



Appeal Decision

Site visit made on 16 March 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2022

Appeal Ref: APP/G5180/W/21/3276980

Clock House Road, Anerley, Elmers End BR3 4DG

- 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 appeal is made by Hutchison UK Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/01894/TELCOM, dated 11 April 2021, was refused by notice dated 7 June 2021.
 - The development proposed is 15m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), 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, considering any representations received.
3. My determination of this appeal has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits, I have not taken these matters into account. The benefits have effectively already been recognised by the grant of permission under Article 3(1) of the GPDO.
4. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan. I have only had regard to the policies in the development plan and the National Planning Policy Framework (the Framework) insofar as they are material considerations relevant to making a planning judgement on matters of siting and appearance.
5. The appellant has submitted new evidence in relation to visibility splays as part of the appeal. The Council and other interested parties will have had an opportunity to comment under the appeal and it has been accepted accordingly.
6. There is no evidence in front of me, by way of lawful development certificate or otherwise, demonstrating that the cabinets proposed benefit from permitted development rights. They have been assessed as part of the prior approval proposal accordingly.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area and highway safety and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed considering any suitable alternatives.

Reasons

8. The site is directly adjacent to the north eastern edge of Elmers End Green, which is designated urban open space. The green presents itself as a focal point for the surrounding development including residential and commercial development. It makes a significant contribution to the openness of the area and is a prominent asset within the wider urban environment. Whilst there is street furniture and other utilitarian structures in the vicinity of the site, including the highway network, the overriding impression is one of openness and green space.
9. The proposal would deliver a 15m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works within a highly prominent location on the edge of an important urban open space where views from surrounding development would be stark, especially considering it's height. The area is lacking a predominant utilitarian backdrop of street furniture, and consequently the proposal would significantly detract from the urban open space's role in providing relief from the wider urban environment.
10. The site is also directly adjacent to Elmers End Road, in proximity to a very busy gyratory system with a number of junctions. Consequently, there are sight lines through the site, and it is highly likely that these are important in helping vehicles navigate the gyratory system safely. Whilst the appellant has submitted new evidence in relation to visibility splays, I am not clear on what accepted methodology or good practice has been employed in coming to the conclusions that they have.
11. For example, the Council's highways department advise that among other things a road safety audit should be commissioned in order to comprehensively determine that the proposal would be safe. Without such evidence, or evidence of a similar nature that follows accepted methodology or good practice, I cannot be certain that the proposal would not harm highway safety. This is because my assessment on the ground leads me to the conclusion that the proposal is highly likely to obstruct at least some of the visibility currently available to vehicles.
12. It is acknowledged that the appellant has sought to maintain pedestrian safety, however this is a somewhat separate matter to highway safety and the movement and intervisibility of vehicles.
13. It is acknowledged that the appellant has demonstrated there is a lack of other available sites in the area and that if there are shown to be no suitable alternative sites then the siting and appearance of the proposal needs to be assessed bearing in mind that such proposals are permitted development and have been accepted in principle.

14. In this context, the installation has to be sited somewhere within the target area and a lack of suitable alternatives could indicate that the proposal is the only option. Given the acceptance of telecommunications equipment within the GPDO this needs to be a strong factor weighing in favour of the proposal.
15. However, in combination, the importance of the urban open space, prominence of the site and scale of the infrastructure would result in significant harm to the appearance of the area. This, in conjunction with the harm derived from effects on highway safety, would be an overriding consideration in my judgement, which altogether would tip the balance against the proposal.

Other Matters

16. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).
17. In these circumstances, Paragraph 118 of the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
18. The full details of other appeal decisions provided are not in front of me and therefore I cannot take an informed view as to their relevance in determining this appeal.
19. Whilst I acknowledge that the appellant may have engaged in comprehensive pre application discussions with the Council and others, this process would not predetermine the application outcome.

Conclusion

20. For the reasons given above, the proposal's siting and appearance would harm the character and appearance of the area and highway safety, and this harm would not be justified by lack of suitable alternatives. Consequently, the appeal is dismissed.

Liam Page

INSPECTOR