



Appeal Decision

Site visit made on 13 February 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2024

Appeal Ref: APP/N5090/W/23/3326762

Hendon Lane Street Works, Hendon Lane, Barnet, London N3 3PS

- 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 Gallivan (CK Hutchison Networks (UK) Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/1424/PNT, dated 31 March 2023, was refused by notice dated 11 May 2023.
 - The development proposed is 5G telecoms installation: H3G 15m 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, 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 Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. 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 effect on existing trees;
 - highway safety with particular regard to 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

5. The appeal site is at the junction of Hendon Lane and Crooked Usage in front of a triangular grassed area, in a predominantly residential area. The mast and associated cabinets would be located to the rear of the footway and would be viewed in the context of the open area of landscaping. There are existing examples of street furniture within the vicinity of the site, including a lamp post, sewer vent post and a post box.
6. The dwellings to the rear of the proposed site are detached and semi detached dwellings and are substantially lower than the proposal. The proposed mast would be substantially taller than the existing street furniture and the nearby trees. Along with the accompanying cabinets it would add to the clutter of the area where there are already a number of items of street furniture and signage. Together they would therefore appear as a prominent and imposing addition to the street scene.
7. On my site visit I saw the silver birch tree shown on the plans, and also a smaller newly planted tree closer to the edge of the footway where the proposed mast would be located. The trees, in particular the older tree contribute to the verdant character of the area. There is insufficient evidence before me to determine whether or not the proposed mast would have an effect on the health of the existing trees.
8. I therefore find that the siting and appearance of the proposed development would result in unacceptable harm to the character and appearance of the area and that it has not been satisfactorily demonstrated that there would not be an unacceptable effect on existing trees. Insofar as it is a material consideration, it would conflict with Policies DM01 and DM18 of the Barnet Local Plan (Development Management Policies) (2012)(DMP) and Policy G7 of the London Plan (2021)(LP) which amongst other matters seek to ensure that there is no significant adverse effect on the space in which telecommunications equipment is located and safeguards trees.

Highway safety

9. With the presence of an existing sewer vent pipe to the rear of the footway and the lighting column and post box to the front of the footpath, the installation of the proposed mast and cabinets would narrow the available footway reducing the area available for pedestrians. This would create an obstruction for pedestrians, particularly for those with limited mobility or visual impairments harming their safety when using the footpath.
10. I therefore find that the siting of the proposed development would result in unacceptable harm to highway safety with particular regard to pedestrian safety. Insofar as they are a material consideration, it would conflict with Policy CS9 of the Barnet Core Strategy (2012), Policies DM17 and DM18 of DMP and Policies D8, T2 and T4 of the LP which, amongst other matters, seek to ensure that proposals ensure that the public realm is safe, accessible and inclusive and that the safety of all road users is taken into account. It would also conflict with the Pedestrian Comfort Guidance for London (2019).

Need

11. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposed mast would provide 5G coverage and a number of potential benefits have been set out by the appellant. Reference has also been made to a number of Government documents that set out the importance of high speed digital communications infrastructure.
12. An exercise to assess alternative sites has been undertaken by the appellant. The appellant identified that during this process, no mast sharing or existing building structures were suitable and therefore, a new ground-based mast is required. The options presented by the appellant were discounted for various reasons including the proximity of residential development, unsuitable pavements and visibility splay issues. However, there is insufficient detail to explain why these sites were discounted for me to determine whether the reasons given are robust. I therefore do not consider that sufficient evidence has been provided to demonstrate that the alternative sites are unsuitable.
13. For the reasons given, I cannot be certain that other suitable alternative sites have been fully and robustly considered. Accordingly, on the information before me, the need for the installation to be sited as proposed, taking into account any suitable alternatives, does not outweigh the identified harm that would occur to highway safety and the character and appearance of the area due to the siting and appearance of the proposal.

Other Matters

14. Concerns have been raised about potential effects on health. 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.

Conclusion

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

H Senior

INSPECTOR