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# Appeal Decision

Site visit made on 22 November 2022

**by Robin Buchanan BA (Hons) MRTPI**

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

**Decision date: 31 January 2023**

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**Appeal Ref: APP/N1920/W/22/3299406**

**Land adjacent to James Close bus stop, Aldenham Road, Bushey, Hertfordshire WD23 2EU**

- 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 GPDO).
  - The appeal is made by Cornerstone against the decision of Hertsmer Borough Council.
  - The application Ref 21/2037/PD560, dated 13 October 2021, was refused by notice dated 1 December 2021.
  - The development proposed was described as 'removal of the existing 15m streetlamp to be replaced by a 17.5m street monopole with a new lamp fixture, the installation of 2no. cabinets and 1no. meter cabinet, and ancillary works thereto'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development in the banner above is taken from the application form. The Council's decision notice also refers to a 15m high streetlamp. However, the main parties agree that it is 10m high, as shown in the application plans. I have determined the appeal on this same basis. This discrepancy has no bearing on my decision.
3. Amended plans were submitted with the appeal. These show the correct orientation of a light arm attached to the monopole, a relocated bus stop sign and a 5m tall tree next to James Close. These are minor changes so no prejudice would be caused to any party. I have determined the appeal on the basis of the amended plans.
4. Because this is an application for prior approval, the provisions of the GPDO require the local planning authority to assess the proposed installation having regard to its siting and appearance, taking into account any representations received. I have determined the appeal on this same basis.
5. The social and economic benefits of the proposed development have effectively already been recognised by the grant of planning permission under Article 3(1) of the GPDO. Consequently, I have not taken these into account in considering prior approval and the matters of siting and appearance.
6. The appellant contends that the equipment cabinets are permitted development but there is no evidence they would be installed in isolation. The proposal relates to the whole installation, as set out in the description of

development and submitted plans. I have therefore determined the appeal on this basis.

7. The principle of the development is established by the GPDO. Its provisions do not require regard to be had to the development plan. Nevertheless, Policy CS22 of the Council's Core Strategy 2013 and Policy SADM30 of its Site Allocations and Development Management Policies Plan 2016 refer to matters relevant to the siting and appearance of development. I have had regard to these policies only in so far as they are material to the consideration of siting and appearance. Similarly, the National Planning Policy Framework (Framework) includes a section on supporting high quality communications.

## **Main Issues**

8. The main issues are:

- the effect of the siting and appearance of the proposed development on the character and appearance of the area, including some locally listed buildings;
- the effect of the siting and appearance of the proposed development on the living conditions of the existing occupiers of nearby dwellings with regard to outlook; and
- if any harm would be caused in these regards, whether this is outweighed by the need to site the installation in the location proposed, taking into account any suitable alternatives.

## **Reasons**

### *Character and appearance*

9. The appeal site is part of a large, triangular grass verge facing Aldenham Road on one side of a junction with James Close. Notwithstanding what the amended plans show, a tall hedgerow at the back of this verge has been reduced to a ground level scrub feature, revealing a side garden of No.1 James Close, and a 5m tall tree has been removed from the verge. There is a similar verge on the other side of this junction.
10. Aldenham Road is lined with dwellings on both sides and on the approach to the site from both directions some tall front garden or roadside trees give a more enclosed feel to this road corridor. Past the site residential properties either side are set further back behind deeper front gardens with more open front boundaries or behind the grass verges. While there are some other streetlamps and telegraph poles nearby and some lower level street furniture, including a bus shelter and road and bus stop signs, there is a distinctly more spacious feel to this part of Aldenham Road.
11. The proposal is for a new base station comprising a 17.5m monopole with antennas and ground equipment cabinets. This installation is needed by the operator to improve existing 2G, 3G and 4G mobile telecommunications coverage and capacity in the area and to remedy a gap in 5G services. I am informed that the installation is the minimum necessary to meet the appellant's service and coverage needs. Though innately utilitarian in design, it would be representative of this type.

12. Replacing a streetlamp next to the bus shelter has dictated siting the monopole in the front of the grass verge, close to Aldenham Road and the pavement. It would also be near the corner and junction with James Close. It would be substantially taller and significantly wider in diameter than the streetlamp or any telegraph pole in the vicinity of the site. It would therefore protrude appreciably above the general visual horizon and panorama of adjoining dwellings, most trees and other street furniture near the site. Although the top section with antennas must be clear of interference, the monopole would not be very close to even the tallest nearby 15m high tree.
13. Consequently, even if nearby trees were in leaf and despite a sympathetic colour, the monopole would be unduly prominent and overly conspicuous, in particular the tallest and bulkiest top section. Such an imposing structure would dominate the local skyline at this point in Aldenham Road and be a discordant feature in shorter distance public views in each direction along this stretch of the road and from James Close.
14. The equipment cabinets would be appropriate in colour and sited further back from Aldenham Road in a reasonably short row. However, these tall and collectively bulky structures would be detached from the monopole and stand forward of any immediate background feature such as a wall, hedgerow or trees. They would therefore have significant visual presence and appear incongruous in this isolated position in the open grass verge. There is no evidence that the occupier of No.1 James Close will reinstate a taller boundary to the side garden or that the highway authority agrees to such a feature along the back of the verge.
15. Nos.115, 117 and 119<sup>1</sup> Aldenham Road are locally listed buildings (LLB). Their significance includes largely intact architecture typical of circa 1896 and historic interest as part of the late Victorian suburban expansion of Bushey along Aldenham Road, with original occupation by notable local professional people. No.105 Bushey Grove Road is also a LLB and its significance additionally includes that it was built in the later Arts and Crafts style. The proposal would be observed in the context of these LLBs to varying extent but would not detract from the way in which the intrinsic significance of these non-designated heritage assets is experienced and appreciated in public views.
16. I appreciate that taller and thicker monopoles, with bulkier antennas, and more numerous or larger equipment cabinets are required for 5G services. These structures are also generally becoming more commonplace, including in urban areas and in this particular case would be screened by intervening buildings or features in longer distance surrounding public views. Nonetheless, the proposal would not be sympathetically designed in height or siting or be sufficiently camouflaged by existing features, as is otherwise required by Framework paragraph 115.
17. I find that the siting and appearance of the proposed development would cause significant harm to the character and appearance of the area.

#### *Living conditions*

18. Compared to the streetlamp, the monopole and antennas would be experienced as a stark change by the occupiers of the closest houses at No.1 and No.5

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<sup>1</sup> Subdivided to also form No.5 James Close

James Close and the flats in Bennetts Field facing Aldenham Road. Intervening walls, fences, hedges or trees would have a filtering effect though, including if established along the side garden boundary of No.1. As such, while the monopole or antennas would not be overwhelming, they would be sufficiently in line of sight or proximity so hard to ignore, with an overbearing presence. The monopole or antennas may also be visible from some other surrounding residential properties but would not be sufficiently in line of sight or close enough to have the same effects.

19. The occupier of No.1 James Close could establish a taller boundary along the side garden to screen the cabinets in views from side facing ground floor windows, with only a small top part visible from the side facing first floor windows. Views towards the cabinets from ground floor windows or gardens of surrounding residential properties would be restricted by similar boundary features and views from upper floor windows would not be sufficiently close for the cabinets to be overbearing.
20. I find that the siting and appearance of the monopole would cause moderate harm to the living conditions of the existing occupiers of No.1 and No.5 James Close and the flats in Bennetts Field facing Aldenham Road with regard to outlook. This is a matter of planning judgement and the circumstances of the appeal decision that I have been referred to are not the same<sup>2</sup>.

#### *Alternative sites*

21. Unlike the appeal decision that I have been referred to<sup>3</sup>, I have found that the proposed development would cause harm. It is therefore necessary for me to consider potential alternative sites.
22. I appreciate that mobile telecommunications search areas in urban locations are likely to be extremely constrained and that a 5G cell operates over a relatively small area. Eleven potential alternative greenfield, street furniture or rooftop sites have been assessed by the appellant. Ten would not provide the required coverage, lack sufficient space or any substantial screening or their availability is uncertain. The Council has not suggested any other potential sites and those suggested by some interested parties are put forward for largely anecdotal reasons.
23. However, according to the appellant one greenfield site at Connaught Park<sup>4</sup> was not constrained by any of these factors. It was rejected because the appellant preferred to replace the streetlamp on the appeal site; but that is not a determining factor in this appeal. Moreover, while the monopole would be in the same position as the streetlamp, the antennas would not be erected on it so the proposal would not make use of an existing structure. Furthermore, there is no evidence why the proposed antennas could not be erected on another mast or why this would not be feasible, as the appellant otherwise suggests.
24. Consequently, in terms of the siting or appearance of the proposed development the appellant has not justified that the Connaught Park site would have a worse effect on the character and appearance of the area or on living conditions. Nor has the appellant demonstrated that the possibility of erecting

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<sup>2</sup> APP/Q5300/W/16/3142885

<sup>3</sup> APP/B5480/W/20/3251086

<sup>4</sup> Site reference number 3

antennas on an existing mast or other structure (than a building) within the search area, as is encouraged by Framework paragraph 115, has been properly explored, as is required by paragraph 117 c).

25. I am not, therefore, satisfied that there is clear or persuasive evidence that there is no likelihood of a more suitable and reasonably available alternative site within the search area.

## **Other Matters**

### *Health*

26. I appreciate that some people would live close to the monopole and that it would be next to the bus stop shelter where people have to wait. People also walk along Aldenham Road, including school children. 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 sets out that health safeguards are not something which a decision-maker should determine. The concerns of local people in this regard are largely anecdotal in nature or unsubstantiated assertion. There is no objective evidence before me to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy in this regard would be justified in this particular case.

### *Other appeal decisions*

27. I have been referred to the weight given by Inspectors to material considerations and to the balances reached by Inspectors in a number of other mobile telecommunications appeals<sup>5</sup>. However, these findings derive from the particular circumstances of each case. These are not likely to be the same as in the current appeal so these decisions are not directly comparable.

## **Conclusion**

28. The proposal would cause harm to the character and appearance of the area and to the living conditions of some local residents. The appellant has not substantiated a need for the proposed development to be on the appeal site. Therefore, for the reasons given above the appeal does not succeed.

*Robin Buchanan*

INSPECTOR

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<sup>5</sup> APP/Q3305/W/18/3206555, APP/L1765/W/18/3197522, APP/K3605/W/19/3243927, APP/L1765/W/18/31975, APP/T0355/W/20/3246710, APP/P4605/W/19/3241791, APP/N5090/W/20/3250737, APP/Z5060/W/21/3279350, APP/A1910/C/20/3256772, APP/A1910/C/20/3256773 and APP/X5210/W/20/3254104