

Appeal Decision

Site Visit made on 27 April 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2021

Appeal Ref: APP/G5180/W/20/3258843

Oaklands Lane, Biggin Hill, Westerham, TN16 3DR

- 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 MBNL against the decision of London Borough of Bromley.
 - The application Ref DC/20/02287/TELCOM, dated 27 June 2020, was refused by notice dated 25 August 2020.
 - The development proposed is described as 'Proposed Telecommunications upgrade. Proposed 15.0m high AGL Phase 8 monopole c/w wraparound cabinet at base and associated ancillary works'.
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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 proposed 15.0m high AGL Phase 8 monopole c/w wraparound cabinet at base and associated ancillary works at Land opposite 96 Oaklands Lane, Biggin Hill, Westerham, TN16 3DR in accordance with the terms of application Ref DC/20/02287/TELCOM, dated 27 June 2020, and the plans submitted with it including 978053_BMY019_51223_TN0366_M002 100 Existing Site Plan Issue B, 150 Existing Elevation A Issue B, 002 Site Location Plan Issue B, 003 Access Plan Issue B, 005 Cherry Picker and Crane Location Issue B, 006 Services Plan Issue B, 007 Fixits and Dependencies Issue B, 215 Proposed Site Plan Issue B, 265 Proposed Site Elevation Issue B and 266 Proposed Site Elevation (Planning) Issue B.

Procedural Matters

2. The site address and description of the proposed development in the banner heading above are taken from the application form. However, for clarity, I have added 'Land opposite 96' as on the decision notice and appeal form to the site address in my formal decision. I have also used the description of the proposal on these two documents in my decision as being more succinct.
3. 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.
4. The appeal site currently hosts an existing telecommunications mast. The proposed site plan and proposed site elevation drawings show both the existing

mast and proposed monopole on the site. However, the documentation submitted with the application and appeal indicates that, were prior approval to be granted, this existing mast would be removed once the proposed installation has been erected and is operational. This is the basis on which the Council determined the application and on which I have determined this appeal.

5. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the policies of the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.
6. With regard to the above, during the course of the appeal, The London Plan¹ was published on 2 March 2021, superseding the London Plan 2016. The main parties have been given the opportunity to comment on the implications of the publication for this appeal. The Council confirmed that it had no comments² and no response was received from the appellant.

Main Issues

7. The main issues are:

- i) the effect of the proposal on the character and appearance of the area;
- ii) whether any harm caused is outweighed by other considerations, including the benefits of the proposal and the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

Reasons

Character and appearance

8. The appeal site is located in a valley on the northern edge of Biggin Hill, just outside the main built-up area and within the Metropolitan Green Belt. Oaklands Lane is a 2-lane road lined with streetlights to either side and trees and hedges a little way to the north-west of the site, the latter giving it a verdant character and appearance. In the vicinity of the site and to the south-east, the trees and hedges to the west side of the lane are more sporadic, affording views of rising agricultural land, within the wider context of which the site is principally seen. On the eastern side of the lane, opposite the site, is an area I understand to be associated with No 96 Oaklands Lane and which appears to be in some form of commercial use, with dwellings further to the south-east.
9. The appeal site itself forms part of the highway verge and currently hosts an 8.5 m high telecommunications mast disguised as a telegraph pole with associated cabinets, the latter set back against a low hedge. Approaching from either direction the existing mast is viewed against existing deciduous trees, those to the south-east approximately 9 m high and those to the north-west slightly taller. Therefore, although closer to the road than the adjacent trees and clearly visible when passing, it is not prominent. Immediately adjacent to the site is a streetlight, approximately 10 m high, with other streetlights and genuine telegraph poles nearby.

¹ The Spatial Development Strategy for Greater London March 2021

² Email dated 14 April 2021

10. I have no indication that the proposal would require the removal of or harm the existing trees or hedgerow. It would therefore retain the verdant character of Oaklands Lane. However, whereas the existing mast is lower than the nearby trees and streetlights, the proposed mast would be approximately 6 m higher than the nearest trees and approximately 5 m higher than the streetlights. I have no reason to doubt that this height is necessary to ensure suitable coverage and to comply with ICNIRP guidelines. It would therefore be significantly taller and more visible above the top of the adjacent tree canopy than the existing mast and seen from a greater distance.
11. Although there are other vertical elements on Oaklands Lane, the height of the proposed mast would be of a different scale and would therefore appear as an incongruous feature in the street scene when approaching from the south-east or north-west. However, this would only be from a limited distance either way. When viewed from higher ground to the west it would be seen against a backdrop of rising ground and any viewpoints on the higher ground to the east would be looking down on the installation.
12. The Site Specific Supplementary Information (SSSI) submitted with the application states that the proposed monopole would be grey and the cabinets green; these are neutral colours in the landscape and would provide a degree of camouflage for the installation. All these factors would reduce the impact of the installation when seen from further away to the west or the east.
13. The Council's reason for refusal refers to the Green Belt. However, the principle of the development is established by the GPDO 2015. Therefore, the question of whether or not the proposal represents inappropriate development in the Green Belt in terms of Section 13 of the National Planning Policy Framework (the Framework) does not arise in this appeal.
14. For the reasons given above, I conclude that the proposal would result in moderate harm to the character and appearance of the area due to its siting and appearance and so, in this respect and insofar as they are a material consideration, would be contrary to the design aims of Policies 37 and 89 of the Bromley Local Plan (2019). However, the proposal would not conflict with Policy 49 of the Local Plan, insofar as it is a material consideration, which relates to whether or not a proposal would be inappropriate development in the Green Belt.

Whether any harm caused is outweighed by other considerations

15. I have found above that the proposal would result in moderate harm to the character and appearance of the area due to its siting and appearance. This harm should be weighed against any factors in the scheme's favour.
16. The proposed installation is to facilitate 5G coverage for Biggin Hill. The Government's *Future Telecoms Infrastructure Review*, to which the appellant refers, outlined plans to extend full-fibre broadband coverage across the country by 2033 and for the majority of the population to have access to 5G mobile coverage by 2027. The document summarises the social, economic and environmental benefits of 5G.
17. The *Review* is reflected in the Framework, which states that "*advanced, high quality communications infrastructure is essential for economic growth and social well-being*". Planning decisions should support the expansion of

electronic communications networks, including 5G. The proposal would not be an additional mast or site and the installation would be shared by EE UK Ltd and Hutchison 3G UK Limited. The Emergency Services Network also shares on EE masts and the installation would also be compatible for the Police, Fire and Ambulance services. The proposal would therefore have demonstrable social and economic benefits which weigh significantly in the proposal's favour.

18. I have no reason to doubt the appellant's contentions that the cell search area is constrained and that efforts have been made to site the installation away from dwellings whilst allowing local residents expected levels of digital coverage. The appellant explains that alternative site options were assessed and rejected when the existing mast was proposed and that the Council accepted the location was appropriate in approving the existing installation.
19. The Council has not suggested any alternative sites. Interested parties have suggested that alternative locations be considered, including siting the mast on higher ground. However, without specific locations being identified I have no persuasive evidence that any alternative sites within the search area would be materially less harmful to the character and appearance of the area; indeed, siting the mast on higher ground could make it more visible. I am satisfied therefore, on the basis of the evidence before me, that there are no preferable suitable sites within the locality for the proposed installation.
20. I therefore conclude that the benefits of increased 5G coverage and the need to site the installation in the location proposed, having regard to the availability of alternative sites, outweigh the moderate harm to the character and appearance of the area I have identified above.

Other Matter

21. Objections to the proposal were submitted by local residents on the grounds of the effect on the character and appearance of the area, which I have considered above, and the proposed monopole being visible from their properties. The proposed monopole could be visible from some properties on Oaklands Lane and Victoria Gardens. However, given the separation distance between the properties and the installation and the monopole's relatively slim profile, it would not be overbearing for these properties. Consequently, it would not be harmful to the living conditions of the occupiers of these properties.

Conditions

22. Any planning permission granted for the proposed installation 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, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, 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 condition before the development took place.
23. The Council and appellant have suggested additional conditions were prior approval to be granted relating to the commencement of the development,

compliance with the approved plans, the colour of the installation and the removal of the existing equipment prior to the operation of the new monopole. However, the GPDO 2015 does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators.

24. In any event, I do not consider these additional conditions to be necessary. The deemed conditions set a time limit for commencement of 5 years and I see no reason why this would be unacceptable. The deemed conditions also require the development to be carried out in accordance with the details submitted with the application, which includes plans of the proposal. The details also include the SSSI which describes the proposed colours which I find acceptable and the Council has not indicated otherwise. The SSSI also confirms the proposed removal of the existing mast. I have therefore not imposed any additional conditions.

Conclusion

25. I have found above that the proposal, due to its siting and appearance, would give rise to moderate harm to the character and appearance of the area. However, I consider this harm would be outweighed by the social and economic benefits of enhanced telecommunication services from an installation in the location proposed.
26. For the reasons given above, and having regard to the other matter raised, I conclude that the appeal should be allowed and prior approval granted.

Martin Small

INSPECTOR