



Appeal Decision

Site visit made on 20 April 2021

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 10 May 2021

Appeal Ref: APP/G5180/W/20/3257216

Highway verge, Elmstead Lane, Elmstead, Chislehurst BR7 5EL

- 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 Mobile Broadband Network Ltd, EE(UK) Ltd and H3G(UK) Ltd, against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00418/FULL5, dated 28 January 2020, was refused by notice dated 17 April 2020.
 - The development proposed is the installation of a 20m monopole, 12 apertures, and 9 equipment cabinets, alongside associated ancillary equipment.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of a 20m monopole, 12 apertures, and 9 equipment cabinets, alongside associated ancillary equipment, on the highway verge at Elmstead Lane, Elmstead, Chislehurst BR7 5EL, in accordance with the terms of the application, Ref DC/20/00418/FULL5, dated 28 January 2020, subject to the following conditions:
 1. The development hereby permitted shall be commenced not later than 3 years from the date of this decision.
 2. The existing monopole and associated cabinets and equipment adjacent to the site shall be removed within 60 days from the date when the replacement mast and associated equipment hereby permitted are first brought into operation.
 3. No part of the development above ground level shall be carried out until details of the finished colours of the external surfaces of the mast and equipment cabinets have been submitted to the local planning authority and approved in writing. The finishes thus approved shall be implemented within one month from the date when the replacement mast and associated equipment are first brought into operation, and these finishes shall be retained and maintained thereafter.
 4. Within a period of two months from the date when any part of the development becomes redundant or ceases to be operational, that part of the development shall be removed from the site, and the land shall be reinstated to its former condition.
 5. The development shall be carried out in accordance with the approved plans, titled 215 Max Configuration Site Plan and 285 Max Configuration Elevation.

Reasons

2. Policy 89 of the Bromley Local Plan (the BLP), adopted in January 2019, sets out criteria for telecommunications developments. These include that the development should be located to minimise visual impacts, and to minimise any adverse effects on the area's character and appearance.

3. In the present case, the appeal site lies within the suburb of Elmstead, which is part of the built-up area of southeast London. Elmstead Lane is a pleasant, tree-lined street, with housing along both sides. In the vicinity of the appeal site, there is also a sports ground and woodland on one side. The road is a well-used local through route, serving Elmstead Woods railway station, and at the time of my visit, the volume of traffic was moderately heavy. Overall, the character of the site's immediate surroundings is suburban.
4. The site of the proposed development is the highway verge, just to the north of the sports club entrance and adjacent to the corner of the woodland. A few metres to the south are an existing 12.5m high telecommunications mast and associated row of equipment cabinets, which would all be replaced by the development now proposed.
5. The proposed new mast would be significantly taller than the existing. However, I am not aware of anything in any relevant policy or guidance that suggests that height alone is objectionable in itself. Rather, the emphasis in BLP Policy 89, as summarised above, is on the development's actual impact, and whether any identifiable harm would arise.
6. The new mast would have twelve antennas, arranged in a series of four clusters, at different heights within its upper section. The antennas would be exposed, rather than encased as in the existing structure. But nevertheless, they would fit tightly around the central support pole, thus maintaining a slim and unobtrusive silhouette overall. I see nothing about this proposed design that could be seen as inherently unsightly. Indeed, it seems equally likely that some would see this as an example of good, modern design at its functional best: uncluttered, unfussy, and clearly expressing its essential technological purpose. Given the suburban character of the surroundings, a structure of this nature would not be out of place. To my mind, in terms of its visual appearance, the proposed mast would be acceptable.
7. The site is close to the top of a hill, and to some extent a natural focal point. However, views along Elmstead Lane are heavily restricted by the existing trees, and by bends and undulations in the road. As a result, the existing mast is visible from only a short length of road in either direction, and despite its extra height, views of the proposed new structure would be limited to much the same area. Given that I have found the proposed height and design acceptable, these views of the new mast would not be unduly harmful.
8. The development would also be seen from the adjacent sports ground, which is designated as Metropolitan Open Land, and as such is protected by BLP Policy 53. However, the sports ground by its very nature is an urban-related land use, and to that extent, its character would not be detrimentally affected by views of urban infrastructure. In any event, users of the sports ground site are likely to be focussed mainly on sporting activities rather than the wider surroundings. Given that I have found the proposed mast to be acceptable from other viewpoints, I see no reason why the views from the sports ground would make it unacceptable.
9. The new equipment cabinets now proposed would be more numerous than the ones they would replace. But the number would not be excessive, and is clearly justified by the functional needs of the development. Given the suburban nature of the surroundings, a reasonable number of items of street furniture such as these would not be out of keeping.

10. Details of the alternative sites considered have been provided, and I am satisfied that none of these would be a more suitable solution than that proposed. No other better alternatives have been identified by the Council or other parties.
11. For these reasons, I am satisfied that the proposed development would have no significant adverse visual impact, nor any material effects on the area's character or appearance. The scheme therefore complies with BLP Policies 53 and 89. It also accords with Policy 37, which requires developments to be designed to a high standard, and to respect the existing street scene.

Other matters

12. The need for the proposed development has been fully explained in the appellants' submissions. On this basis, I am satisfied that the development is necessary to support the nation-wide roll-out of 5G broadband services, in accordance with national policies.
13. Although the development would be visible from some residential properties in Elmstead Lane, it would not be so close, or so substantial, as to affect living conditions in any property.
14. I note that the Council is satisfied that the proposed development would not impede the footway. Nor has the Council questioned the effects of the development on the nearby street tree. I have no reason to take a different view on these matters.
15. The appeal is accompanied by a certificate of compliance with the ICNIRP¹ guidelines. I am therefore satisfied that any potential health risks have been sufficiently considered, and need not affect my decision.

Conditions

16. I have considered the conditions suggested by the Council against the relevant tests for conditions in the National Planning Policy Framework.
17. I agree that a condition to secure the removal of the existing mast and cabinets is necessary, to avoid street clutter. So too is a requirement for the removal of the present development, when no longer needed, for the same reason. Control over the finished colours of the proposed mast and cabinets is also necessary, to ensure a satisfactory appearance. A condition specifying the approved plans is needed to define the nature of the permission.
18. The suggested condition relating to visibility splays for the sports club access is not justified, in the light of the Council's acknowledgement that the development would not interfere with any sightlines.

Conclusion

19. For the reasons stated above, the proposed development would accord with the relevant policies of the development plan. It would also provide benefits to the national telecommunications network. No other considerations weigh against. The appeal is therefore allowed.

J Felgate

INSPECTOR

¹ International Commission on Non-Ionising Radiation Protection