



Appeal Decision

Site visit made on 9 January 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/G5180/W/23/3323340

Land outside Holy Trinity Church, Lennard Road, London

- 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 Council of the London Borough of Bromley.
 - The application Ref DC/23/00570/TELCOM, dated 11 February 2023, was refused by notice dated 29 March 2023.
 - The development proposed is a 5G telecoms installation: 15m street ancillary equipment cabinets and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the installation of a 15m high 5G telecommunications street mast with associated equipment cabinets/associated works. The Council dealt with the proposal on this basis and so shall I.
3. The address of the appeal site given on the planning application form is 'Lennard Road Streetworks, Lennard Road, London SE20 7LX'. The Council cites the address as 'Land outside Holy Trinity Church, Lennard Road, London' on its decision notice which I have used in the banner above as this is a more accurate description of the address.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties were not invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
5. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
6. Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires 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.

7. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance. In this context, I have considered Policy HC1 of the London Plan 2021 and Policies 32, 37, 38, 39 and 89 of the Bromley Local Plan 2019. These require developments to conserve the significance of heritage assets and their settings and to not have significant adverse effects on road safety, with telecommunications development required to minimise any adverse impacts on the character and appearance of the area, amongst other things. I have also had regard to the Framework.

Main Issues

8. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area, on the setting of the Penge (Holy Trinity) War Memorial grade II listed building, and on the Holy Trinity Church as a non-designated heritage asset;
- the effect of the siting of the proposal on highway 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 or any associated public benefits.

Reasons

Character and appearance and effect on heritage assets

9. The appeal site comprises an area of hardstanding between the footway and carriageway on Lennard Road, close to a pedestrian crossing. The site lies within a residential location, in front of the Holy Trinity Church which is set back from the footway behind a low stone wall. The church grounds contain a war memorial.
10. The Penge (Holy Trinity) war memorial is a grade II listed building. Its significance, in so far as it relates to this appeal, is derived from it being an imposing and well executed Portland stone cross war memorial.
11. The Holy Trinity Church is a locally listed building, a non-designated heritage asset. Although it has previously been damaged and altered, I observed that its significance derives in part from it being a Gothic style 19th century ragstone church with a belltower.
12. The proposed 15m mast would be lower than the previous one refused prior approval (application ref 22/02701/TELCOM). In themselves, the proposed equipment cabinets would be permitted development, but as they are required in association with the proposed mast and form part of the current proposal, it is appropriate to consider the overall impact of the proposed installation on siting and appearance.
13. Street furniture nearby is limited to streetlights which provide vertical features at regular intervals and the nearest lamppost incorporates the pedestrian

crossing indicator/light. There are some mature trees within the church grounds, with open grassed and parking areas between them, and a small tree alongside the road close to the church car park entrance.

14. The 15m mast would be the lowest required to provide improved 5G coverage in the area, but it would be much taller and have a substantially thicker profile than the existing lampposts and would also project higher than the church nave and nearby dwellings. Although there are some mature deciduous trees nearby, the installation would be in a highly visible position on a small strip of land next to the road and footway. The grey colour of the proposed equipment would be in stark contrast to the stone war memorial, church and boundary wall. Due to its height, location and colour, the proposed development would stand out as a dominant and alien feature in the streetscene and would be particularly prominent and incongruous in views from Lennard Road.
15. Further, the height and utilitarian design of the cabinets would be discordant with the low stone boundary wall on the other side of the footway. In addition, the siting of the installation in an area with relatively little street furniture would create harmful visual clutter, particularly for pedestrians using the adjacent footway.
16. The location of the proposed installation and the amount and size of the equipment would harmfully impinge on views of the war memorial, particularly for pedestrians and drivers of cars travelling eastbound on Lennard Road. It would also adversely affect views of the church, particularly from the opposite side of the street. Therefore, the proposed installation would harmfully detract from the character and appearance of the area. It would also negatively affect the setting and thus the significance of the listed war memorial although this would be less than substantial harm in terms of the Framework. In addition, the proposal would harm the setting and therefore the significance of the church as a non-designated heritage asset.
17. Therefore, I conclude that the proposal would have an unacceptable impact on the character and appearance of the area, and would fail to conserve the significance, given the harm that would be caused to their settings, of the listed Penge (Holy Trinity) War Memorial and the locally listed Holy Trinity Church.

Highway safety

18. The site lies between the access to the church car park and Cator Road, close to a pedestrian crossing on Lennard Road, a well-used thoroughfare between Penge East and New Beckenham. The proposed installation would be sited on land between the pavement and carriageway,
19. Due to its proximity to the church access, the proposal has the potential to obstruct visibility for drivers exiting the church car park of traffic travelling westbound along Lennard Road. Further, as the installation would be sited close to the pedestrian crossing, it could also interrupt views by drivers travelling eastbound of pedestrians approaching the crossing and interfere with visibility of on-coming eastbound traffic for users of the crossing. In the absence of a road safety audit demonstrating that the proposal would not interrupt sightlines for drivers and pedestrians in these locations, an unacceptable risk of accidents and, therefore, harm to the safety and movement of drivers and pedestrians cannot be ruled out.

20. From my observations on site, due to the distance between the proposed installation and Cator Road, the perpendicular angle of Cator Road to Lennard Road and the position of the proposed installation west of the pedestrian crossing indicator/light, the proposal would not interrupt visibility splays for drivers of cars egressing from Cator Road.
21. Consequently, I conclude that there is insufficient evidence to demonstrate that the proposal would not harm highway safety.

The need for the installation, alternative sites, and public benefits

22. The appellant has a need to provide 5G coverage within this area and has adopted a sequential approach to site selection. This involved considering mast and site sharing, existing buildings and structures, and alternative ground-based installations. Having carried out a desktop survey, the appellant indicates that no mast/site sharing opportunities or existing buildings/structures were identified. However, limited information is provided to support that finding.
23. In addition, the supporting documentation refers to the extremely constrained cell search area for the new installation and shows the intended cell/target area. However, the evidence fails to adequately substantiate the reason for the size and location of the limited search area, and, in any event, the appeal site falls outside it. Six other sites were considered and discounted for several reasons, but there is little detail about why they would be unsuitable, and it is not clear why these would be more harmful than the proposed location. Further, some of them also lie outside the search area. Therefore, the information is insufficiently compelling or robust to show that this is the only site on which the proposed development could be located.
24. Paragraph 208 of the Framework states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal. Paragraph 209 of the Framework outlines that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.
25. I have taken account of the public benefits associated with this proposal, including that it would provide a robust, reliable, and efficient communication infrastructure and would support the rollout of the 5G network which would have economic and social benefits. However, these public benefits would not outweigh the great weight to be given to the harm to the setting and thus the significance of the listed war memorial caused by the proposed installation. Further, when taking a balanced judgement having regard to the significance of the church, the harm to its setting as a non-designated heritage asset would not be outweighed.
26. Therefore, I conclude that the need for the installation to be sited as proposed taking into account any suitable alternatives and any associated public benefits would not outweigh the harm the proposal would have on the character and appearance of the area and on the significance and settings of the listed Penge (Holy Trinity) War Memorial and the locally listed Holy Trinity Church, and the potential harm to highway safety.

Other Matters

27. The appellant has provided a certificate declaring that the proposal conforms with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) public exposure guidelines. In these circumstances, the Framework advises that health safeguards are not something which a decision maker should determine and, as such, it does not weigh in favour of the proposal.
28. Some appeal documents refer to a Conservation Area (CA), but the Council has confirmed that the site is not within a CA and there is no suggestion that the development would affect the setting of a CA.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

A Wright

INSPECTOR