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## Appeal Decision

Site visit made on 14 February 2023

**by Robert Naylor BSc (Hons) MPhil MRTPI**

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

**Decision date: 13 March 2023**

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**Appeal Ref: APP/G5180/W/22/3291272**

**Junction of Court Road and Charterhouse Road, Orpington, Bromley BR6 9DA**

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison (UK) Ltd against the decision of the Council for the London Borough of Bromley.
  - The application Ref 21/03892/TELCOM, dated 27 August 2021, was refused by notice dated 20 October 2021.
  - The development proposed is the installation of a 15 metre high monopole supporting 6 no. antennas and 4 no. equipment cabinets 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 a 15 metre high monopole supporting 6 no. antennas and 4 no. equipment cabinets and development works ancillary thereto at the junction of Court Road and Charterhouse Road, Orpington, Bromley BR6 9DA in accordance with the terms of the application Ref 21/03892/TELCOM, dated 20 October 2021, and the plans submitted with it BMY19337\_PLANNING\_REV\_B – 002 Site Location Plan; BMY19337\_PLANNING\_REV\_B – 215 Proposed Site Plan; BMY19337\_PLANNING\_REV\_B – 265 Proposed Site Elevation and BMY19337\_PLANNING\_REV\_B – 005 Crane Location & visual splay plan.

### Preliminary Matters

2. The appellant has indicated that the description of development cited in the planning application form and contained in the decision notice is erroneous. The “2 no. transmission dishes” referred to in the original description were not proposed under the current scheme subject to this appeal. The submitted drawings do not depict the transmission dishes, and as such these were not included as part of the application. The Council are aware of the amended wording and have indicated there is no objection to an amended description, removing reference to the transmission dishes, as it would comprise a lesser amount of development. Given that no parties’ interests would be prejudiced, in the interests of clarity I rely upon an amended description for the purposes of the heading above and paragraph 1 of my Decision.

3. The appellant has submitted an additional plan<sup>1</sup> as part of the appeal submission in an attempt to overcome the second reason for refusal. Whilst the appeal process should not be used to evolve a scheme, the plan does provide further information in respect to highway safety with specific regard to visibility splays.
4. The Council have viewed and commented on this plan and confirmed that the additional drawing overcomes the second reason for refusal. There are no third-party concerns in relation to highway safety as a result of the proposal. I have had regard to the Wheatcroft High Court judgement<sup>2</sup> and in reaching a decision I am satisfied that the amended drawings would not prejudice any party. Therefore, I have confined my assessment of this appeal scheme to the remaining reason for refusal.
5. The principle of development is established by the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), and the provisions do not require regard to be had to the development plan. Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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.

## **Main Issues**

6. The main issues are the effect of the siting and appearance of the proposed telecommunications equipment upon 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*

7. The appeal site is located on the southern side of Court Road (A224) at the junction with Charterhouse Road. The appeal site is located in a mixed-use area with residential and commercial facilities in close proximity to one another, albeit separated by Court Road. The surrounding area has a variety of street furnishings with a vertical emphasis. These include trees, street light columns, telephone poles, a totem advertising board associated with a petrol station, and an existing 15m telecommunications monopole which is located within approximately 30m of the appeal site.
8. The proposed telecommunications equipment comprises a 5G monopole that would stand 15m high with associated antennae, along with 4 cabinets at ground level. The location of the telecommunications apparatus is set back from the carriageway on a grass verge adjacent to a footpath.
9. Due to the girth of the pole, it would appear heavy set, in comparison to the existing slender streetlight columns and telephone poles. The circumference coupled with the antennae attached to the proposal, would produce a top-heavy appearance setting it apart from the lighting columns and other street

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<sup>1</sup> 005 Crane Location & visual splay plan ref: BMY19337\_PLANNING\_REV\_B

<sup>2</sup> Wheatcroft (Bernard) Ltd v Secretary of State for the Environment and Harborough DC (1982)

furniture in the area. As such, from close vantage points, the monopole and apparatus would appear quite dominant and somewhat intrusive in the street scene.

10. Notwithstanding the above, given the proximity to the existing telecommunications apparatus (including a 15m monopole), and the number of vertical structures in the area, the proposed monopole and associated equipment would not introduce a type of development that would be particularly unusual or out of keeping in the area. Furthermore, there are a number of mature street trees that line Court Road, providing a verdant feel. As such, views of the proposal from the east and west along Court Road would provide some softening of the development especially in the months when the trees would be fully in leaf. In these views and at longer distances the visual effects of the proposal would be mitigated.
11. The addition of the proposal would result in there being a proliferation of telecommunications equipment in the same area and some cumulative effects caused by the combination of tall structures would occur. There are already several equipment cabinets adjacent to the existing monopole and this development would provide an additional 4 cabinets. The existing equipment cabinets are green, as are the proposed cabinets and pole in order to blend in with the green verge and street trees. Nevertheless, the abundance of these features would have moderately adverse visual effects upon the character and appearance of the area.

#### *Suitable alternatives*

12. The Government is committed to supporting the deployment of next-generation mobile infrastructure. This is generally reflected in the Framework. However, while there would be various social and economic benefits arising from the proposal, it is important that any harm, such as that identified above, is minimised in the pursuit of these objectives. The appellant has provided details of its sequential approach to site selection, providing details of sites and proposals within the target coverage area which have been considered as alternatives to this proposal and discounted. However, the extent and detail of the evidence provided is very brief.
13. The appellants have indicated that the existing 15m monopole cannot be utilised for the 5G network for technical issues. Details have also been provided of 5 other sites but have been discounted for a range of reasons including lack of serviceable space, impacts on residential amenity, inability to meet operator's technical requirements, and the unfeasibility of mast sharing. The Council have not disputed these conclusions and I have no evidence before me to lead me to a different conclusion.
14. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. These benefits, and general support for such proposals are clearly set out in the Framework. Given the benefits, and in the absence of any suitable alternative sites, this weighs strongly in favour of the proposal.

#### **Planning balance**

15. Paragraph 114 of the Framework provides that, amongst other things, planning decisions should support the expansion of electronic communications networks,

including next generation mobile technology, such as 5G. The proposal would provide benefits through the upgrade to digital telecommunications in this area, allowing for additional coverage and capacity, including 5G technology in the locality. The wider benefits have effectively been recognised by the grant of planning permission under Article 3(1) of the GPDO and I have had regard to them only insofar as they relate to the siting and appearance in the context of this case. These factors weigh in favour of the proposal.

16. A balance should be struck between visual impact and the need for the proposal to be sited in the proposed location. In these circumstances, the absence of alternative options for the telecommunications development outweighs the moderate harm that I have found would be caused to the character and appearance of the area.
17. In reaching this conclusion, I have had regard to the Framework, policy SI6 of the London Plan, adopted March 2021 and policies 37 and 89 of the Bromley Local Plan, adopted January 2019 as they relate to the prior approval matters which seek to minimise the impact of telecommunications apparatus.
18. The Council has recommended detailed conditions relating to materials and to the removal of equipment once redundant. However, the GPDO 2015 does not provide any specific authority for the imposition of conditions to this type of prior approval. In any event the application specifies the equipment to be finished in green and this is considered acceptable for the location shown. The removal of equipment once no longer required by the operator is a requirement for development of this nature by the GPDO.

### **Conclusion**

19. For the reasons given above, the appeal is allowed, and prior approval given, subject to the conditions set out in the GPDO 2015.

*Robert Naylor*

INSPECTOR