



Appeal Decision

Site visit made on 11 March 2021

by Simon Warder BSc(Hons) MA DipUD(Dist) MRTPI

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

Decision date: 19 March 2021

Appeal Ref: APP/D5120/W/20/3258708

Land at the junction of Harcourt Avenue/Penhill Road, Bexley DA5 3AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
 - The appeal is made by EE Limited and Hutchison 3G UK Limited against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/01078/GPDO8, dated 14 May 2020, was refused by notice dated 8 July 2020.
 - The development proposed is described as 'Prior Approval Notification for the proposed 5G (Fifth Generation) telecommunications apparatus comprising a 15.0m high EE/H3G Phase 8 Street Pole on new root foundation C/W 3 x H3G Antennas, 3 x EE/H3G Antennas, 2x H3G Hybrid Bobs, 3 x EE/H3G 18/21 MHAs and 1 x H3G GPS Node together with associated works.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) of the Order 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 principle of development is established by the Order and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard to be had to the development plan. 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 a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

5. The Council determined that prior approval was required for the siting and appearance of the proposed development and refused to grant such approval. The appeal site comprises a greensward on the north side of a highway junction within an area of predominantly two storey dwellings.
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6. The application proposal is for the installation of a 15m high street pole with antennas and wrap around cabinet. One existing nearby cabinet would be removed, three existing cabinets would be relocated, and two new cabinets would be installed. The appeal submissions refer to the removal of an existing 10m pole. However, the application considered by the Council showed the retention of that pole.
7. The Procedural Guide¹ is clear that the appeal process should not be used to evolve schemes and that amendments should be considered only exceptionally having regard to the Wheatcroft principles. In this case, the cumulative effect of the existing and proposed telecommunications equipment was a concern of both the Council and local residents. Were I to take into account the evolved scheme with the existing pole removed, it would deprive those who should have been consulted on the changed the opportunity of such consultation. Nor can the matter be dealt with by condition since there would be a similar absence of consultation.
8. The appeal site occupies a prominent location at an open junction and is exposed to short and medium range views in three directions along the adjoining roads. It is also visible from a significant number of nearby dwellings. As well as the equipment referred to above, there is a pole and three cabinets on the south side of the junction. Consequently, the proposal would result in three poles and a large number of cabinets in two groups around the junction. In particular, the proposed pole would be almost twice as tall as the adjoining dwellings and considerably taller than the other telecommunications poles and street lighting columns in the area.
9. Moreover, the proposed antennas would give the top third of the pole a very bulky appearance. It would, therefore, be visually dominant and out of scale with the essentially domestic scale and character of the surrounding area, even taking into account the existing poles and the more distant electricity pylon in Harcourt Avenue. Nor would the limited number of street trees at the junction effectively screen or filter views of the proposal.
10. Consequently, I find that the siting and appearance of the appeal proposal would have a significantly harmful effect on the character and appearance of the area. The proposal would, therefore, conflict with Policy CS06 of the Bexley Core Strategy and Policy ENV39 of the Council's Unitary Development Plan (UDP). Together, these policies require proposals to be compatible with the character of the surrounding area taking into consideration local views, particularly where the height of the proposal significantly exceeds nearby structures. The decision notice also alleges conflict with Policy 4.11 of the London Plan 2016. However, this has been superseded by the publication of the London Plan 2021 (LP). In any event Policy 4.11 supports the provision of information and technology infrastructure.
11. The appellant has explained that the proposal is intended to facilitate 5G coverage and would be shared with the Emergency Services Network. These aims are firmly supported by Government policy in section 10 of the Framework as well as the Future Telecoms Infrastructure Review. LP Policy SI6 also supports digital connectivity infrastructure and UDP Policy ENV45 broadly supports telecommunications development subject to criteria including the consideration of alternative sites and the possibility of sharing facilities.

¹ Procedural Guide Planning appeals – England February 2021

12. I recognise that the appeal site is an established location for telecommunications equipment. However, notwithstanding that some cabinets would be relocated, the appeal proposal would add substantially to the amount of equipment at the location and limited information has been provided to show that the existing poles could not be reused or replaced. Nor has it been adequately demonstrated that the proposal could not be located at an alternative location where it would be less harmful, even if such a location does not currently accommodate telecommunications equipment. Limited information has been provided on the need for the proposal, which is described as improving connectivity, rather than filling a gap in the coverage of the network.
13. Consequently, I find that the significant harm to the character and appearance of the area outweighs the benefits of the proposal in this case, notwithstanding the national and local policy support for telecommunication development.
14. I have had regard to the other concerns expressed locally, but they have not led me to a different overall conclusion.

Conclusion

15. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR