



Appeal Decisions

Site visit made on 11 September 2017

by Rachael A Bust BSc (Hons) MA MSc LL MEnvSci MInstLM MCMI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2017

Appeal A Ref: APP/X5210/W/17/3174680

Troyes House, Lawn Road, London NW3 2XT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CTIL and Telefonica UK Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/4803/P, dated 31 August 2016, was refused by notice dated 31 October 2016.
 - The development proposed is installation of 6no. antennas behind a GRP screen and ancillary works.
-

Appeal B Ref: APP/X5210/W/17/3177809

Troyes House, Lawn Road, London NW3 2XT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CTIL and Telefonica UK Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/2068/PP, dated 7 April 2017, was refused by notice dated 26 May 2017.
 - The development proposed is installation of 6no. antennas behind 3no. GRP screens and ancillary works.
-

Decisions

1. Appeal A is allowed and planning permission is granted for installation of 6no. antennas behind a GRP screen and ancillary works at Troyes House, Lawn Road, London NW3 2XT in accordance with the terms of the application, Ref 2016/4803/P, dated 31 August 2016, subject to the conditions set out in the Schedule to this decision.
2. Appeal B is dismissed.

Preliminary and Procedural Matters

3. Since the appeals were submitted, saved Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and saved Policies DP24 and DP25 of the London Borough of Camden Local Development Policies, as referred to in the Council's reasons for refusal have been superseded. The London Borough of Camden Local Plan 2017 (CLP) was adopted on 3 July 2017. The Council's statements for both appeals confirm that Policies D1 and D2 are now applicable and both main parties have addressed these policies in their respective cases. I am required to determine these appeals on the basis of the development plan and national policy which are in place at the time of my decision. Accordingly I have determined these appeals on the basis of the CLP and the National Planning Policy Framework (the Framework).

4. The appellants have submitted two revised plans¹ for the Appeal A proposal. The revised design would replicate the footprint of the plantroom, rather than as a chimney-like structure. Whilst this design alternative does not change the principle of a single enclosure for the group of 6 antennas or its roof top siting, the enclosure would have a larger footprint. It would therefore increase the scale and appearance of development proposed. Having regard to the principles established by case law I consider that prejudice would arise to interested parties who have not had the opportunity to comment on this alternative design. Therefore I do not accept the revised plans and have determined the Appeal A proposal on the basis of the plans and information that were before the Council when it made its decision.
5. I note that the appellants have cited two examples where other Inspectors have accepted minor amendments at the appeal stage. The two examples cited are not sufficiently comparable to the circumstances of the Appeal A proposal before me, since one resulted in a reduction in the scale of development and the other involved the relocation of an equipment cabinet which did not fundamentally affect the overall appearance.

Main Issue

6. The main issue in both appeals is the effect on the character and appearance of the surrounding area including whether the proposals would preserve or enhance the character or appearance of the Parkhill and Upper Park Conservation Area.

Reasons

7. The appeal site is located in the Parkhill and Upper Park Conservation Area (CA). This is a designated heritage asset and I am mindful of my statutory duties set out in s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. The Camden Parkhill and Upper Park Conservation Area Appraisal and Management Strategy (2011) (CAAMS) identifies that the CA is part of the nineteenth century London suburb of Belsize, running along the east side of Haverstock Hill. The CA is defined by the busy, urban nature of Haverstock Hill and the quiet residential streets that branch from it. Its special character and significance is derived from its many fine period properties, hilly topography and mature trees.
9. Victorian semi-detached houses are the predominant building type, although twentieth-century housing styles ranging from garden suburb, to post-war, to modern movement and contemporary insertions are present. Post-1945 flats were erected at the corner with Upper Park Road and at the other end with Fleet Road.
10. The appeal building, Troyes House, is an L-shaped building and one of the post-1945 blocks of flats within the CA. It is located towards the southern end of Lawn Road at its junction with Upper Park Road and is set back from these two roads. The main building fronting Lawn Road is 4-storeys in height with a central communal pedestrian access point; a second 3-storey block is attached and fronts onto Upper Park Road. The design of Troyes House is of its time, and as such does not benefit from the traditional Victorian architectural

¹ Drawing numbers: 200, Issue D and 301, Issue D

decoration. It does have the height, scale, vertical rhythm and proportions of fenestration to enable it to have a harmonious relationship with its Victorian neighbours on the eastern side of Lawn Road. As such it makes a neutral contribution to the street scene and the CA. The western side of Lawn Road contains 2-storey inter-war dwellings.

11. Both appeals are seeking telecommunications equipment to be sited on the roof top of Troyes House. Both proposals include 6 antennas, approximately 1.1 metres in height, to be surrounded by colour coded glass reinforced plastic (GRP), together with ancillary equipment. The main visual difference is that in Appeal A all 6 antennas would be sited together in a single group, whereas in Appeal B, 3 pairs of antennas would be sited in 3 separate locations on the roof top. For both appeals a mains supply meter cabinet would be installed at ground level, against the rear wall of the building.
12. The existing roof line of Troyes House, when viewed from the street level on Lawn Road, is interrupted by the safety rails, approximately 1 metre high, around the edge of the roof behind a parapet. The roof top contains 3 brick built chimneys which are mostly hidden by the existing parapet wall. The chimneys are not visible from street level on Lawn Road. One of the chimneys is visible from Upper Park Road. A plant room/stair overrun is sited at the rear of the roof top within the central section of the main building and projects around 2.4 metres above the top of the parapet.
13. The CAAMS identifies the view along the curved residential street of Lawn Road as a key view within the CA. It also states that the roofscape of buildings is an important characteristic of the CA and care is needed in roof alterations where roofs are prominent. Short and longer distance views of Troyes House are interrupted by a number of mature trees resulting in a series of glimpses.
14. I have considered the photomontages presented in evidence by the appellants and interested parties and assessed the visual effects from a range of viewpoints on my site visit.
15. Both schemes would introduce additional rooftop structures and accordingly the profile of the existing rooftop would experience some visual change. From the western side of Lawn Road and from the junction with Upper Park Road, both appeal proposals would be visible. From the medium to longer distance views, along Lawn Road, up to the junction with Downside Crescent, Troyes House is visible. However, the views of both appeal proposals would be partially obscured by the large mature trees within the streetscape.
16. In the Appeal A proposal the single group of 6 antennas would be mounted on top of the plant room/stair overrun. I find that the Appeal A proposal would be seen as a vertical extension of an existing feature of the roof. Consequently it would integrate with the overall building design and not appear as an incongruous addition. Although the overall height of the plant room/stair overrun would increase by some 1.7 metres in height. The plant room/stair overrun is only partially visible in some views. Whilst the single group of antennas would increase the visibility of this existing structure, it would not represent a discordant or visually prominent addition to the roof top. The scale and bulk of the addition would be similar to the substantial chimneys found on the roofscape of the many Victorian properties on the same side of Lawn Road.

17. Whilst the antennae enclosure is functional in its design, it would not be out of character with the bulk, massing and functional design of the plant room/stair overrun. Although GRP is a non-traditional material, the introduction and use of modern materials does not necessarily result in harm to the host building or the CA. I am satisfied that colour coding the GRP screen to match the materials on the plant room/stair overrun would result in the structure visually harmonising with the host building.
18. Consequently I find that the setback position of the plant room/stair overrun would reduce the visual impact of this additional rooftop feature when seen from the key view along Lawn Road identified in the CAAMS. In addition, it would not be unduly prominent in other views from the public realm of the surrounding area. It would also be seen in the context of the substantial existing aerial mounted on the top of the plant room/stair overrun.
19. Due to the proposed siting the Appeal A proposal would be more visible from the private car parking and service area at the rear of Troyes House than in public views. A glimpsed view from the public realm is possible along the narrow private vehicle access from Upper Park Road into the car park and service area. However, this view is interrupted by the combination of large mature trees and the position of the end block of Troyes House which faces Upper Park Road. Consequently, although I find that the Appeal A proposal would be a visible feature from this limited viewpoint I do not find that it would be unduly harmful to the character and appearance of the surrounding area or the wider CA.
20. In Appeal B, the proposed 3 antenna structures would be sited towards the edges of the roof. The proposed antennas would be installed in pairs within three GRP enclosures on the north eastern, central and south eastern corners of the main roof respectively (on the part of the building facing Lawn Road). The north eastern and south eastern antenna enclosures would protrude around 2.35 metres above the roof parapet. In overall height they would mirror the height of the existing plant room/stair overrun. The central antenna enclosure would protrude 1.8 metres above the roof parapet. The proposed siting would introduce new unconnected structures into the roof scape which I find would result in visual clutter on the rooftop.
21. The proposed siting would also result in additions to the roof which would be visually prominent from several viewpoints including in the key view along Lawn Road identified in the CAAMS. Unlike in the Appeal A proposal, the proposed 3 antennae structures would not be seen as an extension to the existing built form, but instead, as 3 additional structures. I find that this would introduce incongruous clutter on the roof top which would be harmful to the character and appearance of the surrounding area including the CA.
22. Both appeals are judged against Policies D1 and D2 of the CLP, which taken together seek to ensure, amongst other things that development respects the local context and character, and preserves or enhances heritage assets. These policies are supported by Policies 7.4 (local character) and 7.8 (heritage assets and archaeology) of the London Plan (LP), adopted 2016, which have similar objectives.
23. I conclude that the proposal in Appeal A would not harm the character and appearance of the surrounding area. I further conclude that the effect of the Appeal A proposal on the CA would be neutral; consequently it would preserve

the character and appearance of the CA, and as such not harm the significance of the heritage asset. Accordingly this appeal proposal meets the requirements of Policies D1 and D2 of the CLP, Policies 7.4 and 7.8 of the LP and paragraph 131 of the Framework.

24. In respect of the Appeal B proposal, I conclude that the number of antennae enclosures and their siting would harm the character and appearance of the surrounding area. In addition, it would harm the character and appearance of the CA. This harm would be less than substantial when considered against paragraphs 132 and 143 of the Framework.
25. I recognise the importance of good, fast, reliable and cost-effective communications. The Council has not questioned the need for the proposed equipment and there is no evidence before me to suggest that the equipment is not necessary to achieve the required standard of network coverage, or that the antennae numbers and dimensions are the minimum possible.
26. I am aware as well, that while the Government aims to facilitate the development of telecommunication networks it also places great emphasis on protecting heritage assets, including Conservation Areas. Mindful of these points I consider any benefits to the telecommunications network would not be sufficient in the case of the Appeal B proposal to outweigh the harm the proposal would cause to the heritage asset.
27. In reaching this conclusion, I have also taken into account the fact that there is an alternative proposal under Appeal A which I have concluded does not result in harm to the heritage asset. The public benefits of the additional telecommunications network coverage are the same for both appeals; however they do not outweigh the harm identified to the character and appearance of the CA in Appeal B. Accordingly, it would conflict with Policies D1 and D2 of the CLP, Policies 7.4 and 7.8 of the LP and paragraph 131 of the Framework.

Other matters

28. The appellants have referred to the possibility of a 'fall-back' position existing using permitted development rights to erect telecommunication apparatus. Given the fact that the appellants have submitted two planning applications and also a third possible design within the amended plans for the Appeal A proposal, it would appear that the appellants wish to undertake a telecommunications scheme which requires planning permission. Whilst the appellants refer to the possibility of a fall-back position, I have no substantive evidence to indicate that there is a significant probability that the route using permitted development rights would be used if both of these appeals were dismissed. This limits the weight that I can attach to it as a fall-back position.
29. My attention has been drawn to a number of appeal decisions allowing telecommunications schemes elsewhere. Whilst I have taken the decisions into account, I have in any event determined these appeals on their own merits and based upon the submitted information before me.
30. The appellants consider the Council's informative note on the decision notice for the Appeal A proposal regarding an alternative site outside of the CA to be unacceptable. Informative notes are often used to give some form of information to the applicant. I note that the Council did not refuse the Appeal A proposal upon the matter of alternative sites.

31. I note the substantial number of objections from interested parties in this case concerning a range of matters for both appeal proposals.
32. Interested parties have raised concerns about potential effects on health. However, the appellants have 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. I have had regard to these concerns in the context of the Framework, however 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. Accordingly this matter is not sufficient to justify dismissing either of these two appeals.
33. Reference has been made to the impact on local wildlife. However, no substantive evidence has been submitted to demonstrate that any adverse impact would arise.
34. I note that interested parties consider that there are alternative sites which they feel would be more appropriate for the proposed telecommunication apparatus. It is not part of the Council's reasons for refusal for either appeal that an alternative site should be considered. In any event, I have concluded that the Appeal A proposal should be allowed on its own merits.
35. Concern has been expressed that both appeal proposals would result in the loss of light and overshadowing of a number of neighbouring properties. I am satisfied that the intervening distance between the proposed structures in both appeals and all the neighbouring residential properties is sufficient to ensure that the living conditions of the occupiers of these properties would not be adversely affected.
36. Representations were made to the effect that the rights of neighbours in respect of impact on the health under Article 8 of the Human Rights Act would be violated if the appeals were allowed. I do not consider them to be well founded because the appellants have provided a certificate to confirm that the proposals have been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). As a result, there will be no violation of neighbours' human rights.

Conditions for Appeal A

37. The Council has suggested a number of conditions to which I have had regard. In addition to the standard condition which limits the lifespan of the planning permission, I have specified the plans as this provides certainty. Conditions requiring the submission and approval of a sample of the GRP; and also the removal of the telecommunications equipment permitted by the Appeal A proposal when it is no longer required are necessary in the interests of preserving the character and appearance of the surrounding area including the CA.

Conclusion

38. Having regard to all other matters raised, and taking the development plan as whole, it is concluded that Appeal A should succeed and planning permission be granted subject to conditions. Appeal B is dismissed.

Rachael A Bust

INSPECTOR

Schedule of Conditions for Appeal A - APP/X5210/W/17/3174680

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing number 100, issue B, dated 18.01.16 – site location maps
 - Drawing number 200, issue B, dated 18.01.16 – proposed site plan
 - Drawing number 300, issue A, dated 26.01.16 – existing site elevation
 - Drawing number 301, issue B, dated 18.01.16 – proposed site elevation
- 3) A sample of the GRP material shall be submitted and approved in writing by the local planning authority prior to the commencement of the roof top works. The works shall be carried out in accordance with the sample details.
- 4) The equipment hereby approved shall be removed as soon as reasonably practicable when it is no longer needed for telecommunication purposes; and any works of making good shall be carried out to match the original building as closely as possible.

End of Schedule