



Appeal Decision

Site visit made on 9 December 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2024

Appeal Ref: APP/H5960/W/24/3347143

Tooting Common Depot, Dr Johnson Avenue, Balham, London SW17 8JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Cornerstone against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/4242.
 - The development proposed is the installation of a new 15m monopole supporting 6no. antennas and 2no. 300mm dishes, the installation of 2no cabinets and ancillary works thereto, all within 7no concrete bollards.
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Decision

1. The appeal is allowed and prior 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 installation of a new 15m monopole supporting 6no. antennas and 2no. 300mm dishes, the installation of 2no cabinets and ancillary works thereto, all within 7no concrete bollards, at Tooting Common Depot, Dr Johnson Avenue, Balham, London SW17 8JU in accordance with the application, Ref 2023/4242, and the details submitted with it including plan nos: Site Location Maps 100C; Proposed Site Plan 201C; Existing Site Plan 200B; Existing Site Elevation 300B; and Proposed Site Elevation 300B.

Procedural 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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. The fact that the appeal site is in Metropolitan Open Land (MOL) does not alter this. 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. As the question of whether the proposal represents inappropriate development in MOL does not arise, I have not had regard to Policy G3 of the London Plan (2021) (LonP) referenced in the Council's reason for refusal.

4. Nevertheless, Policy S16 of the LonP and Policies LP1, LP2, LP3, LP22, and LP53 of the Wandsworth Local Plan 2023-2038 (2023) (WLP) are material considerations as they relate to issues of siting and appearance. Similarly, the Framework is also a material consideration and this includes a section on supporting high quality communications.
5. On the 12 December 2024 the Government published a revised Framework. The revised Framework should be taken into account from the day of publication. As the changes do not materially affect the main issue in this case, the parties have not been invited to comment further. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area having regard to the non-designated heritage asset Tooting Common MOL, and the setting of the Heaver Estate Conservation Area, 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

7. The appeal site is located within a depot yard which lies within Tooting Common MOL. A road, Dr Johnson Avenue, runs through the Common in close proximity to the site. Nearby areas of the Common are in use as open fields, sports pitches and tennis courts. The wide-open nature of the Common allows for long, uninterrupted views across the landscape and the Common provides a valuable open space within the built-up area.
8. Tooting Common is locally listed and is a non-designated heritage asset (NDHA). I consider that its significance as a NDHA, as it relates to this appeal, lies partly in its longstanding historic past as common land, where it was once bordered by manorial estates, and its accessibility to the public as an important amenity, natural and recreational resource within the built-up environment.
9. The depot where the proposed development would be sited comprises containers and storage structures along with parked maintenance vehicles. Metal fencing surrounds the depot, and it is screened by mature vegetation and trees. The base equipment would be well screened from view by the dense landscaping and existing service structures, which would minimise its visual impact.
10. There are other vertical structures close by, such as street lighting, and so the proposed monopole would not be wholly incongruous. Furthermore, the proposed siting of the monopole and base equipment within an already somewhat urbanised and developed area of the Common would limit the proposal's impact on the openness of the Common. The monopole would be slimline and coloured green, which would help minimise its visual effect and, from the evidence provided, it would be of the lowest height possible to provide suitable network coverage. During my site visit, which was undertaken in December, I noted that the proposal would be partially screened by the

nearby mature trees. The trees would provide even denser coverage and screening during the spring and summer months.

11. However, at 15m, the proposed monopole would be taller than the immediately surrounding trees which would fail to fully obscure or assimilate the monopole into the landscape. The top of the monopole would therefore be visually prominent above the surrounding treeline and would be visible from various public vantage points around the Common. As such, the monopole would appear as a stark and prominent man-made feature in the landscape, particularly in the context of the natural surroundings.
12. The proposal would therefore harm the setting and significance of the NDHA. However, given the screening of parts of the proposal and its siting within an already developed area of the Common, the harm identified would be limited.
13. The appeal site lies within proximity to the Heaver Estate Conservation Area (CA). As it relates to this appeal, I consider the significance of the CA lies in the impressive, high quality suburban dwellings and the architectural detailing of the properties.
14. Although outside the CA the Common plays an important role in its setting, as it helps to frame the views of the impressive sweep of buildings along Elmbourne Road and Hillbury Road, and provides a welcome foil to the tightly packed housing. The proposal would not be an intensive alteration nor erode the important role that the open green space has on the setting of the CA. However, whilst not obscuring any of the buildings within the CA, the proposal would extend above the tree line, thus becoming a visual distraction when experiencing views both into the CA from parts of the Common, and out of the CA from various viewpoints along Elmbourne Road and Hillbury Road.
15. Accordingly, I consider that the siting and appearance of the proposal would harm the significance of the CA, although the harm would be less than substantial.
16. Paragraph 216 of the Framework requires that the effect of a proposal on the significance of a NDHA should be taken into account in determining the application and states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
17. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 215 goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits. I will return to these benefits later.
18. In conclusion, the proposal would therefore harm the character and appearance of the area, having regard to the NDHA Tooting Common MOL, and the setting of the Heaver Estate CA. As far as they are material considerations, the proposal would therefore conflict with Policy S16 of the LonP and Policies LP1, LP2, LP3, LP22 and LP53 of the WLP which seek to ensure that developments relate positively to the prevailing local character, are not visually intrusive or overbearing, preserve and where possible enhance the historic environment, and protect open spaces.

Alternative sites

19. Paragraph 120 of the Framework advises that the number of telecommunications masts should be kept to a minimum. It does, however, recognise that new sites may be required for 5G networks. Paragraph 122 of the Framework explains that applications for electronic communications, including prior approval, should be supported with the necessary evidence to justify the proposed development. It advises that where a new mast is proposed, evidence should be submitted to demonstrate that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
20. The submission details how the proposal is required to facilitate the rollout of 5G technology and to improve 4G services in the area. The appellant states that the appeal proposal would significantly improve mobile connectivity for users and provide much needed extra capacity to the network.
21. The target area within which the equipment could be located to meet this need is constrained. A smaller search area was originally undertaken, within the dense residential area north of the Common which largely falls within the CA. No feasible locations were found and as such the search area was extended. I am satisfied that the search area is appropriate and reasonable based upon the evidence before me.
22. The appellant has undertaken a search for alternative sites within the constrained cell search area, including consideration of site sharing and use of existing structures, and a detailed analysis of alternative ground sites. Furthermore, a number of potential alternative siting options located outside of the search area were considered. Alternative sites were discounted for a number of planning, operational and structural reasons. For example, sites were discounted for reasons including the footway being too narrow; location in relation to surrounding residential properties; inability to offer structural stability; location within the CA; distance from the search area and an inability to provide viable coverage; duplicating existing coverage rather than providing connectivity to the target area; and being less well screened than the proposed installation.
23. While noting comments that the proposal could be provided elsewhere, it was not apparent that there were any obvious better alternative locations within the search parameters. From my on-site observations, and the substantive evidence before me, I have no reason to doubt the legitimacy of the reasons provided as to why the alternatives were discounted in favour of the appeal site and there is no counter evidence before me which would lead me to come to a different conclusion. The lack of better or alternative options to deliver improved coverage and capacity as needed in this area is a consideration which weighs strongly in favour of the development.

Public benefits

24. Paragraph 119 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Furthermore, planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G.

25. The proposed mast would provide a reliable 5G service to a densely populated area. Faster and more reliable connection to digital services would provide economic benefits to the commercial uses and local businesses in the locality, as well as economic and social benefits to residential occupants. These would be wide ranging, including greater efficiency on information sharing, leading to improved productivity, enabling smart devices for entertainment, educational and healthcare benefits, smarter public services, allowing people to stay in touch more easily, and allowing people to efficiently work from home.
26. I give substantial weight to the public benefits that would ensue from the proposal, particularly given the lack of viable alternative siting options. These public benefits are sufficient to outweigh the less than substantial harm that I have identified to the CA as a result of the development within its setting, and, on balance, to the limited harm to the character and appearance of the area and the setting and significance of the NDHA.

Other Matters

27. Representations have questioned the need for the installation. However the Framework advises that, in determining applications, decision-makers should not question the need for an electronic communications system. The Framework is also clear that competition between different operators should not be prevented.
28. Concerns have been raised about potential effects on human health, as well as the health of local wildlife. 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. There is also no clear reason to consider that the development would prejudice children playing on the Common.
29. With regard to other concerns raised by interested parties, the matter of character and appearance has been addressed as a main issue above. Comments made in relation to wellbeing, environmental impacts, the impact on trees, pollution, the use of the Common, the Council's Management Plan, the impact on emergency helicopters, and the delivery of grounds management do not change my findings in relation to the main issue. There is no compelling evidence before me to justify such matters, and in any case, my considerations are limited to the siting and appearance of the apparatus in accordance with the relevant legislation as set out in the procedural matters above.
30. Mention is also made that granting planning permission for this scheme would set a precedent for other such proposals or for a taller mast. However, any future schemes would need to be considered on their own merits. It does not follow that they would be allowed simply on the basis of this current scheme being permitted.

31. My attention has been drawn to two nearby appeal decisions¹ where Inspectors have dismissed telecommunication installations. From the details before me there are material differences between the cases. The first appeal, at Tooting Bec Railway Embankment, was for full planning permission rather than prior approval. Therefore, the Inspector was required to consider whether or not the proposal was inappropriate development in the MOL and its effect on openness. In addition, the proposal was for a taller monopole which would have been considerably taller than the adjacent railway bridge. In the second appeal, at Tooting Bec Road, the proposal was located in front of residential flats where there was a proliferation of structures and street furniture present and would have led to an undue sense of clutter. The surrounding site context was therefore different in both appeals. I have determined this appeal on the specific site circumstances, and the appeal decisions submitted in evidence are not a strong influence in my decision.

Conditions

32. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

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

L C Hughes

INSPECTOR

¹ APP/H5960/W/16/3163832; and APP/H5960/W/21/3285333