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# Appeal Decision

Site Visit made on 13 October 2021

**by Rory MacLeod BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2021**

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**Appeal Ref: APP/C5690/W/21/3270642**

**Pavement outside 104-106 Bromley Road, Bellingham, Lewisham, SE6 2US**

- 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 (GPDO).
  - The appeal is made by Great British Communications against the decision of the London Borough of Lewisham.
  - The application Ref DC/20/119000, dated 30 October 2020, was refused by notice dated 21 January 2021.
  - The development is application for prior approval for a proposed 5G telecoms installation: 15m high street pole and 3no equipment cabinets with ancillary works.
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## Decision

1. The appeal is allowed and prior approval granted under Article 3(1), Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a proposed 5G telecoms installation: 15m street pole and 3no equipment cabinets with ancillary works on a footpath located outside 104-106 Bromley Road, Bellingham, Lewisham, SE6 2US in accordance with the terms of the application, Ref DC/20/119000, dated 30 October 2020, and submitted plans : LSM12266 \_PLANNING\_REV\_B.

## Preliminary Matters

2. An application for a monopole 20m high in the same location was refused in 2020. The current proposal is a resubmission.
3. The Council has updated its refusal reason in the light of updates to the London Plan and National Planning Policy Framework (the Framework).

## Main Issue

4. The main issue is whether the proposal's public benefits would be outweighed by impacts from its siting and appearance on (a) the street scene and the Culverley Green Conservation Area and (b) public safety in relation to pedestrian mobility and driver distraction.

## Reasons

5. The proposal would be located at the back edge to a relatively wide part of the footway to the western side of Bromley Road a little to the north of the junction with Charsley Road. To the rear of the site is a parking forecourt to Topps Tiles. Bromley Road is a wide and busy road. There is a bus stop and a bus shelter just to the north of the site. The site and much of the surrounding area is within the Culverley Green Conservation Area (CGCA).

6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) requires that *"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*. The Culverley Green Conservation Area Character Appraisal describes its origins, form, character and townscape. Most of the CGCA is residential in nature with the regular layout of roads and consistency of buildings along them forming an important part in its significance. The appeal site lies within the Canadian Avenue and Bromley Road character area featuring north-south routes. Reference is made to the *"wide, gently sweeping curve of Bromley Road, from which houses tend to be set well back, giving a series of views"*.
7. The appeal locality contrasts with much of the CGCA in that whilst there are dwellings on the opposite eastern side of the road, the immediate area is commercial in nature. Between the junctions with Charsley Road and Barmeston Road are shop units and a Royal Mail sorting office with forecourt parking and signage. A busy bus stop adds to the general bustle. There is another telecommunications mast close to the corner with Barmeston Road serving a separate network. The proposal would therefore preserve the character of this part of the conservation area.
8. The proposed street pole would be higher than the structure on the corner of Barmeston Road and would have a wider top part adding to its visibility. It would be about twice the height of the adjacent commercial buildings and a little higher than the 4 storeys building of flats on the southern side of the junction with Charsley Road. There are lines of curved top street lamps along Bromley Road rising to some 10m which form skyline features. The street pole would be higher and bulkier than these. It would be a conspicuous and dominant feature in close views from both sides of Bromley Road. In more distant views from the north, the curvature of the carriageway would restrict the street pole's visibility with the 4 storey building forming a backdrop as the site is approached. This building and trees to its frontage would partly conceal the street pole in views from the south on the near side of Bromley Road. But overall, the street pole would result in some harm to the appearance of the street scene by reason of its height and visibility. It would not preserve or enhance the appearance of the conservation area.
9. The equipment cabinets would be arranged in a cluster along the back edge of the footway which at this point is in the region of 5-6m wide. Their size and appearance would be similar to those commonly found along public highways. There are bollards, highway signs, a bus shelter and other items of street furniture nearby, but given the width of the footway here, the cabinets would not result in a visually cluttered streetscape.
10. The presence of the cabinets would make little difference to the useable width of the footway for pedestrians. Even on the odd occasions when the cabinet doors are opened for servicing there would be ample width for pedestrians and those with buggies to pass by. A pinch point in the footway width is formed between the bus stop and bus shelter. At the time of my site visit I observed that the footway by the bus stop could become crowded but that pedestrians sometimes walked across the forecourt to Topps Tiles to cut off the corner to Charsley Road instead of using the footway. It would be most unlikely that provision of the cabinets would oblige pedestrians to walk into the Bromley Road carriageway. The cabinets would not be detrimental to pedestrian safety.

11. Bromley Road is a strategic road for which Transport for London (TfL) is the highway authority. TfL have objected to the proposal on the grounds that the height of the street pole would distract drivers. The street pole would not be seen close to or obstruct the view of any traffic signal. It would be positioned at the back edge of a wide footway, away from the carriageway. It would be a little higher than the highest buildings nearby, but that would not be unusual for telecommunications apparatus on the public highway. There is no evidence before me to indicate exceptional circumstances in which the height of the street pole would have a significant adverse effect on highway safety through driver distraction.
12. The purpose of the installation is to provide the appellant new 5G coverage thereby facilitating significantly improved connectivity for the target search area which covers much of the CGCA. The appellant has operational sites in the wider area, but these would not be suitable for 5G coverage in the target area. Due to the higher frequencies utilised, the cell areas tend to be far smaller. Chapter 10 of the Framework supports the provision of high quality communications. The proposal would result in the public benefit of improved connectivity in accordance with objectives in the Framework.
13. Paragraph 115 of the Framework encourages the use of existing masts, buildings and other structures and states where new sites are required, such as for new 5G networks, *"equipment should be sympathetically designed and camouflaged where appropriate"*. Paragraph 117 requires for a new mast or base station, evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored. The appellant states a sequential approach has been followed resulting in the choice of the current site and a reduced height of 15m for the street pole. For operational reasons this is claimed to be the smallest mast that can be deployed. But in view of its visual impacts, it is still appropriate to examine the existence of possible alternatives where the siting and appearance may have a lesser impact.
14. The target search area is mainly to the north and east of the appeal site, an area largely residential in character. The appellant has discounted a preferred nominal location to the north on Bromley Road and also options within the streets to the east of Bromley Road due to narrow pavements and anticipated planning problems arising from the proximity of dwellings. These streets, all of which are in the CGCA, are characterised by closely spaced dwellings and a tighter urban grain than along Bromley Road. The appeal site itself is a little to the south of the target area but would be able to serve it. Sites further to the south or to the west, away from the CGCA, would be more remote from the target area.

#### *Planning balance*

15. By reason of its height, the siting and appearance of the proposed street pole would result in harm to the appearance of the conservation area. But that harm would not substantially affect factors that contribute most to the significance of the conservation area, the regularity and architectural detailing in residential roads and the quality of open spaces. The proposal would thereby lead to less than substantial harm to the significance of a designated heritage asset. In these circumstances, Paragraph 202 of the Framework states that *"this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*.

16. Improved connectivity through high quality communications is a public benefit that attracts considerable importance in the Framework. Paragraph 114 states that planning decisions should “*support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections*”. The proposal would assist in achieving this objective, a matter that attracts significant weight. The height of the street pole has been reduced by 5m compared with the original proposal to a level just above the highest nearest buildings and to a level below which operational effectiveness would be compromised. The proposal would be forward of the Topps Tiles shop, an attractive art deco building, but would be separated by the width of the forecourt parking area. No other site has been suggested that would be able to serve the target area without resulting in more substantive harm to factors contributing to the significance of the CGCA.
17. From the information available to me, my judgement is that the proposal’s benefits would outweigh any harm arising from its siting and appearance. The Council points out the CGCA character appraisal comments that street furniture can be damaging to its character and appearance. However, the proposal would not detract from the character of the commercial enclave within which it would be located. A siting further to the north or east closer to the target area would be likely to have a greater adverse impact on the setting of residential buildings that are of greater importance in defining the significance of the conservation area. Such a location would also be likely to have a greater impact on pedestrian mobility given the prevalence of narrower footways. There would not be material harm to public safety arising from either pedestrian mobility or driver distraction at the proposed location.
18. In reaching this judgement, I have applied the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area by attaching considerable weight to that desirability. Nonetheless, the matters most important to the significance of the conservation area would not be adversely affected.
19. The proposal would be in conformity with Chapter 10 of the Framework on supporting high quality communications. It would be compatible with DM Policy 39 of the Lewisham Development Management Local Plan (2014) (DMLP) in that it is supported by necessary evidence to justify the proposal and ensure that the best possible environmental and operational solution is arrived at. Any conflict with urban design and heritage Policies 30, 35 and 36 of the DMLP and Policy 16 of the Lewisham Core Strategy (2011) needs to be understood in this context. There would not be material conflict with Paragraph 110 of the Framework or with Policy T2 (Healthy Streets) of the London Plan (2021) in relation to public safety issues arising from either pedestrian mobility or driver distraction.

#### *Other Matters*

20. Some representations have referred to possible health impacts arising from the street pole. The proposal is accompanied by a declaration of conformity with the International Commission on Non-Ionising Radiation (ICNIRP) public exposure guidelines. As such, it is not appropriate for planning authorities to question possible health impacts in considering a proposal’s planning merits.

## **Conditions**

21. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9) and A.3(11) 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 and must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application. Conditions at Paragraph A.2(2) state that the development 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.

## **Conclusion**

22. For the reasons given above I conclude that the appeal should be allowed.

*Rory MacLeod*

INSPECTOR