



Appeal Decision

Site visit made on 9 November 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/P5870/W/22/3292657

Land at the junction of Mollison Drive and Barnard Close, Roundshaw, Wallington SM6 9JZ

- 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 Cornerstone against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/01303, dated 22 June 2021, was refused by notice dated 13 August 2021.
 - The development proposed is the installation of a 17.5 metre high monopole supporting 3 no. antennas and 2 no. transmission dishes, the installation of an equipment cabinet and development works ancillary thereto.
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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 the installation of a 17.5 metre high monopole supporting 3 no. antennas and 2 no. transmission dishes, the installation of an equipment cabinet and development works ancillary thereto at land at the junction of Mollison Drive and Barnard Close, Roundshaw, Wallington SM6 9JZ in accordance with the terms of the application Ref DM2021/01303, dated 22/06/2021, and the plans submitted with it including 100B, 201B, and 301B.

Procedural Matters

2. 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 this basis.
3. Revised plans have been submitted with the appeal, which would change the antennas proposed. Although these changes would not substantially change the appearance of the proposal, they would change the nature of the development proposed and consulted on. I have therefore determined the appeal on the basis of the plans originally submitted to the Council.

Planning Policy

4. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
5. Nevertheless, Policies 23 and 28 of the Sutton Local Plan 2018 are material considerations as they relate to issues of siting and appearance. In particular, they seek siting that is not intrusive in the street scene and design which does not unduly detract from the character of the area. The National Planning Policy Framework is also a material consideration, including the sections on supporting high quality communications and achieving well-designed places.

Main Issues

6. The main issues are: (i) whether the proposed development is 'Permitted Development' under GPDO 2015 Schedule 2, Part 16, Class A; (ii) the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and (iii) if any harm would occur, whether it is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Whether permitted development

7. In general terms, and subject to conditions, GPDO 2015 Schedule 2, Part 16, Class A (Part 16, Class A) permits development by or on behalf of an electronic communications network, consisting of the installation, alteration or replacement of any electronic communications apparatus, or development ancillary to radio equipment housing.
8. Part 16, Class A paragraph A.1(7) does not permit the installation, alteration, or replacement of any electronic communications apparatus other than those specified, including a mast, or radio equipment housing if the ground or base area of the structure would exceed 1.5 square metres.
9. The base area of the proposed ground cabinet would measure 1.8 square metres, and the Council therefore consider it is not permitted under Part 16, Class A. The description of development relates to, "the installation of an equipment cabinet", while specifically mentioning 3 antennas and 2 transmission dishes. The appellant states that the proposed "Yorkshire" cabinet shown on the proposed plan is in fact two cabinets, the "York" cabinet, and the "Shire" cabinet, each being below 1.5 square metres in area. Although I find that element of the appellant's case unconvincing, I note that the cabinet would also house radio equipment as set out in the appellant's statement and as shown on the proposed plans.
10. As radio equipment housing, the cabinet, and the development as a whole, is therefore permitted development. I therefore consider below whether prior approval should be given.

Character and appearance

11. The area is predominantly residential with two and three storey houses and flats, and Roundshaw Park on the southern corner of the Foresters Drive and Mollison Drive junction.
12. Opposite the park, the land between Foresters Drive, Mollison Drive and Barnard Close is an area of grass containing mature trees with canopies raised above pedestrian height. At a human scale it is a pleasant and open space, with footpaths crossing it. Nevertheless, a variety of street furniture is present, including traffic lights, lampposts, traffic signs, two bus shelters, waste bins, salt bins, crossing bollards, and small street cabinets. Speed humps and extensive road markings add further to the functional character of the street at this point, as it runs between the two areas of grass and trees.
13. The proposed 17.5m high mast would be bulkier and taller than existing street furniture and buildings in the vicinity, but would be seen against a backdrop of trees. Although seen in perspective it may exceed the height of some of those trees, the canopy of the group of trees is seen as a whole, and the mast would be lower than the tallest trees.
14. Parts of Barnard Close lie at lower land levels, and upper parts of the mast may be seen above the canopy and against the skyline. There would be oblique views from some residential flats, albeit not at close range, and filtered views from one window of the nearest house on Mollison Drive. Nevertheless, the mast and cabinet would not be intrusive or unduly prominent in these views, where the tree canopies would remain the dominant feature.
15. The proposed cabinet would be significantly longer and taller than others existing in the area, and would be a visible feature. However, it would be aligned with the road and the footpath in a spacious area characterised by both landscaping and highway furniture, structures and markings, and its green colour would reduce its visual impact in this setting. Although clearly visible from the bus shelter, it would be seen at a relative distance, as it would be from Barnard Close, where there is no footway on the side of the road near the appeal site. The nearest dwelling is also located some distance from the appeal site, on the opposite side of Barnard Close, beyond a wide verge and facing the narrowest part of the cabinet. Despite its size, the cabinet would therefore not be an incongruous feature.
16. I note the Council's concern that the development could harm the roots of the adjacent trees, which make a significant positive contribution to the character of the area. I also note the appeal site is located on an area away from the canopies of the trees. The appellant's Tree Survey, Arboricultural Method Statement and Tree Protection Plan concludes that the trees would not be vulnerable to any direct damage from the development. It also recommends that indirect damage from installation could be addressed without significant effects on the health or appearance of the trees. Although I am unable to impose conditions to secure the measures identified in the Tree Protection Plan, I consider the development is unlikely to harm the health or appearance of the trees.
17. The Council are also concerned about the existing canopy of the trees, future canopy growth and its impact on signal strength, and subsequent pruning requirements. However, I have seen no evidence that tree works would be

required in future in a manner which would harm their contribution to the character and appearance of the area. I also understand the trees are maintained or owned by the Council, and are not subject to Tree Preservation Orders.

18. There would therefore be some limited harm to the character and appearance of the area, and this should be weighed against the need for the installation to be sited in this location.

Need and alternatives

19. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communications infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. I must also balance this against the requirement for equipment to be sympathetically designed, and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places.
20. The proposed development would provide improved 2G, 3G and 4G, and new 5G coverage for the wider area. The appellant advises that the height of the proposed mast is the minimum required to do so.
21. The Council acknowledge that the application was accompanied with site selection details which shows that there is need for the equipment to boost the existing coverage and provide 5G. They have not challenged the alternative sites put forward by the appellant, or the appellant's claims that they would be unsuitable. I have no reason to come to a different conclusion.
22. I am therefore satisfied that the limited harm to the character and appearance of the area is justified by its need to be sited in this location.

Other Matters

23. 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). 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.
24. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conditions

25. Any planning permission granted for the installation of a 17.5 metre high monopole supporting 3 no. antennas and 2 no. transmission dishes, the installation of an equipment cabinet and development works ancillary thereto 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.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Peter White

INSPECTOR