height to provide the benefits of 5G and is designed to be deployed upon pavements and verges, it would be significantly higher than, and contrast markedly with, the verdant character of the area, the relatively low heights of surrounding buildings and slender lampposts and road signs. The land levels would further exacerbate the overall height of the proposal when approaching the site from a southerly direction. The proposal would therefore comprise an incongruous form of development that would detract significantly from the character of the area.
9. While the hard surfacing and boundary wall foundations may have had an impact on the trees and their associated root growth, having regard to the height of the trees it is likely that roots are present within or close to the appeal site.
10. In the absence of substantive evidence to the contrary, it is likely, based on the evidence submitted, that the proposed development has the potential to affect

adjacent tree roots. There may also be future pressure to prune neighbouring trees due to their proximity to the proposed installation. Any such works could lead to the deterioration or eventual loss of these adjacent trees, with associated adverse implications for the verdant character and appearance of the area.

11. For these reasons, I conclude the siting and appearance of the proposed installation would have a harmful effect on the character and appearance of the area, with particular regard to trees. Insofar as they are a material consideration, the proposal would also be contrary to the aims of DMP Policies DM01 and DM18, LP Policy G7 and the Framework.

Highway and pedestrian safety

12. All of the proposed installation would be located within the footpath, which is hard surfaced, and its alignment is relatively straight. It is separated from the highway by a grass verge. There are other cabinets along this stretch of footpath, close to the appeal site, however these are sited within the grass verge and do not impede pedestrians. An existing bench is to be relocated to allow for the development proposed. During my site visit, which was a snapshot in time, during a quieter part of the day, I observed relatively low pedestrian movements.
13. The proposed installation would be located at a point where the footpath widens marginally and is of a similar depth as the bench currently in situ. While the proposed cabinet doors would open into the footway, there is limited substantive evidence which demonstrates that they would remain open for long, extended periods. Consequently, there would remain sufficient space for all users of the footway, including those with prams, wheelchairs and mobility scooters to safely pass.
14. The relocated bench would reduce the width of the footpath at a point where the footpath is narrowing. However, should footpath users need to pass one another, the alignment of the footpath and height of the bench would provide adequate visibility to those users approaching one another and there would be sufficient space for one party to wait on the wider footway, in order to allow the other party to pass. Furthermore, the presence of the grass verge would ensure pedestrians would not stray into the adjoining road.
15. For these reasons, I conclude the siting and appearance of the proposed installation would not have a harmful effect on highway and pedestrian safety. Insofar as they are a material consideration, the proposal would accord with the aims of CS Policy CS9, DMP Policies DM17 and DM18, LP Policy T2, the PCGL and the Framework.

Alternative sites

16. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and, in this regard, there is a need to support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. The mast would introduce 5G coverage, improving service in and around Hendon.
17. While acknowledging the need for the proposal, given the harm I have found to the character and appearance of the area, other options that might be available

are an important consideration. Paragraph 121 of the Framework requires, for a new mast, that evidence is provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.

18. I understand that no tall buildings or existing mast sharing opportunities were identified in the required target area that could be utilised or shared by the appellant. Notwithstanding this, other locations have been considered, which have been informed by the coverage and data demand area and, having regard to 5G, the smaller cell area comprising a radius of approximately 100 metres, and the need to locate the equipment close to the area they are designed to cover.
19. Alternative site D1 has been discounted due to the bus stop reducing the area for street works, alternative sites D2 and D4 have been discounted due to visibility splay issues and alternative site D3 has been discounted due to sloping ground. However, no specific details have been provided demonstrating the extent of such issues and I cannot be certain these issues could not reasonably be overcome.
20. While noting the appellants assertion that the cell search area is extremely constrained, the evidence states the proposed installation must be located close to the search area, albeit no further details in respect of the precise proximity have been provided. The appeal site is close to other relatively open areas of land, large buildings, including one close to alternative site D4, and Hendon town centre. These areas and buildings have not been included within the alternative site assessment. I cannot be certain, therefore, whether these other locations have been considered and, if so, the reasons for discounting them.
21. As such, given that there may be alternative sites or buildings that could accommodate the proposal which may be less visually intrusive than the appeal site, the analysis by the appellant is not sufficiently comprehensive to show that it has considered all reasonable options. Overall, the reasons given for discounting other sites are brief and unsupported by sufficient detailed evidence to demonstrate why they would not be viable.
22. Therefore, in the absence of clear and persuasive evidence as to why alternative sites have been discounted, and why other nearby areas have not been considered, I cannot establish whether more suitable sites might reasonably be available. Consequently, I am not satisfied, based on the evidence before me, that suitable alternatives have been comprehensively explored, nor that the requirements of paragraph 121 of the Framework have been fully met.

Other Matters

23. There would be economic, social, health and education benefits associated with the proposed development. The appellant has highlighted that telecommunications has become an integral part of society, and the proposal would bring modern, high-speed communications service to this residential area, where there is an increase in demand for 5G, particularly given the homeworking requirements in response to the pandemic.
24. Several reports and documents have been drawn to my attention, including letters from the Department for Digital, Culture, Media and Sport, extolling the

benefits and importance of connectivity, the emphasis on how local government can help to deliver the infrastructure and how the planning process can affect deployment.

25. As set out in the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Nevertheless, while acknowledging these benefits exist, the provisions of the GPDO 2015 are clear, and I am only able to consider the matters of siting and appearance.
26. I have considered the allowed appeal decision¹ referred to by the appellant. However, the evidence before me suggests the locational context and circumstances of the allowed appeal were different. The overall height of the installation was taller, and the locational context differed, insofar as the site was in Walworth. In any case I have determined this appeal on its own merits.
27. While the appellant asserts the siting of the proposed development has been carefully positioned and is not directly in front of any residential properties, an absence of harm in respect of living conditions of occupiers of neighbouring properties carries neutral weight in favour of the proposal.

Conclusion

28. Notwithstanding my conclusions in respect of highway and pedestrian safety, the siting and appearance of the proposed installation would have a significantly harmful effect on the character and appearance of the surrounding area, with particular regard to trees. Given suitable alternatives have not been properly explored, this harm is not outweighed by the need for the installation to be sited as proposed. As such, I find the siting and appearance of the proposed development to be unacceptable.
29. I therefore conclude that the appeal should be dismissed.

S Pearce

INSPECTOR

¹ APP/A5840/W/20/3254830