



Appeal Decision

Site visit made on 20 February 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 MAY 2023

Appeal Ref: APP/G5180/W/22/3303041

**Area of Footpath, Watts Lane, Chislehurst, Bromley, Greater London
(Grid Ref Easting: 543732 Grid Ref Northing: 169856)**

- 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/22/01768/TELCOM, dated 28 April 2022, was refused by notice dated 15 June 2022.
 - The development proposed is a 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

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 decision notice issued by the Council gave two reasons for refusal, the first of which forms the basis of the main issues in this appeal. The second reason related to compliance with the requirements of the International Commission on Non-Ionizing Radiation Protection ("ICNIRP") radio frequency public exposure guidelines. This is not a matter directly related to the siting or appearance of the proposed installation, and I address it in the "Other Matters" section below.
4. The provisions of the GPDO do not require regard be had to the development plan in this case. I have had regard to the policies of the development plan to which the Council has referred only in so far as they are material considerations relevant to matters of siting and appearance. The National Planning Policy Framework ("the Framework") is also a material consideration.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed development upon the character and appearance of the area (including whether it would preserve or enhance the character or appearance of the Chislehurst Conservation Area), and whether any harm caused would be outweighed by the need to site the installation in the proposed location.

Reasons

Character and appearance

6. The appeal site is within a broad part of the footway on the south side of the mini-roundabout junction of Bromley Road, Watts Lane and Camden Park Road, and very close to Bromley Road's junctions with Old Hill (to the west) and Prince Imperial Road (to the north-east). The land falls gently away from the appeal site to the north-east along Bromley Road and Prince Imperial Road, and to the west along Bromley Road again and (slightly less gently) Old Hill, giving the location a degree of prominence in its surroundings.
7. North-east of the site woodland forming part of Chislehurst Common gives Watts Lane, Bromley Road and Prince Imperial Road a densely sylvan character. By contrast, the Chislehurst and West Kent cricket ground and the grassed wedge of commons between Bromley Road and Old Hill (including Mill Place) mean that the area around the appeal site itself has considerable openness; a particular difference with most of the wider area is that there are very few tall mature trees immediately around the site. There are dwellings to the north and west along Camden Park Road and Old Hill, although those closest to the appeal site are set in large and spacious plots. Overall, the area around the appeal site has a pleasant, open and verdant semi-rural character.
8. The appeal site lies within the Chislehurst Conservation Area ("the CCA"), and I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CCA. The Framework states that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).
9. The CCA covers an extensive area, but the Council's 2001 *Supplementary Planning Guidance for Chislehurst Conservation Area* identifies the commons as "the strongest and most important aspect of the character and appearance of Chislehurst". Among other things, and insofar as it relates to the main issues in this appeal, I consider that the significance of the CCA is derived from the distinctive relationship between the woodlands and open grassed areas of the commons and the town which has developed around them.
10. The proposed development is the erection of a 15m monopole telecommunications mast, with a wraparound cabinet at the base and three further equipment cabinets. These would be set at the back of the footway, adjacent to the hedge bounding the cricket ground. There is other vertical street furniture in the vicinity in the form of lighting columns and signposts. However, although the appellant suggests that the site would be "in close proximity to lampposts and trees" which would "help to reduce any visual

impact”, the proposed monopole would be considerably taller and wider than any of the existing street furniture nearby. As I have described above, the appeal site’s immediate surroundings are also characterised by openness and a lack of tall mature trees; the monopole would tower over the adjacent hedge, which would therefore do little to soften the visual impact of the installation.

11. The combination of the openness of the site’s position and the topography of the area mean that the mast and cabinets would be prominent in views from and along the roads approaching the site from all directions, from where they would appear as obtrusive and insensitive features. This would be at odds with the verdant and open semi-rural character of the site’s surroundings. I am also mindful that the visual impact of the scale and functional appearance of the monopole in the proposed location would not be significantly alleviated by the intention that it should be finished in green rather than the more usual grey.
12. I therefore conclude that the siting and appearance of the development would have a significant adverse visual effect on the character and appearance of the area; as such, the character and appearance of the CCA would not be preserved. I address the question of balancing this harm against any public benefits arising from the scheme in my conclusion below.
13. Insofar as they are material considerations, the proposal would conflict with Policies 37, 41 and 89 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, that the character and appearance of Conservation Areas is preserved or enhanced, and that the visual impact of telecommunications equipment installations is minimised.

Alternatives and other considerations

14. The Framework supports providing high quality and reliable communications which 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.
15. The appeal site is not an established telecommunications site; it would be a new installation. The supporting information submitted with the application indicates that the proposed development would fill a substantial “hole” in the operator’s network coverage in the surrounding area; in particular it would also support the roll out of 5G technology in accordance with aspirations in the Framework. The appellant’s evidence 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 both to provide the desired expansion in coverage, and to be sufficiently distant from other base stations serving the same operator so as not to cause interference. It is also explained that the proposed 15m height of the mast would be the minimum to address operational requirements relating to the nature of the area.
16. 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. I recognise that it is almost inevitable that a telecommunications mast would be visually intrusive to some extent or other. I also acknowledge that technical requirements mean that the search area is necessarily small, and that any alternative site would also lie within the CCA. However, these are not

considerations which mean that any proposed scheme is acceptable, and an appropriate balance must still be struck.

17. The appellant has outlined four alternative sites that were considered but discounted for a variety of reasons. One site further west along Bromley Road (D1) was discounted due to its "narrow pavement not suitable [to] support telecommunications equipment", two (D2 and D3) were discounted because of their proximity to residential housing, and the fourth (D4) was discounted as being a "grass verge directly outside residential housing" and because of "visibility issues". However, little substantive detail was provided about these alternatives for me to compare them, and any harm which may arise, with the appeal proposal – in the case of D1 and D4 and their surroundings, for example, it is not clear why a site on a grass verge (where a narrow footway would not be obstructed) could not be used as (in my experience) has happened elsewhere.
18. Even allowing for the small search area, I cannot be certain that there are not less visually harmful alternative sites. On the balance of the evidence which has been put before me, I am not satisfied that all reasonable alternatives, which may be less harmful than the appeal site, have been considered.

Other Matters

19. As I have already outlined, the Council also considered that insufficient information had been submitted to confirm ICNIRP compliance. The appellant contested this, stating that "an ICNIRP Certificate [...] was submitted with our application". The document which accompanied the prior approval application was titled "ICNIRP Form English V11" but, although it contained a range of technical information, on my reading it did not clearly include a (self-) certification that the installation would comply with ICNIRP guidelines. The same form was resubmitted with the appellant's appeal evidence.
20. Paragraph 117 of the Framework states that applications for prior approval under the GPDO should be supported by the necessary evidence to justify the proposed development, including self-certification that the installation would comply with ICNIRP guidelines; the information provided in this case appears to fall short of meeting this requirement. This is an unusual situation in my experience, and had the proposal been acceptable in all other respects, it is a matter on which I could have sought further information from the appellant. However I have not done so as, given my findings in respect of the main issue, it could not have changed the outcome of the appeal.

Balance and Conclusion

21. I have found that the proposal would not preserve or enhance the character and appearance of the CCA, a designated heritage asset, thereby harming its significance. Given the size of the CCA, I consider that this harm would be less than substantial.
22. I acknowledge that the proposal is necessary to expand mobile communications (including 5G) coverage in the area. There would be economic and social derived from improved communications infrastructure, and I attach considerable weight to these public benefits. However, on balance I find that they would be outweighed by the harm which would be caused to the heritage asset, to which I must attribute great weight.

23. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector