



Appeal Decision

Site visit made on 15 February 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2023

Appeal Ref: APP/G5180/W/22/3293454

Warren Road, Chelsfield, Bromley BR6 6LY

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- 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 EE Ltd against the decision of London Borough of Bromley.
 - The application Ref DC/21/04405/TELCOM, dated 30 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is described as 'The installation of 11m high Hutchison Engineering Alpha 7-18 Street Pole, 3No. shrouded antennas, 1No. GPS Node, 3No. equipment cabinets and ancillary equipment thereto'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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.
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 be had to the development plan. I have had regard to the Policies 37 (General Design of Development) and 89 (Telecommunications Development) of the London Borough of Bromley Local Plan (2019) (LP), both of which are referred to in the Council's decision notice, only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. In light of the above, the main issue is the effect of the siting and appearance of the proposed installation upon the character and appearance of the area.

Reasons

5. The appeal site relates to a tongue-shaped projection of land where the footways converge towards a crossing point at the junction of Warren Road and Windsor Drive. Evenly spaced, low-level bollards border the hard surfaced footway at this point. There is a 7.0 metre high lamp post and a shorter post

displaying a road sign within this area. Both of these structures are located to the back edge of the footway adjacent to an open grassed area. The height of the lamp post is comparable with the maximum scale of other vertical infrastructure in the immediate area. The top of the lamp post also sits below the tallest trees in the backdrop to the east which are set away from the site towards the nearby railway bridge.

6. The appeal site sits in an elevated position relative to the lower parts of the adjacent Windsor Drive and Station Approach. These roads are well frequented due to the mix of uses on them which include residential properties, a shopping parade, a public house, and Chelsfield Station. There is an abundance of mature tree planting to the west, to either side of Warren Road. However, the vista markedly opens up in views towards the appeal site. The scale and layout of structures in the vicinity of the appeal site adds to a sense of openness, order and consistency at this point in the street scene which positively contributes to the area's pleasant suburban character.
7. Several proposals have previously been refused for telecommunications equipment in the vicinity of the appeal site. This includes an appeal which was dismissed in 2005 for an 8.0 metre high telegraph pole with a single equipment cabinet¹. Even acknowledging the considerable period of time which has passed since that appeal decision, from what I saw on my site visit, the previous Inspector's observations in terms of the exposed position in the street scene and the limited mitigation in the form of any immediate screening remain applicable today.
8. The 11.0m street pole would be considerably taller than the adjacent lamp post and would protrude well above the top of the nearest trees. This would emphasise its much greater scale than the other vertical street furniture in the area. It would also be wider than the slimmer forms of the adjacent road sign and lamp post. In this elevated and exposed position in the street scene, the street pole would be a striking addition and its olive green finish would not be sufficient to assimilate it into its immediate surroundings. Consequently, the street pole would have an imposing and incongruous presence when experienced from the well frequented routes which surround it.
9. In addition, the equipment cabinets would form a detached line of solid structures. Their position set away from the street pole, extending out into the tongue-shaped footway, would combine with the adjacent bollards to have a cluttered appearance. This would significantly detract from the sense of openness and order at the junction. The appellant suggests that the ancillary equipment including the cabinets would be permitted development. However, they are only required in connection with the telecommunications street pole and would compound the harm to the character and appearance of the area.
10. I conclude that the proposed installation would have a significantly harmful effect on the character and appearance of the area and in that regard its siting and appearance would be unacceptable.
11. From a siting and appearance perspective, the proposal would also conflict with the design, layout, character, appearance and visual impact requirements of Policies 37 (General Design of Development) and 89 (Telecommunications Development) of the LP.

¹ Appeal Ref APP/G5180/A/05/1188352

Other Matters

12. The National Planning Policy Framework (the Framework) confirms that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. There is also general support from the Government for increasing telecommunications connectivity.
13. Paragraph 115 of the Framework confirms that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Paragraph 117 c) requires that applications for electronic communications development should include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
14. The evidence before me suggests that there is a need to provide 4G coverage to the section of railway at this location as well as for the immediate locale and the Emergency Services Network. I also recognise the appellant seeks to meet the Department for Transport's minimum service levels for wifi provision and the Train Operating Companies requirements to meet demand for mobile data. The improvements to the telecommunications network would have the potential to result in significant associated economic and social benefits for users of the railway and the local area. I have also seen that there is some third-party support for improving coverage in the area.
15. With regards to the future potential for the provision of 5G services, the Council suggests this often requires larger, differently designed masts to accommodate extra weight of 5G equipment. Without evidence to demonstrate otherwise I attach limited weight to the possibility of 5G coverage being provided by the proposal. Nevertheless, the other benefits identified above are particularly pertinent to my considerations.
16. My attention has also been drawn by the appellant to appeal decisions where the benefits of telecommunications equipment were found to outweigh harm resulting from siting and appearance. However, I am not aware of the specific circumstances of those particular cases. Given that they are unlikely to be identical to the site-specific considerations in this case, my assessment is based on the specific merits of the case before me.
17. The appellant has indicated that the height of the street pole is the lowest capable of providing the required coverage. Furthermore, it is suggested that given the area of railway track requiring coverage along with the physical and environmental constraints involved, the proposed site is the only feasible option both in terms of operational requirements and environmental considerations.
18. I understand the appellant's point that the footprint of the development and extent of open land in the wider area means that there could be many multiples of individual locations that could be considered. I have also seen that a previous appeal was dismissed on a nearby site to the north east of the railway within a neighbouring field² and that this is included amongst the sites discounted by the appellant. However, bearing in mind one of the main

² Appeal Ref APP/G5180/W/19/3240742

intentions is to provide improved telecommunications coverage for railway users, it is not clear whether any opportunities were explored within the limits of the rail land within the search area including, but would not necessarily limited to, alternative technologies or use of existing buildings or infrastructure within this land. If such options have been explored no evidence has been provided as to whether these would be likely to be less obtrusive or would not be viable alternatives for other reasons.

19. Moreover, in terms of the alternative sites that were considered, there is limited information as to what technical assessment was applied or the height of mast considered at the alternative locations, including for example at Chelsfield Park Sports Ground where 'it was felt' the site was too far away from the railway line to provide the required coverage. Furthermore, where sites have been deemed by the appellant to be too visually intrusive it is unclear whether these conclusions were reached through discussions with the Council.
20. In the circumstances, I cannot be certain that the appeal proposal represents the only option available to meet the cell coverage requirements and associated public benefits. In any case, I find that the significant harm that would result from the siting and appearance of the proposal on the character and appearance of the area in this instance is of overriding concern and outweighs the public benefits identified.

Conclusion

21. For the reasons given, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR