
Appeal Decision

Site visit made on 16 June 2021

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 28 June 2021

Appeal Ref: APP/D5120/W/20/3258106

Land at Ray Lamb Way, Erith

- 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, against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/02222/FUL, dated 2 September 2019, was refused by notice dated 2 March 2020.
 - The development proposed is: *"The installation of a 20m monopole, 12 no. antenna apertures and equipment cabinets, and the removal of the existing 9.7m monopole, 3 no. redundant antennas and redundant equipment cabinets, and development ancillary thereto"*.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of a 20m monopole, 12 no. antenna apertures and equipment cabinets, and for the removal of the existing 9.7m monopole, 3 no. redundant antennas and redundant equipment cabinets, and development ancillary thereto, on land at Ray Lamb Way, Erith, in accordance with the terms of the application, Ref 19/02222/FUL, dated 2 September 2019, subject to the conditions contained in the attached schedule.

Clarification

2. On the application form, the site of the proposed development is given as Manor Road, Erith. According to the Ordnance Survey map, and confirmed by the existing road signage, the section of road where the proposed new monopole mast and cabinets would be erected is part of Ray Lamb Way. The existing mast and equipment that would be removed are situated at the junction of Manor Road and Slade Green Road, which is about 120m to the west.

Preliminary matter

3. One of the Council's reasons for refusal of permission related to the potential effects on the area's ecology. Subsequently, in the light of further information submitted by the appellants, the Council has advised that it no longer seeks to pursue this refusal reason.

Main Issues

4. The main issues in the appeal are as follows:

- whether the proposed development would constitute 'inappropriate development' in terms of relevant green belt policies;
- the effects of the development on the green belt's openness;
- the effects on the area's character and appearance;
- and whether any harm to the green belt, together with any other harm, would be clearly outweighed by other considerations, so as to amount to the 'very special circumstances' which are necessary to justify development in green belts.

Reasons for decision

Relevant development plan policies relating to the green belt

5. There is no dispute between the parties that the appeal site lies within an area designated as Green Belt.
6. In the Bexley Core Strategy (the BCS), adopted in February 2012, Policy CS17 seeks to protect the Borough's green infrastructure, including by protecting the green belt from inappropriate development.
7. In the Bexley Unitary Development Plan (the UDP), adopted in April 2004, Policy ENV4 sets out additional requirements for development in the green belt. These include that development should not detract from the belt's function and appearance; should be sympathetic in terms of their bulk, appearance and materials; should be carefully sited in relation to existing buildings; and should retain space around the development, so as to maintain the site's contribution to the green belt's openness and spaciousness.
8. In the London Plan 2021, published in March 2021, Policy G2 requires the green belt to be protected from inappropriate development, and that developments harmful to the belt be refused, except in very special circumstances.

'Inappropriate development'

9. The meaning of the phrase 'inappropriate development' in the context of green belt policies, is clarified in the National Planning Policy Framework (the NPPF), at paragraphs 145 and 146. NPPF paragraph 143 makes it clear that inappropriate development is to be regarded as harmful to the green belt, by definition.
10. There is nothing in the submissions before me to suggest that the development now proposed is not inappropriate, having regard to the national policy set out in these NPPF paragraphs. I see no reason to disagree with the Council's view that the development would be inappropriate in terms of green belt policy, and harmful to the green belt for that reason. The proposal therefore conflicts with BCS Policy CS17 and London Plan Policy G2 as set out above.

Effects on openness

11. The appeal site lies on the edge of the Crayford Marshes, which form part of the Thames Estuary Marshes, a large expanse of flat, featureless and largely treeless open land. In this location a 20m-high structure, as now proposed, would be visible over some distance. But nevertheless, the monopole-style mast would have a narrow diameter, and the antennas would fit closely around

the body of the pole itself. The volume of airspace that the structure would occupy would therefore be negligible.

12. To my mind, despite its height, a slim mast of this nature would be dwarfed by the scale and magnitude of the surrounding landscape. The development would therefore have no adverse impact on the green belt's openness. In this respect there would be no conflict with UDP Policy ENV4, or any other policy.

Effects on the area's character and appearance

13. Despite their flat and featureless appearance, the Crayford Marshes have a distinctive landscape character which is not unattractive. As well as being subject to Policy ENV4, the Marshes are designated as Heritage Land, and as such their character and quality are also protected by UDP Policy ENV22. But even so, their existing character is heavily influenced by the urban development that adjoins the area on three sides.
14. Approaching the appeal site from the west, along Manor Road, the surrounding area mainly comprises a large industrial and warehousing estate, leading into housing around Duriun Way, off Slade Green Road. Although the proposed mast would be just beyond these existing developments, the approach contributes to creating an environment that is perceived as more urban than rural.
15. Travelling from the east, the housing to the southwest is visible along the whole length of Ray Lamb Way, and the Manor Road industrial units come into view well before the appeal site is reached. From both directions, views across the Marshes are framed by a backdrop of cranes, wharves, oil terminals, pylons, wind turbines and the Queen Elizabeth Bridge. Ray Lamb way itself is heavily trafficked, and designed to urban standards, with kerbs, signage, lighting and crash barriers.
16. The proposed development would therefore be seen in a context that is dominated by built development, and urban infrastructure. In this context the proposed mast and associated cabinets would not be out of place, and would not cause harm to the area's character or appearance. In this respect therefore, the development would not again conflict with UDP Policy ENV4, nor with Policy ENV22.

Whether 'very special circumstances' exist

17. For the reasons explained above, I have found that the proposed development would constitute inappropriate development in terms of green belt policy. No other significant harm has been demonstrated, but nonetheless, NPPF paragraph 144 requires that substantial weight is attached to the harm that would be caused to the green belt by reason of inappropriateness.
18. However, the appellants' evidence makes it clear that, in this location, there is a particular local need for new telecommunications infrastructure. The existing mast and base station at Manor Road provide 2G, 3G and 4G services, but not the more advanced 5G technology. The rolling-out of 5G is seen as an urgent priority, in order to provide the faster speeds and enhanced capacities which are needed to keep pace with a rapidly increasing demand, including the demand for home-working. It is also argued that the continued lack of 5G would prevent businesses and domestic consumers from taking advantage of the full range of modern digital connectivity and data services which are now

potentially available. These submissions are not contested by the Council, and to my mind they have considerable force.

19. From the appellants' evidence, it is clear that the existing mast is not capable of being adapted or modified to accommodate 5G technology. Problems with underground utility services make it impractical to attempt to incorporate the proposed new mast within the existing Manor Road site. Other alternative sites, including sites within the built-up area and any opportunities on existing buildings, have been identified and evaluated, and all of these other options have been eliminated, for apparently valid technical or planning reasons. The justification for the area of search, based on a 150m radius from the existing site, is explained in the evidence. As far as I can see, this exercise seems to have been conducted in a methodical and objective way, and I see no reason to doubt the conclusions reached.
20. The NPPF, at paragraph 112, advises that advanced, high quality communications infrastructure is essential for economic growth and social well-being, and that planning decisions should therefore support the expansion of electronic communications networks. In this context, particular reference is made to 5G mobile technology. Paragraph 113, whilst seeking to keep the number of masts and sites to a minimum, makes it clear that this is to be balanced with the efficient operation of the network and providing adequate capacity for future needs. In this context, I note that the development now proposed would provide for the sharing of infrastructure by two operators, EE and H3G, and would replace an existing facility without any net increase in the number of masts or base stations.
21. In the Bexley UDP, this is reflected in Policy ENV45, which supports the growth of the Borough's telecommunications system, subject to various criteria. In terms of these criteria, for the reasons already explained, I am satisfied that the location of the appeal proposal minimises any impacts on the area's character and visual amenity, and that alternative locations have been fully explored. It is agreed that the finish colour of the cabinets can be dealt with by condition. Although the policy presumes against sites within certain types of designated areas, including 'other sensitive landscapes', it makes no specific reference to Heritage Land. Having regard to my earlier findings on the matter of character and appearance, it seems to me that the present proposal satisfies Policy ENV45.
22. Having regard to all of the foregoing, I find that a need for the proposed development has been substantiated, not only in general terms but also in terms of a local need which is specific to the area centred around the appeal site. In addition, the need for such development is supported by relevant policies both at national level and in the development plan for the area. Consequently, it seems to me that, in the absence of the development now proposed, businesses and residents in the Erith area would be likely to suffer significant disadvantages, adversely affecting their economic competitiveness and social inclusion. The NPPF makes it clear that each of these considerations are more than capable of carrying very substantial weight in their own right.
23. Taking all of these matters into account, I conclude that the harm to the green belt, by reason of inappropriateness, is clearly outweighed by the combined weight of the proposed scheme's economic and social benefits, to the local economy and to the resident population. The 'very special circumstances', that

are required by NPPF paragraph 144, to justify inappropriate development in the green belt, have therefore been demonstrated.

Conditions

24. If permission is allowed, a condition requiring adherence to the approved plans should be imposed, in order to ensure certainty as to the nature of the development that is permitted. A requirement to remove the existing mast and cabinets would be reasonable, to avoid an unnecessary proliferation of such items. A condition relating to ecological mitigation is needed, to minimise any impacts on flora or fauna. Control over the finished colour of the new cabinets is necessary to ensure a satisfactory appearance. A requirement for restoration of the existing surface vegetation is justified, for the same reasons.
25. The suggested condition requiring a construction management and logistics plan is unnecessary, given the small scale of the development. The proposed condition relating to graffiti fails the NPPF's tests in relation to precision and enforceability.

Overall conclusion

26. Although the proposed development would comply with UDP Policy ENV45 relating to telecommunications, it conflicts with BCS Policy CS17 and London Plan Policy G2 with regard to the green belt. On balance, the proposal fails to accord with the development plan as a whole.
27. But the benefits that the development would bring, in terms of enhanced mobile communications services, are a material consideration weighing heavily in favour of the appeal. For the reasons already explained, I have found that, despite the substantial weight that must be attached to the harm to the green belt, in this particular case that harm is clearly outweighed by the benefits that I have identified. This amounts to very special circumstances of the kind that the NPPF requires to justify development contrary to green belt policies.
28. I have taken account of all the other matters raised, but none leads me to depart from this conclusion. The appeal is therefore allowed.

J S Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - 002 Site Location Plan
 - 215 Max Configuration Site Plan – Sheet 1
 - 216 Max Configuration Site Plan – Sheet 2
 - 265 Max Configuration Elevation – Sheet 1
 - 266 Max Configuration Elevation – Sheet 2
- 3) The existing monopole mast and cabinets at the junction of Manor Road and Slade Green Road, as shown on plans 215 and 265, shall be removed within 60 days from the date when the proposed new mast and cabinets are first brought into use.
- 4) The development shall be carried out in full accordance with the recommended measures for ecological mitigation contained in sections 4.2 and 4.3 of the Preliminary Ecological Appraisal Report by Indigo Surveys Ltd, dated 12 June 2020.
- 5) The equipment cabinets forming part of the development shall be painted or otherwise finished in a dark green colour, and shall thereafter be maintained in that colour for as long as the development remains on the site.
- 6) Within 3 months from the date when the proposed new mast and cabinets are first brought into use, the remaining land within the site shall be restored to its existing profile, and planted with grass or such other ground cover vegetation as may be approved in writing by the local planning authority.