



Appeal Decision

Site visit made on 21 November 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023

Appeal Ref: APP/G5180/W/21/3289302

The Fairway, Southborough, Bromley BR2 8AS

- 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 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/21/04223/TELCOM, dated 28 August 2021, was refused by notice dated 18 November 2021.
 - The development proposed is a 16m high Phase 8 telecommunications mast with wraparound cabinet and associated 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 16m high Phase 8 telecommunications mast with wraparound cabinet and associated works at The Fairway, Southborough, Bromley BR2 8AS in accordance with the terms of the application Ref DC/21/04223/TELCOM, dated 28 August 2021, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (hereafter "the GPDO"), 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 the same basis.
3. The principle of development is established by the GPDO, the provisions of which do not require regard be had to the development plan. I have therefore had regard to the policies of the development plan which the Council cited in its decision notice only in so far as they are material considerations relevant to matters of siting and appearance.
4. The description of development in the banner heading and my formal decision above is taken from the Council's decision notice. Both the planning application form and the appeal form referred to a 15m monopole, although it is evident from all the other information submitted that the proposal was originally for a

20m high mast, which was subsequently reduced to 16m. All of the evidence before me, from both main parties, makes it quite clear that the 15m reference is an error, and that the proposal which the Council considered (and on which local residents were consulted) was for a 16m monopole. I have therefore used the corrected description of the scheme above.

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

Character and appearance

6. The appeal relates to a site on The Fairway, around 20m north of its junction with Southborough Lane. A neighbourhood parade of shops extends from The Fairway onto Southborough Lane in both directions – this is angled around the junction leaving triangular grassed areas on both sides – while the wider area predominantly comprises semi-detached houses; most buildings in the immediate surroundings are two storeys high. The proposed installation is a 16m telecommunications mast with wraparound cabinet and associated works, which would be on the eastern grassed verge, at the back of the footway.
7. At 16m, the proposed monopole would be considerably taller than any of the nearby buildings (the Council suggests that the tallest neighbouring building is around 9m tall). There are mature trees on the grass spaces on both sides of The Fairway, which the submitted drawings indicate range from around 13m to 17m in height. The trees would provide some visual screening of the mast in medium to long views along both The Fairway and Southborough Lane, although as the trees are deciduous any screening would be limited during the winter months. As well as the mast and its wraparound cabinet, the submitted drawings show three additional cabinets; these would add further visual clutter to the area, although it would be of a sort which would not be wholly unexpected or alien in suburban London.
8. The grassed areas and their trees give the neighbourhood centre at the junction of The Fairway and Southborough Lane a pleasant, spacious and verdant character; in this context, the proposed mast would be a somewhat stark and intrusive addition to the locality. The mast would also be seen from surrounding dwellings, notably those houses on Southborough Lane near to its junction with The Fairway; while the installation would not be so close to those dwellings that it would have harmful effects on daylight or outlook, it would nevertheless be a prominent and incongruous feature.
9. I therefore find that the proposed mast would cause some harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would conflict with Policies 37 and 39 of the 2019 Bromley Local Plan. Together, and among other things, these policies seek to ensure that all development makes a positive contribution to the street scene, and that the visual impact of telecommunications equipment installations is minimised.

Alternatives

10. The National Planning Policy Framework ("the Framework") supports the provision of high quality and reliable communications which it states are essential for economic growth and social well-being. Paragraph 114 states that planning policies and decisions should support the expansion of the electronic communications network, including next generation mobile technology such as 5G.
11. The supporting information submitted with the application indicates that the proposed development would increase coverage and network capacity in the surrounding area and assist in the roll out of 5G technology in accordance with aspirations in the Framework. It also explains that none of the "sequentially preferable" options set out in the Framework is available, and that the search area for a new mast is tightly constrained by the need to be sufficiently distant from other base stations serving the same operator so as not to cause interference. I am satisfied that the appellant has demonstrated that there is an identified need for the proposed development to be located somewhere within the search area.
12. The appellant provided details of eight alternative sites which were considered; three of these were further east on Southborough Lane itself, while five were on various residential streets north and south of Southborough Lane. These were discounted for various reasons, including insufficient pavement width, proximity to residential properties, overhanging tree canopies, or interference with visibility splays. It appears to me that all but one of the alternatives proposed would be closer to residential properties, and therefore likely to have a greater impact on visual amenity for residents, than the appeal site. The site described as "Option 2" on the north side of Southborough Lane was discounted either "from a build perspective" (in the Site-Specific Supplementary Information document submitted with the planning application) or "proximity to residential properties" (in the appellants appeal statement). It appears to me that the "Option 2" site would in fact be a similar distance from the nearest housing as is the appeal site, but differences in tree cover would make a mast there a much more prominent and intrusive installation when viewed along Southborough Lane.
13. The need for a new installation in the area has not been disputed by the Council, although it did not put forward any further possible alternative sites. Based on all the evidence before me, including my observations on my site visit, I am satisfied that there is not a more suitable site for the required facility.
14. Taking all of these points together, while the development proposed would cause some harm to the character and appearance of the area, it has been demonstrated that there is an identified need for the proposed equipment within this area and that there are not more suitable alternatives available. These factors outweigh the harm I have identified, and I find the siting and appearance of the proposed development to be acceptable.

Other Matters

15. The Council did not raise any objections to the scheme in relation to its effects on public safety, including highway safety, and nothing before me leads me to a different view on this matter.

16. I have had regard to the other points raised by interested parties, although some – such as the potential impact on house prices – are not material planning matters. I note comments about the use of the grass areas at The Fairway which local people make for sitting outside; however, it seems to me that the proposed installation would be unlikely to significantly diminish the usefulness or desirability of the surrounding green spaces for such purposes. No substantive evidence put forward to support the claim that the installation of a mobile communications mast would adversely affect the viability of nearby businesses.

Conditions

17. The GPDO 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

18. While I have found that the siting and appearance of the proposed mast would cause some limited harm to the character and appearance of the area, I consider that this would be outweighed by the need for the installation to be sited as proposed, taking into account alternative locations investigated. I therefore conclude that the appeal should be allowed, and prior approval should be granted.

M Cryan

Inspector