



Appeal Decision

Site visit made on 2 December 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/G5180/W/22/3298736

Area of Footpath near to 152 Village Way, Bromley, Kent BR3 3NN

- 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 (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/05710/TELCOM, dated 13 December 2021, was refused by notice dated 4 February 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 17m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have slightly amended the address of the appeal proposal to reflect that it is close to, but not on or related to, the property at 152 Village Way.
3. The provisions under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 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 the same basis, having regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to the matters of siting and appearance.

Main Issues

4. Having regard to the above, and the Council's reason for refusal, the main issues in this case are the effect of the siting and appearance of the proposal 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

Character and Appearance

5. Village Way is a long, suburban residential street lined predominantly with semi-detached dwellings on both sides that are consistent in terms of height and building line, being two storeys and set back behind short front gardens. Towards the southern end, the road is adjoined by Crease Park to the west. Views into the park are filtered by mature trees both next to the road and

further into the park. A solid hedgerow runs along the length of the park boundary.

6. The proposal is for the installation of a monopole with associated cabinets on the inner side of the footway, next to the park towards its northern end. Two existing mobile telecommunications monopoles, and their associated cabinets, are located a short distance to the south of the appeal site, on the same side of the street. These monopoles are indicated to be approximately 12.5m in height and are painted brown, whilst the cabinets are a dark green. All of this equipment is located on a line towards the outer edge of the footway.
7. Although Village Way has a slight curve towards its southern end, it still affords long views in either direction. These views are framed by the buildings to either side and the many street trees, which serve to filter features in the distance. Lighting and electricity poles are also present along the length of the street.
8. The proposed monopole, at 17m high, would exceed the height of surrounding dwellings, and the existing monopoles, by considerable margins. It would also be taller than the stated heights of the nearest trees in the park, which are given at between 12m and 15m. Moreover, these trees are notably set back from the boundary, and there are no street trees within the immediate stretch of footway around the appeal site. As a result, the crown spreads of these trees would not be close enough to help physically conceal the monopole, unlike the existing monopoles to the south which are more closely surrounded by trees, which helps to reduce their presence, as does their lower height.
9. Though the nearest trees would offer some backdrop in views from the north when in leaf, this would be less effective in winter. They would also offer little in terms of concealing the monopole in views from the south, or from within the park itself, where the monopole would dominate the outward view to the north-east from the main path. Therefore, given its height and exposed position on the public footpath, the monopole would form a highly conspicuous feature that would detract from the consistent appearance of the street scene and stridently interrupt the attractive sylvan views over the adjacent park.
10. The proposed cabinets would be utilitarian in appearance. I accept they are a common part of modern street furniture, and several others already exist a short distance away. However, they would be clustered around the proposed monopole and would add to the overall massing of structures. Their impact would be limited in long views owing to their lower height and position against the boundary hedge of the park, but at close range, the collective arrangement of the monopole and cabinets would form an intrusive feature in an open part of the street that would detract from the vista into the park.
11. In considering this, I recognise that the cabinets, by themselves, are permitted development. However, it is clear that the cabinets are only required in conjunction with the proposed monopole, and therefore it is unlikely that they would be installed as standalone structures. Therefore, it is reasonable to consider the cumulative effect of the proposed equipment.
12. Concern is raised in respect of the cumulative impact of a third monopole in the same stretch of the street. I recognise that there is a risk of a cluttered appearance when more structures are added. However, as set out above, I saw the existing monopoles, being lower in height, slender in form and somewhat concealed by the surrounding tree cover, are not overtly intrusive in the street

scene. They are also set a sufficient distance away that they would not be immediately visible in the same context as the proposed monopole. Therefore, I am not persuaded that there would be a harmful cumulative effect from a third monopole some 80-90m away. However, this does not alter my findings above that, by itself, the siting and appearance of the proposed monopole would be harmful to the character and appearance of the area.

13. For these reasons, I conclude that the proposal would result in harm to the character and appearance of the area. So far as they are material to the proposal, there would be conflict with Policies 37 and 89 of the Bromley Local Plan (January 2019) which require a high standard of design and that telecommunications development demonstrates any adverse impact on the character, appearance and amenity of the area has been minimised. There would also be conflict with the Framework's expectation that new electronic communications equipment should be sympathetically designed.
14. In light of this, I turn to consider whether this harm is outweighed by the need for the proposal to be located at the appeal site, having regard to any suitable alternative locations.

Alternative Locations

15. Paragraph 117 of the Framework advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
16. I have had regard to the appellant's site selection process, and evidence in respect of the technical requirements for 5G antennas which largely preclude mast sharing, due to their size and weight. I am also cognisant of the fact that the search area is necessarily defined by the need to fit the new cell into the existing network of cells and to address areas of poor or no coverage.
17. Four other options were considered and discounted, all of which related to potential ground based installations. Brief reasons are given for each, including two for potential visibility splay issues, and two others for narrow pavements and/or the presence of tall trees. However, the evidence before me is limited as to the extent to which these potential options were considered before being discounted. In particular, that at Eden Park Avenue (D3) appears to have large areas of footway around the junction, but it is unclear whether different positions for the equipment were considered. Consequently, I am not persuaded that these other sites are clearly unsuitable or would be more harmful in terms of visual or other impacts. Therefore, I do not find the search and assessment of alternative sites to be sufficiently robust or that the identified need for the mast could only be met at the appeal site.

Other Matters

18. The Council did not oppose the siting of the equipment in respect of neighbours' living conditions or highway safety. I note comments in these matters from interested parties, but on the evidence I have, and having noted the location of the nearest dwellings on site, I do not consider the proposal would be harmful in these respects.

19. The Framework makes it clear that in determining applications, the need for an electronic communications system should not be questioned, and local planning authorities should not set health safeguards different from the ICNIRP guidelines for public exposure. The appellant has confirmed that the proposal would meet the relevant guidelines in this case, and I have no firm evidence to dispute this. Therefore, whilst I acknowledge the concerns raised regarding health, this is not a matter that weighs against the proposal.
20. None of the other matters raised are of such substance that they would alter my overall conclusions on the main issues or the planning balance. Therefore, it is not necessary to explore them in further detail.

Conclusion

21. For the reasons set out, I find that siting and appearance of the proposal would harm to the character and appearance of the area. I afford significant weight to this harm.
22. I accept that the proposal would deliver tangible social and economic benefits in the form of improved mobile telecommunications technology in the immediate area, including provision of 5G services, which is supported under Paragraph 114 of the Framework. However, it has not been satisfactorily demonstrated that the appeal site is the least harmful alternative location for a new mast.
23. Overall, I find that the need to locate the proposed infrastructure at the appeal site does not outweigh the harm to the character and appearance of the area that would be caused by its siting and appearance. Therefore, prior approval should not be given and the appeal should be dismissed.

K. Savage

INSPECTOR