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## Appeal Decision

Site visit made on 7 December 2022

**by Peter White BA(Hons) MA DipTP MRTPI**

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

**Decision date: 2 February 2023**

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**Appeal Ref: APP/G5180/W/22/3290577**

**Chipperfield Road, St Pauls Cray, London BR5 2DT**

- 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 MBNL against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/21/04654/TELCOM, dated 8 October 2021, was refused by notice dated 29 November 2021.
  - The development is proposed telecommunications installation: proposed 15.0m high EE/H3G phase 8 street pole on concrete base and associated ancillary works.
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### Decision

1. The appeal is dismissed.

### Procedural 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. My determination of the appeal has been made on this basis.
3. Although it is not explicit in the description of development, and the application form states that the proposal does not replace an existing installation, the submitted plans and elevations include an existing installation, and show that some of the existing cabinets would be relocated as part of the development. Also, the submitted Site Specific Supplementary Information (SSSI) form refers to upgrade of the existing installation and that it would not be an additional mast. And the appellant's Appeal Statement refers to the removal of the existing monopole and replacement with a 15m street pole. I have therefore determined the appeal on this basis.

### 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 development requiring planning permission.
5. Nevertheless, Policies 37 and 89 of the London Borough of Bromley Local Plan 2019 are material considerations as they relate to issues of siting and appearance. In particular, they require a well-designed public realm,

exploration of the possibility of utilising an existing building, mast or other structure, minimisation of adverse impacts on visual and environmental amenity, and unobtrusive siting of telecommunications apparatus making use of trees, and other landscape features and other technologies or camouflage where appropriate. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, including the sections on supporting high quality communications and achieving well-designed places.

## **Background and Main Issues**

6. The main issues in this case are: (i) the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and (ii) if any harm would occur, the need for the installation to be sited as proposed, taking into account any suitable alternatives.

## **Reasons**

### *Character and appearance*

7. The appeal site is land adjacent to the Hoblingwell Wood Recreation Ground (HWRG) opposite a row of two-storey houses on Chipperfield Road. The HWRG is an open area with a wooded backdrop to the north and west, with open aspects elsewhere affording views across the open space. Opposite the HWRG beyond the highway, two-storey houses face the open area. Small trees stand in the highway verge, with large gaps between them. The combination of highway trees, grass verges and the open aspect with long-distance views onto wooded backdrops contribute to the distinctive verdant and spacious characteristics of the locality. The proposed installation would be situated between two trees on the grass verge between the road and the footway.
8. The adjacent trees are around 8.5m high, and there are also street lighting columns approximately 8m high in the vicinity. The houses opposite are of similar height. At 15m high, the proposed mast would noticeably exceed the height of surrounding features. In this location which is characterised by wide and open aspects along verges and across the HWRG, the size and scale of the proposed mast would conflict with the area's character. It would also be unduly dominant in views in close proximity to the mast, including those from dwellings on the opposite side of Chipperfield Road.
9. As established earlier, the locality of the proposed mast is a relatively open and verdant suburban area. Within this context, visual softening of the lower part of the mast would be limited by the lower height and seasonal leaf fall of street trees in the vicinity. I therefore cannot agree that the mast would be adequately screened by trees in locality.
10. Although the removal of the existing cabinets would reduce clutter in the street in that location, some would be re-located to the appeal site along with larger cabinets. The number and size of the proposed cabinets would further add to the proposal's visual discordance with the relatively open and verdant character of the area.
11. The proposal would result in the removal of existing structures in the street opposite King's Church. However, compared to the proposal, the existing installation is a slimmer and less intrusive design, similar in height to other structures in the street scene, and located in an area containing more non-residential buildings and structures.

12. Taking the above together, I therefore conclude that the siting and appearance of the proposal would harm the character and appearance of the area.

*Need and alternatives*

13. 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. However, I must 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.
14. The proposal would provide 5G coverage for the wider area, and the appellant advises that the height of the proposed mast is the minimum required to do so.
15. With regard to alternative locations/solutions, the information submitted with the application stated that, as an upgrade to an existing site, no other standalone new facilities had been investigated. No coverage maps have been provided and I have not seen a defined search area. The appellant's Appeal Statement, sets out a list of 'Discounted Options', comprising 2 rooftop locations and 5 ground locations. However, it is not clear why these particular locations were considered, as there appear to be larger and taller buildings in the area, including two churches close to the proposed site. Neither have I seen evidence that the sites of non-residential buildings have been considered for a ground-based installation.
16. Therefore, it has not been demonstrated that this specific site is the only location for installation within the area in question, and that the harm found would not be equivalent or less on a site elsewhere.

**Other Matters**

17. The appellant advises that the cabinets are permitted development and do not require prior approval. However, I am not convinced that there is a greater than a theoretical possibility that the installation of the cabinets on their own, might take place. Therefore, my conclusions on the main issues remain unaltered.
18. 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.

**Conclusion**

19. Through improved digital coverage and opportunities for site sharing for multiple operators, as described in the SSSI form, the proposal would support growth, and provide socio-economic benefits.

20. Nevertheless, paragraph 130 of the Framework emphasizes the need for development to be sympathetic to local character, and paragraph 115 of the Framework recognises the need for development, including telecommunications equipment, to be sympathetically designed. For the reasons described above, the proposal would result in significant harm to the character and appearance of the area.
21. Taking the above together, I conclude that the benefits of the proposal would not outweigh the significant harm to the character and appearance of the area which would result from the siting and appearance of the development. Accordingly, for the reasons given, the appeal fails

*Peter White*

INSPECTOR