



Appeal Decision

Site visit made on 24 April 2023

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 MAY 2023

Appeal Ref: APP/E5330/W/22/3311137

Land at the junction of Kidbrooke Park Road and Henley Cross, London, SE3 9PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cornerstone against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 22/1520/F, dated 5 May 2022, was refused by notice dated 24 October 2022.
 - The development proposed is retention of the existing 20.7 metre high temporary lattice tower supporting 9 no. antennas and 1 no. transmission dish, 1 no. radio equipment cabin and 1 no. cabinet and ancillary development thereto for a further 18 months.
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Decision

1. The appeal is allowed and planning permission is granted for retention of the existing 20.7 metre high temporary lattice tower supporting 9 no. antennas and 1 no. transmission dish, 1 no. radio equipment cabin and 1 no. cabinet and ancillary development thereto at land at the junction of Kidbrooke Park Road and Henley Cross, London, SE3 9PP in accordance with the terms of the application, Ref 22/1520/F, dated 5 May 2022, the plans submitted with it and the plans of the cabinet submitted as a notification on 16 December 2022, Ref 22/4218/OBVS, subject to the following condition:
 - 1) The development hereby permitted shall be removed, the use discontinued and the land restored to its former condition within 12 months of the date of this decision.

Preliminary Matters

2. The site was originally powered by a diesel generator, but an electricity supply is now in place. A meter cabinet has been installed. The generator will be removed in due course once road closures can be arranged. Therefore, the description of development should refer to the cabinet and the generator cabin should form no part of the assessment of the appeal.

Main Issues

3. The main issues are the effect of the installation on the character and appearance of the surrounding area, the effect on pedestrians and cyclists using Kidbrooke Park Road and whether a further temporary permission is justified.

Reasons

4. The tower was originally installed in 2017 under the provisions of the Order that allow for the use of land in an emergency to station and operate moveable electronic communications apparatus for a period not exceeding 18 months. Planning permission was subsequently given in July 2020 to retain the tower and the associated antennas and equipment for a year. In 2021 further antennas were added to allow 5G coverage and capacity for both operators. The appeal application sought to keep the existing installation in place for another 18 months.

Character and appearance

5. The appeal site is adjacent to a busy road junction close to the A2. The area to the south around Kidbrooke station has been re-developed in recent times with a number of high-rise blocks. Immediately to the west is another development site. There is an Aldi store a little way to north. All these sites are within a Strategic Development Location in the Royal Greenwich Local Plan: Core Strategy with Detailed Policies. Beyond this area Kidbrooke Park Road has a suburban character.
6. The appellant accepts that the proposal is not appropriate as permanent development and is keen to remove it as soon as a replacement site is live. Indeed, the tower and antennas are stark and unsightly features in the locality well above the height of existing street furniture. From a few directions they are seen against the backdrop of the tall buildings nearby but from most places they are obvious and incongruous features against the skyline. The trees that previously stood to the west have been removed. The adverse impact is heightened by the large cabin at the base and the metal fencing which have an industrial appearance and are clearly evident to passers-by.
7. According to the National Planning Policy Framework, equipment on new sites should be sympathetically designed. That would not be the case here. The Framework also seeks to achieve well-designed places. The re-generation of the surrounding area has created an attractive environment but it is spoilt by this ugly and prominent development.
8. As such, there is significant harm to the character and appearance of the surrounding area. This is contrary to Policy DH(c) of the Core Strategy which seeks to minimise the visual impact of telecommunications development. The proposal is also at odds with Core Strategy Policy DH1 and Policies D3 and D8 of The London Plan which are concerned with design and the public realm.

Pedestrians and cyclists

9. The installation occupies a large part of a traffic island. However, it does not directly inhibit use of the adjacent footpath and cycle way. Whilst the proposal is not pleasant to look at, there is no evidence that it has created a "hostile and intimidating" environment such that people are deterred from walking or cycling past the site. There is therefore no conflict with Core Strategy Policies IM(b) and IM4 which promote sustainable travel and protect footpaths and cycle ways in the Borough or with London Plan Policy T2 on healthy streets.

Whether further temporary permission justified

10. Because of the seriously adverse visual impact, permanent planning permission should not be granted. However, the Framework confirms that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The London Plan refers to world-class digital connectivity for the capital and Policy SI6 indicates that proposals should meet expected demand and avoid reducing mobile connectivity in surrounding areas.
11. The installation is required to maintain two mobile networks in this part of Greenwich. The appeal site provides a suitable level of temporary coverage and capacity, whilst a permanent solution is secured. Without it, services to customers in an area where there is a high concentration of people and demand would fall to unacceptable levels. The retention of the proposal for these reasons has support from both national policy and The London Plan.
12. Any permanent solution would be required to fit within the existing network of sites. This results in a constrained geographical area for a replacement site. To this end, the appellant is pursuing a site within the Aldi car park. However, both applications for prior approval have been refused. An appeal¹ has recently been submitted against the second of those decisions. As a consequence, there is uncertainty about whether this site will ultimately prove acceptable.
13. The Planning Practice Guidance (PPG) states that it will rarely be justifiable to grant a second temporary permission, except in cases where changing circumstances provide a clear rationale. In this case, there is national policy support for high quality communications. The consequences of removing the temporary site, as illustrated in the predictive coverage plots, also favours a further permission. The Council points out that the tower should have been removed in July 2021. Furthermore, that the operators have had ample time to find a suitable long-term site and did not bring forward the Aldi scheme quickly. These are justifiable criticisms, but they do not alter the fact that connectivity in the area would be affected without the temporary mast.
14. Dismissing the appeal would nonetheless send out a clear signal that the proposal is unacceptable. On the other hand, a potential alternative has been identified so the situation could change in the future. It is not possible to pre-judge the outcome of that appeal, but it is concerning that the operators are pinning all their hopes on that site when there is a strong imperative to remove this discordant installation as soon as possible. In particular, there is no indication that the option of siting the equipment on top of one of the nearby blocks has recently been explored. This would accord with the encouragement given to the use of existing buildings and structures in the Framework.
15. The appellant requests that a further temporary permission be given for 18 months from the date of decision. This is to allow for the appeal process, completion of legal agreements and build out of the Aldi site. It is difficult to estimate how long each of these stages might take and they suppose that the appeal is successful. However, based on the time that this appeal has taken, to concentrate minds on finding an alternative and to minimise the length of time this strident installation is in place, a year would be a reasonable period to allow. During this time, it would be advisable to investigate a 'Plan B' in case the Aldi site does not come to fruition.

¹ Ref: APP/E5330/W/23/3320872

16. Therefore, notwithstanding the advice in the PPG about further temporary permissions, this is a case where a further short permission is justified to maintain digital services in this part of the Borough whilst a suitable permanent location is identified.

Other Matters

17. The appellant refers to appeal decisions in Winchester and Hillingdon which were allowed following the refusal of prior approval. As is acknowledged, the circumstances in this appeal are different in that a temporary permission is sought. The harm that is caused here should be accepted for a little longer but these other cases have little bearing on that finding.

Conditions

18. A condition is required to ensure that the equipment is removed within 12 months and the wording adopted is an amalgam of that used in 2020. As the development is already in place the approved drawings are referred to as part of the decision, including those that gave details of the cabinet.

Conclusion

19. The proposal does not accord with the development plan and permanent permission should not be granted because of the significant harm to the character and appearance of the surrounding area. However, material considerations indicate that a temporary permission should be given. On this basis, and for the reasons given, the appeal should succeed.

David Smith

INSPECTOR