



Appeal Decision

Site visit made on 23 January 2024

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/H5390/W/23/3321102

Highways land, Charecroft Way, London Borough of Hammersmith, London, W14 0EE

- 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) Ltd against the decision of London Borough of Hammersmith and Fulham.
 - The application Ref 2022/03500/TEL56, dated 9 November 2022, was refused by notice dated 30 November 2022.
 - The development proposed is the installation of 20m pole inc. antennas, ground based apparatus and ancillary development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of 20m pole inc. antennas, ground based apparatus and ancillary development at Highways land, Charecroft Way, London Borough of Hammersmith, London, W14 0EE, in accordance with the application Ref 2022/03500/TEL56, dated 9 November 2022, and the plans submitted with it including: 002 SITE LOCATION PLAN, 210 PROPOSED SITE PLAN, 260 PROPOSED ELEVATION.

Preliminary Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) 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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. As a result, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies DC1, DC10, T2, T3 and OS5 of the London Borough of Hammersmith and Fulham Local Plan (2018) (the Local Plan) and key principle 29 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (2018) (the SPD) and Policy D8 of the London Plan are material considerations as they relate to issues of siting and appearance.

4. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and this includes a section on supporting high quality communications.
5. Since the appeal was lodged, the Government has published a revised National Planning Policy Framework (the Framework) in December 2023 albeit the provisions relating to supporting high quality communications have not changed. Nonetheless, I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation with particular regard to: (i) the character and appearance of the area; (ii) highway safety in respect of pedestrians; (iii) on nearby trees; and (iv) 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 proposal would be located close to the junction of Charecroft Way and Richmond Way. The area has a mixed character including residential dwellings along with commercial buildings including the nearby shopping centre.
8. The proposal is for a streetpole type of antenna which would be approximately 20 metres in height. Whilst the proposal would introduce a tall vertical structure into the area, a further tall vertical feature can be seen in the vicinity in the form of the lift structure for the Shepherd's Building located further along Charecroft Way. The lift structure along with the adjacent trees provide vertical points of reference within the wider street scene. The siting of the proposal would be in-keeping with these vertical structures, minimising the prominence of the streetpole.
9. The proposal would be viewed against the backdrop of the Shepherd's Building, rather than being viewed in a more isolated position. The submitted plans show the streetpole would be lower the overall height of the adjacent Shepherd's Building, and therefore its siting, when viewed against the adjacent building would reduce the visual effect of its height. I therefore find it would not appear over-dominant or incongruous in the street scene and would therefore accord with Policies DC1 and DC10 of the Local Plan which require proposals to respect and enhance townscape context and be compatible with the scale and character of existing development. The proposal would also accord with Policy D4 of the London Plan which seeks to secure good design.
10. Furthermore, there would be no conflict with the objectives of paragraph 118 of the Framework which supports high quality telecommunications and achieving well-designed and beautiful places.
11. I therefore conclude that the siting and the appearance of the proposal is acceptable in terms of the character and appearance of the area.

Highway safety

12. The site is located within the designated Shepherd's Bush Town Centre and would be sited within the public footpath adjacent to the Shepherd's Building.
13. The proposed siting of the streetpole and cabinets would be at the widest point of the public footpath albeit this narrows as it continues in a westerly direction. The SPD requires minimum footpath width of 3.5 metres in town centres and 1.8 metres outside town centres. The proposal's siting would result in just over 2 metres of pavement width remaining. Whilst the remaining width would fail to accord with the SPD's minimum requirements, it would be of similar width to the remainder of the footpath on this side of Charecroft Way due to the presence of cycle parking. Therefore, the footpath would not become unduly narrow compared to the rest of the street and there would remain a sufficient width of footpath to enable pedestrians using the pavement to pass unimpeded.
14. Due to the siting of the proposal relative to the junction, it would not be in a location where it would interfere with any pedestrian desire line for walking, such as that which might be taken when walking from Charecroft Way towards Richmond Way. Due to the presence of trees on either side of the proposal, it would not result in pedestrians having to navigate around the streetpole or apparatus or alter their route to avoid it. Therefore, whilst the proposal would not accord with the SPD, I do not find that the siting would impinge on pedestrian safety. Consequently, it would accord with policies T2 and T3 of the Local Plan.
15. I conclude that the siting and appearance of the proposal would not have an adverse effect on highway safety having regard to pedestrians.

Trees

16. The proposal would be sited in between two existing trees within the public footpath which make a positive contribution to the character and appearance of the area. The appeal was accompanied by an Arboricultural Impact Assessment (AIA) which identifies the trees as being of high quality and value in the landscape. The AIA indicates that the streetpole and cabinets would be sited in a position outside the root protection areas and would have no implications for the trees. It would therefore accord with policy OS5 of the Local Plan which seeks to retain existing trees.
17. As such, I conclude that the siting and appearance of the proposal would not result in harm to trees.

Suitable alternatives

18. The appellant has indicated that the proposal could not be sited elsewhere due to the need to provide additional communication coverage in the area. Opportunities for mast sharing has been considered, however the appellant has indicated that the tall buildings in the area which would otherwise allow for sharing have been identified as being unsuitable. This includes the Shepherds Building which the appellant indicates may not have sufficient structural capability to accommodate the necessary antennas and fixings.
19. Notwithstanding the above, as I find that the siting and appearance of the proposal would be acceptable, it is not necessary to consider in further detail whether suitable alternative sites have been considered.

Other Matters

20. Concerns have been raised by a third party in respect of the proposal's proximity to an adjacent children's nursery. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conditions

21. Any permission granted under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These specify that: the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application; must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application; and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Philip Mileham

INSPECTOR