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# Appeal Decision

Site visit made on 31 March 2022

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

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

**Decision date: 12 May 2022**

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**Appeal Ref: APP/G5180/W/21/3281070**

**Corkscrew Hill, West Wickham, London, BR4 9LP**

- 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 CK Hutchinson Networks (UK) Ltd against the decision of London Borough of Bromley.
  - The application Ref DC/21/02059/TELCOM, dated 24 April 2021, was refused by notice dated 23 July 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 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 a 15m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works at land at Corkscrew Hill, West Wickham, London, BR4 9LP in accordance with the terms of the application Reference DC/21/02059/TELCOM, dated 24 April 2021, and the plans submitted with it, including plans in the set numbered BMY16761\_M002\_B.

## Preliminary Matters

2. Because this is an application for prior approval the provisions of the 2015 Order 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. This appeal will be determined on the same basis.
3. As originally submitted the application proposed an 18m high mast but revised drawings were submitted during consideration of the application, reducing the height of the mast to 15m.

## Planning Policy

4. The principle of development is established by the GPDO 2015. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. Nonetheless I have had regard to Policies 37 and 89 of the Bromley Local Plan (2019) only in so far as they are a material consideration relevant to matters of siting and appearance. The National Planning Policy Framework (the Framework) is also a material consideration and include sections on supporting high quality communications.

## **Main Issue**

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

## **Reasons**

6. The proposal would be sited at the back edge of a footway to the northern side of Corkscrew Hill adjacent to railings to a park designated Urban Open Space. There are a hedge and line of trees within the park next to the railings. The site is between two bends in Corkscrew Hill with houses on the opposite side.
7. The proposed monopole would be sited between two park trees. It would exceed their height, such that the bulk of the headframe would be visible in direct views from the front and the rear. The relatively bulky appearance of the headframe compared with some other installations is a requirement for 5G technology. There would be some impact on visual amenity in direct views.
8. But the canopies of the trees would provide a backdrop in views from either direction along Corkscrew Hill which would help to assimilate the structure's appearance. In summer months leaves on the trees would provide a screen to parts of the monopole that would help to partially conceal and soften its overall appearance. In winter months, the tree trunks, some with ivy growth widening their girth, would be seen as nearby vertical structures. The proximity of the bends in Corkscrew Hill would constrain longer distance views of the site.
9. The house at 83 Corkscrew Hill is directly opposite the appeal site; it has first floor front windows that would face the site set behind a garage at ground floor level. Neighbouring houses to both sides are orientated so as to not directly face the site. I concur with the Council that the proposal's siting and appearance would not materially impact on residential amenity.
10. To the rear of the tree belt are an open grassed area and a children's playground. The monopole would be visible from some positions in the park but would be seen within the context of the line of trees some 12m high that form an envelope to the park's boundary.
11. The designated search area is constrained in being limited to a geographical area not adequately served by other local facilities for the same network. Some of the nearest facilities are 'congested' in not having the capacity to meet demand in the area. The proposal would increase coverage and network capacity in the West Wickham area and assist in the roll out of 5G technology in accordance with aspirations in the Framework.
12. The appellant has investigated alternative locations for an installation but considers that these would either not meet technical requirements, or that the design solution would have resulted in greater environmental harm. The designated search area is largely residential in nature. From the information available to me I am satisfied that there is not a more favourable location for the installation in relation to its siting and appearance. The siting close to trees would enable the installation to be reasonably assimilated into the appearance of the street scene.

## **Other Matters**

13. Representations have been received against the proposal for other reasons. The line of cabinets would reduce the width of the footway for a short stretch, but the remaining footway would be sufficient to not unduly constrain pedestrian movements, even for those with pushchairs, wheelchairs and mobility scooters. The Council considers that the siting of the facility would not obstruct the sightlines of drivers in Corkscrew Hill; I have noted the proximity of the location to the park entrances but have no reason to disagree with this finding. The proposal would not be so close to trees to result in damage to their canopies or root systems. Some comments suggest a location within the park; there is no information before me on this as an alternative, but the proposed siting is considered to be acceptable on planning grounds. The cabinets would be of a size that amounts to permitted development, not requiring approval.
14. Reference has been made to various social and economic benefits; these have not been taken into account in considering the matters of siting and appearance.

## **Health**

15. Concerns have been raised about potential effects on health, particularly given the proximity of the children's playground. 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). In these circumstances, 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.

## **Conditions**

16. The Council has suggested a condition relating to approval of details of the materials and finish for the proposal's external surfaces. But the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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**

17. The effect of the siting and appearance of the proposal on the character and appearance of the area would be acceptable. Any harm would be outweighed by the need for the installation to be sited as proposed, taking into account alternative locations investigated. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

*Rory MacLeod*

INSPECTOR