



Appeal Decision

Site visit made on 16 January 2024

by Simon Warder BSc(Hons) MA Dip UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/U5930/W/23/3323129

Hale End Road street works, Waltham Forest IG8 9LN

- 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 under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Gallivan on behalf of CK Hutchison Networks (UK) Ltd. against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 223444, dated 5 December 2022, was refused by notice dated 20 January 2023.
 - The development proposed is 5G telecoms installation: H3G 17m street pole and additional equipment cabinets.
-

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) (the Order), 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. The provisions of the Order do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are material considerations relevant to matters of siting and appearance.
4. A revised Framework was published in December 2023. The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

5. The main parties do not dispute that the appeal scheme meets the requirements of Class A, Part 16, Schedule 2 of the Order such that it would constitute permitted development, subject to the condition that prior approval must be sought in relation to its siting and appearance.

6. The main issues are the effect of the siting and appearance of the proposed installation on:
- the character and appearance of the area including the locally listed Royal Oak pub and nearby trees;
 - pedestrian and highway safety.

Reasons

Character and Appearance

7. The proposed pole and cabinets would be located in the footpath adjacent to the garden area of the locally listed Royal Oak pub. This well-proportioned and attractively detailed building occupies a prominent corner position. It makes a positive contribution to local distinctiveness and has significance as a neighbouring pub. The building is slightly larger in scale than the two storey dwellings that predominate in the area. There are also relatively tall lamp-posts at regular intervals along Hale End Road. Nevertheless, at 17m, the proposed pole would be significantly taller than any other structures in the area and would be more bulky than the lamp-posts. It would be conspicuous in views along a considerable length of Hale End Road. By virtue of its size and utilitarian appearance the pole would be incongruous and have a harmful effect on the residential setting of the Royal Oak.
8. Although there are clusters of street furniture and equipment in places along this section of Hale End Road, there is none at the appeal site. The introduction of the pole and associated cabinets would create a new grouping close to, but separate from, the bus shelter and refuse bin a short distance to the north. The proposal would, therefore, add to street clutter at a sensitive location adjoining the Royal Oak.
9. A number of mature trees in the garden area of the Royal Oak are positioned close to its boundary with the footpath and their canopies partly overhang the boundary. As such, they are visible from Hale End Road and make a positive contribution to the street scene and to the setting of the Royal Oak. The proposed installation would be sited close to the trees and could, potentially, intrude into their root protection areas. Policy DM35 of the Waltham Forest Local Plan – Development Management Policies 2013 (DMP) requires an arboricultural report to be submitted where a proposal would impact on trees. In the absence of such a report the effect of the proposals on the trees, and any necessary mitigation measures cannot be established. The loss, or harm to the long term health of the trees would be detrimental to the street scene and the setting of the Royal Oak.
10. Overall therefore, I find that the siting and appearance of the proposal would be harmful to the character and appearance of the area including the locally listed Royal Oak pub and nearby trees. Consequently, it would not accord with Framework paragraph 119 to the extent that it requires telecommunications development to be sympathetically designed and camouflaged, paragraph 135 which requires proposals to be sympathetic to local character and history or paragraph 209 which requires a balanced judgement to be made with regard to the scale of any harm and the significance of a non-designated heritage asset.
11. Nor would the proposal comply with Policy CS15 of the Waltham Forest Local Plan – Core Strategy 2012 (CS) or Policy DM29 of the DMP. Insofar as these

policies require proposals to respond positively to local context and character they are material considerations. The first reason for refusal also cites DMP Policies DM30 and DM37. However, they are not concerned with the question of character and appearance and I deal with them below.

Pedestrian and Highway Safety

12. The pole and cabinet would be sited towards the back edge of the footpath. The footpath at this point is wider than it is further south where a wall and steps project forward of the pub building and further north where the bus shelter and refuse bin take up part of its width. There is no substantive evidence to show that these restrictions have led to pedestrian or highway safety problems. Therefore, although the proposal would reduce the amount of space available to pedestrians, it would not create a pinch point for pedestrian, wheelchair or pushchair users and there is no robust reason to consider that it would jeopardise pedestrian or highway safety.
13. Therefore, I find no conflict with DMP Policies DM14 or DM30 insofar as they require the siting of proposals not to have a harmful impact on the walking environment, but should facilitate inclusive access.

Other Matters

14. The appellant has set out its objectives to follow the Government commitment to improving high speed 5G mobile connectivity and the benefits this has to the local community. I also note the increased demand that has arisen from more home working following the Covid pandemic and the requirement for improved telecommunications in residential areas such as the appeal site locality.
15. The appellant has submitted a brief review of discounted alternative locations. Nevertheless, I am not convinced that a less sensitive and visually intrusive location could not be found within the target area that would meet the Government commitment and the appellant's requirements. Although I have found that the proposal would not put at risk pedestrian and highway safety, the identified harm to the character and appearance of the area would outweigh its benefits. Consequently, it has not been adequately demonstrated that the proposal would accord with DMP Policy DM37 with regard to the justification of the siting of telecommunications installations.

Conclusion

16. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR