
Appeal Decision

Site visit made on 25 April 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 23 May 2017

Appeal Ref: APP/G5180/W/17/3167105

**Land at corner of Southill Road and Elmstead Lane, Bromley,
London BR7 5RL**

- 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, VF and TEF against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04136/FULL5, dated 31 August 2016, was refused by notice dated 26 October 2016.
 - The development proposed is the installation of a 17.5m telecommunications monopole and associated ancillary development.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a 17.5m telecommunications monopole and associated ancillary development including 3 cabinets at ground floor level at land at the corner of Southill Road and Elmstead Lane, Bromley, London BR7 5RL in accordance with the terms of the application, Ref DC/16/04136/FULL5, dated 31 August 2016, subject to the following conditions:
 - 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: 100A; 101A; 200A; 201E and 300F.
 - 3) Prior to the commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include measures of how construction traffic can access the site safely and how potential traffic conflicts can be minimised; the route construction traffic shall follow for arriving at and leaving the site and the hours of operation, but shall not be limited to these. The Construction Management Plan shall be implemented in accordance with the approved details.
 - 4) Surface water from the site shall not be discharged on to the highway. Details of the drainage system for surface water drainage to prevent the discharge of surface water from the site on to the highway, including implementation timescales, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. The drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.
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Procedural Matters

2. The Council changed the description of application Ref DC/16/04136/FULL5 from that described on the application form to 'the installation of a 17.5m telecommunications monopole and associated ancillary development including 3 cabinets at ground floor level'. This description accurately describes the number of proposed ancillary cabinets and is a more accurate description of the development which I have therefore used in the determination of this appeal.
3. Since the appeal was made the provisions of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No 2) Order 2016 came into effect on 24 November 2016. This has the effect that permitted development rights for certain communications equipment have changed. This includes that the installation of a mast whose height, excluding any antenna, would not exceed 20m above ground level would be permitted development subject to prior approval arrangements. The application and appeal were submitted before these changes came into effect. Consequently, this does not affect the need for planning permission for the appeal proposal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal site comprises a small overgrown fenced area located immediately to the east of a substantial railway bridge abutment and embankment. Existing mature and tall trees are located to the immediate south of the site and on the western side of Elmstead Lane. The brick built railway bridge with an arch leading into Southill Road from its junction with Elmstead Lane forms a dominant feature in the locality. This part of Elmstead Lane has a pronounced bend in the horizontal alignment of the road in the vicinity of the junction.
6. The proposed development would involve the construction of a telecommunication monopole, 17.5m high, which would have six antennas and two dish antennas. Although the monopole would be approximately 0.5m in width, the headframe would be approximately 1.8m in width. Three associated equipment cabinets would be located at ground level approximately 1m to the north and east of the proposed mast.
7. The mast would be shared between two telecommunications operators. The appellants have provided adequate and persuasive evidence of the network coverage requirements of the proposed mast, its site selection process, the consideration of alternative sites and reasons for their rejection. No compelling evidence has been provided to undermine the credibility of these submissions which weigh in favour of the proposed development.
8. Owing to the existence of the railway bridge and embankment, the substantial tall tree coverage to the south and west and the alignment of the road, the proposed mast would not be readily visible from any residential properties. Public views of the site would be predominantly restricted to those from vehicles and pedestrians travelling south along Elmstead Lane and in direct views from the western side of the road. As such, views of the proposed installation would be limited to the area in the immediate vicinity of the road junction.

9. The mast and the headframe would be a substantial structure which although would alter the appearance of the area, this would be limited and localised in nature. Its appearance would largely be screened in views from the south, west and east by the existing tree growth and the railway infrastructure. In the limited and localised views from the road, the mast would be seen against the backdrop of tall trees and the dominant mass of brickwork of the railway bridge. As such, the proposed installation would not appear as an unacceptable strident feature or be out of scale with adjoining structures in any public views.
10. The Council accept that the proposed cabinets would be largely screened by exiting vegetation and as such would not harm the character of the area and I have no compelling reasons to disagree with this view. In addition, given its position to the south of the arch of the bridge, the installation would not materially affect the general appearance of the bridge in the street scene.
11. Overall the appeal scheme would alter but not cause demonstrable harm to the character and appearance of the locality. As such, there would be no conflict with Saved Policies BE1 and BE22 of the Bromley Unitary Development Plan (2006). These policies, amongst other things, require that telecommunications development should not adversely affect the character and appearance of the area or detract from the street scene.

Other matters

12. Local residents have expressed concerns about the health implications of the proposed installation. However, the National Planning Policy Framework is clear that local planning authorities should not determine health safeguards if a proposed installation meets the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP) for public exposure. In this case the appellants have confirmed that the proposed installation would be in full compliance with the ICNIRP guidelines and I have found no overriding reasons to set aside Government advice regarding this issue.
13. The Council has referred to the location Chislehurst Conservation Area, the northern boundary of which lies to the south of Southill Road and the western boundary is located along the centre of the railway line to the east of the appeal site. Although the Council have found no impact on the setting of the nearby Conservation Area, I have nonetheless had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and its setting. In this respect, given the presence of the intervening railway bridge and embankment, and the significant screening of the site, I am satisfied that the proposed development would preserve those interests.

Conditions

14. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some for the reasons set out below.
15. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved

plans. This is in the interests of certainty. This Council has suggested that, should the appeal be allowed, a condition be imposed dealing with the removal of the equipment and reinstatement of the site. However, such matters are dealt with by other arrangements and a condition to that effect would not be necessary.

16. I do not consider that the suggested condition relating to the survey and repair of the highway in the vicinity of the site is necessary, reasonably or related to planning matters. The Council has powers available, other than through the Planning Acts, relating to extraordinary damage to the highway as a consequence of development. As such I have omitted the suggested condition.
17. Given the location of the site at the junction of Southill Road and Elmstead Lane I consider that the submission of a Construction Management Plan is necessary in the interests of highway safety and in order to protect the living conditions of the occupants of nearby residential properties.
18. Given the position of the site at the road junction, in a position where Elmstead Lane bends, and at the base of a substantial railway embankment, a condition is necessary to ensure that any surface water is not discharged on to the highway. This is in the interests of highway safety.

Conclusion

19. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR