



Appeal Decision

Site visit made on 4 September 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Ref: APP/G5180/W/19/3231491

Land at the junction of London Lane and London Road, Bromley BR1 4EF

- 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 EE Ltd and Hutchinson 3G UK Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/05022/TELCOM, dated 7 November 2018, was refused by notice dated 20 December 2018.
 - The development proposed is a 15m high monopole supporting 3 No shrouded antenna and 2 No 300mm external dishes and development ancillary thereto. 4 No equipment cabinets permitted under class A part 16 of Schedule 2 of the GPDO are also proposed.
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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 a 15m high monopole supporting 3 No shrouded antenna and 2 No 300mm external dishes and development ancillary thereto including 4 No equipment cabinets at land at the junction of London Lane and London Road, Bromley BR1 4EF in accordance with the terms of the application Ref DC/18/05022/TELCOM, dated 7 November 2018, and the plans submitted with it including plans ref 200 Proposed shared site plan 1524267-BMY162-99219-BR0235-M004/D and 250 Proposed shared site elevation 1524267-BMY162-99219-BR0235-M004/D.

Procedural Matter

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. My determination of this appeal has been made on the same basis.
3. I have taken the applicant's name from the appeal form as the application form was incomplete. I have also taken the address details from the application form as this is more accurate than the Council's decision notice.

Planning Policy

4. The principle of development is established by the GPDO 2015. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are material considerations relevant to matters of siting and appearance.
5. The Bromley Local Plan (LP) was adopted in January 2019 and now has full weight. Furthermore, the Council has confirmed that policies referred to, in the decision notice from the Council's Unitary Development Plan, have fallen away.

Main Issue

6. The main issue is the effect of the proposed mast on the character and appearance of the surrounding street scene. Furthermore, the issue is whether any harm caused is outweighed by the need to site the installation in the proposed location, having regard to the potential availability of alternative sites.

Reasons

7. The site is within a residential area that includes low-rise blocks of flats and houses. It is on the southern side of the junction of London Road and London Lane. The junction includes a wide footway due to the relatively generous radial turn and wide entrance to London Lane. The southern side is framed by comparatively significant trees and a high boundary fence. Streetlights and other vertical features are relatively common in the area. Also, an existing 10m mast, approved by the Council in 2018¹, has been installed between the junction of London Road and Park Avenue. The site itself is open and makes a positive contribution to the character and appearance of the local area.
8. The proposed 15m mast would be a grey mono-pole design. Its antennas would be sheathed in a cowl. The mast would include two transmission dishes around 10m high, these would be comparatively innocuous and would not meaningfully detract from the slender nature of the proposal. The proposed mast would not significantly contribute to street clutter being located in a relatively spacious section of the footway. Furthermore, the mast would not result in undue harm to highway safety or pedestrian flow by being set back from the kerb edge and outside of sightlines.
9. The nearest residential block; 2B London Lane, presents a side elevation toward the site with limited fenestration on this elevation. Russel Court is a three-storey block of flats on the opposite corner of the junction with London Lane. This block faces the site and is set back from the highway. It would overlook the site from a relatively substantial distance. Further residential properties would have less prominent views of the site due to distance and intervening trees. Due to the orientation and distance of nearby residential properties, the outlook for residential occupiers would not be substantially affected.
10. The appellant's alternative site assessment considers 11 nearby buildings, additions to 4 existing sites and the erection of a ground-based mast on a

¹ Planning Application Reference: 18/04451/FULL5

further 9 sites. The assessment discounted these in favour of the proposed site and its conclusions have not been challenged by the Council. Although some of those sites appear to be in less obtrusive locations, they have been discounted for reasonable reasons. It is therefore unlikely that a more suitable site would be more reasonably available than that proposed.

11. Furthermore, the appellant has established that coverage is expected to be affected by the loss of a base station on the residential tower of Burnt Ash Heights (BAH). It is in evidence that the proposed mast, in addition to the approved mast on Burnt Ash Lane, would partly replace the BAH base station and prevent the anticipated lost coverage. The appellant's colour coded coverage maps show a substantial reduction of coverage, especially in regard to 4G coverage. Although the Framework states that need for a mast should not be questioned, it can be a material consideration as in this case.
12. The site is relatively prominent. Although being partially screened from some views, the mast would stand far taller than the adjacent trees and local street furniture. Therefore, whilst some consideration has been made to the framing of the proposal, it would nevertheless be moderately obtrusive into the street-scene. However, the lack of suitable alternative sites and the compelling need for replacement coverage identified following the expected loss of the BAH base station is of great importance. These merits would out-weight the moderately harmful effect of the mast due to its significant public benefits. Accordingly, the Framework is of over-riding importance identifying that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being.
13. Insofar as they are material considerations, I have had regard to policies 37 and 89 of the LP, which seek development to achieve a high standard of design and not have an adverse effect on the local character and appearance of the area.

Other matters

14. The mast would be accompanied by 4 cabinets that are permitted development. Therefore, although the cabinets are related to the proposed mast, the visual effect of these has only a limited bearing on the main issue.
15. A 12.5m high mast, opposite the site, was dismissed at appeal² in 2007. The location, its setting and the policy context for that decision were substantially different to this case. It is therefore difficult to draw any reasonable comparisons. In any event, each case must be considered on its own merits.
16. The health effect of the proposal has been raised in representations. However, advice states that telecommunications are required to comply with International Commission of Non-Ionizing Radiation Protection (ICNIRP) guidelines. A certificate confirming this is in evidence. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. Furthermore, 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.
17. The effect of the proposal on property values, loitering and anti-social behaviour, has also been raised in representations. However, these issues have

² Planning Appeal Reference: APP/G5180/A/07/2043591

had a limited bearing on the case and have been made without evidence to support these assertions.

Conditions

18. Any planning permission granted for the mast 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), which specify that the development must be carried out in accordance with the details submitted with the application (unless otherwise agreed in writing by the local planning authority), 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 former condition.
19. The GPDO does not provide specific authority for the imposition of conditions beyond those listed at paragraphs A.2 and A.3 of the GPDO. In any event, the three conditions suggested by the Council would be addressed by the above requirements.

Conclusion

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

Ben Plenty

INSPECTOR