



Appeal Decision

Site visit made on 28 March 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 MAY 2023

Appeal Ref: APP/G5180/W/22/3306803

Foxgrove Road opposite 16 Foxgrove Road, Beckenham BR3 5AT

- 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 Networks (UK) Ltd against the decision of London Borough of Bromley.
 - The application Ref DC/22/02430/TELCOM, dated 16 June 2022, was refused by notice dated 3 August 2022.
 - The development proposed is proposed 5G telecoms installation: 15m street pole and 3 additional ancillary equipment cabinets and associated ancillary 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 proposed 5G telecoms installation: 15m street pole and 3 additional ancillary equipment cabinets and associated ancillary works at Foxgrove Road opposite 16 Foxgrove Road, Beckenham, BR3 3AT, in accordance with the application ref: DC/22/02430/TELCOM, dated 16 June 2022, and the plans submitted with it including drawing Nos 002 Rev A (Site location plan), 215 Rev A (Proposed site plan) and 265 Rev A (Proposed site elevation).

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3 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 and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to Policies 37 and 89 of the London Borough of Bromley Local Plan (2019) (BLP), which are referred to in the Council's decision notice, only insofar as they are a material consideration relevant to matters of siting and appearance.
4. Contrary to what is stated within the appellant's appeal statement, the submitted elevation plan does not show the mast set into a wraparound cabinet at ground level. The submitted drawings depict the proposed

telecommunications equipment comprising a 5G street pole that would stand 15 metres high with associated antennae and a GPS module mounted atop, along with 3 cabinets at ground level. I have assessed the appeal on the basis of these drawings.

Main Issue

5. The main issue raised by this appeal is the effect of the siting and appearance of the proposed development 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

6. The appeal site is located within a predominantly residential area on Foxgrove Road, which has a pleasant, leafy character. The road is defined by a line of mature trees and generous grassed verges. The location of the proposed telecommunications apparatus is set back from the carriageway on a grass verge adjacent to a footpath. The surrounding area has a variety of street furniture, some with vertical emphasis, including telegraph poles and streetlights, street signs and bus stops and shelters. Therefore, vertical structures are common in the street scene.
7. The submitted drawings show clearly how the proposed street pole would be much thicker and taller than the adjacent lampposts, demonstrating the discreet design of the latter rather than the similarity and visual acceptability of the former. Furthermore, the antennae attached to the proposal, would produce a top-heavy appearance. As such, from close vantage points, the street pole would appear quite dominant and somewhat intrusive in the street scene.
8. Notwithstanding the above, the mature trees lining the road would provide some softening of the development especially in the months when the trees would be fully in leaf. At the time of my site visit, the roadside trees were without leaves. Even so, I saw that their branches would filter views of the taller street pole in medium and long-distance views along Foxgrove Road.

The proposed street pole and cabinets would be coloured grey in order to aid its assimilation into its surroundings. The proposed ancillary equipment cabinets would be of fairly modest size and would not be dominant features in the context of the other nearby street furniture, including the lampposts and bus shelters. However, for the reasons set out above, the street pole would cause moderate harm to the character and appearance of the area, and it is therefore necessary to consider whether there are any alternative, preferable sites where the installation could be located.

Suitable alternatives

9. The Government is committed to supporting the deployment of next-generation mobile infrastructure. This is reflected in the National Planning Policy Framework (2021) (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. In

response to paragraph 117(c) of the Framework, this includes confirmation that a desktop survey identified no potential alternatives for site sharing through erecting antennas on an existing building, mast or other structure. I have therefore not been provided with evidence to indicate that there are any appropriate mast sharing opportunities.

10. The appellant has also provided details of sites within the target coverage area which have been considered as alternatives to this proposal and discounted. This includes four other sites which have been discounted for a range of reasons including impacts on residential amenity, potential highways visibility issues, and narrow footpaths not being suitable for telecommunications equipment. The Council did not express a preference for any of the rejected options and did not put forward any further possible alternative sites. Based on all the evidence before me, including my observations on my site visit and review of the alternatives considered, I am satisfied that there is not a more suitable site for the required facility.

Other Matters

11. Concerns have been raised about the potential effects on health, particularly the proposed street pole's proximity to residential properties and the impact of an electromagnetic field. 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.
12. There is no evidence to suggest that the adjacent tree roots would be adversely affected by the proposal, nor that the proposal would be likely to encourage criminal behaviour such as arson or vandalism. Further, concerns in relation to property values are private interests and are not considerations for the planning system.
13. The Council did not oppose the siting of the equipment in respect of neighbours' living conditions or highway safety. I note comments on 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. Similarly, given the separation distance, the impact of the proposal on the Locally Listed Buildings at 14 and 16 Foxgrove Road would not be harmful.
14. It has been suggested that there would be no need for the proposed equipment as mobile phone reception locally is adequate. However, at paragraph 118 the Framework states that the need for an electronic communications system should not be questioned.
15. A number of other matters have been raised by interested parties and I have taken them all into account. Those related to planning include a lack of consultation and the inappropriate siting near to the line of the first century Roman Road (London to Lewes Way). However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in

relation to any of these matters. Consequently, they do not lead me to a different overall conclusion.

Conditions

16. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions, which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which prior approval was given, and must 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.
17. The Council has suggested that an additional planning condition be imposed to require the submission of the details and finish for external surfaces of the mast and equipment. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions mentioned above. Consequently, I have not imposed the suggested condition.

Planning Balance

18. Paragraph 114 of the Framework states 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. These factors weigh in favour of the proposal.
19. A balance should be struck between visual impact and the need for the development to be sited in the proposed location. In these circumstances, the absence of preferable alternative options for the telecommunications development outweighs the harm that I have found would be caused to the character and appearance of the area.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed, and prior approval is granted.

B Pattison

INSPECTOR