



Appeal Decision

Site visit made on 17 May 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 JUNE 2023

Appeal Ref: APP/G5180/W/22/3298357

Barnhill Avenue, Hayes, Bromley, London BR2 9DP

Ordnance Survey Grid Reference 539912:167531

- 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 CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/05485/TELCOM, dated 25 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed is 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the site address and grid reference as given on the application form. The Council's decision notice refers to the site as Land Adjacent 1 Stanstead Close. Based on the application drawings, there is no ambiguity as to the proposed location of the development.
3. 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(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.
4. The provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. I have therefore had regard to the policies of the development plan, including policies 37 and 89 of the Bromley Local Plan 2019 only insofar as they are relevant to matters of siting and appearance.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposal on 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 an area of grass verge on Barnhill Avenue, adjacent to terraced houses which front Stanstead Close. It is in a residential estate comprising a mix of houses and flats, predominantly two to four storeys in height. The estate has an open layout, with wide grass verges and areas of public green space being a distinctive feature. One of the larger green spaces is located close to the appeal site, across Barnhill Avenue, on the other side of Hayesford Park Drive.
7. Although there are streetlights near the appeal site, they are slender and not particularly tall. Street furniture is otherwise very limited. There are several street trees, which include some larger specimens. However, the trees to either side of the appeal site are relatively small and spaced out, offering only limited screening.
8. The proposed mast would be adjacent to a terrace of two storey dwellings. It would be located to one side of the terrace and not immediately in front of any windows. However, it would very significantly exceed the height of the adjacent dwellings, the streetlights and the surrounding street trees. Although it would have a relatively slim form, it would be of significantly heavier proportions than the streetlights. It would also be in a particularly prominent location, on one of the main routes through the estate and next to one of the larger green spaces. As a result, it would be open to particularly widespread view within areas used by the public.
9. Although there are three and four storey buildings nearby, they are not immediately adjacent to the appeal site and would not effectively mitigate the level of visual intrusion. Nor would the proposed dark green colour provide any meaningful degree of camouflage, given that the mast would largely be seen against the sky.
10. While I note that the proposed installation is designed with urban, roadside locations in mind, and that the area is not subject to heritage or other policy constraints, the mast would nevertheless be a visually intrusive feature. It would be sited in an exposed and open location, which is part of the distinctive layout and landscaping of the estate. As a result, it would both dominate this part of the street scene and undermine the visual and functional benefit of the nearby green space. While the mast would not physically obstruct pedestrian movement, the visual intrusion would be experienced by significant numbers of residents when using the green space or moving around the estate.
11. For the above reasons, the siting and appearance of the proposal would be harmful to the character and appearance of the area. Accordingly, insofar as it is a material consideration, the proposal would be contrary to Policy 37 of the Bromley Local Plan which requires, amongst other things, that development is attractive to look at and contributes positively to the street scene.

Alternative Sites

12. The National Planning Policy Framework (the Framework) recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. It therefore supports the expansion of electronic

- communications networks, including 5G. This reflects more general Government support for digital infrastructure rollout.
13. The application is accompanied by evidence of the need for the proposed installation, to support the roll-out of 5G mobile coverage. This identifies a relatively limited search area within which additional equipment is required.
 14. Evidence submitted with the application indicates that a sequential approach to site selection has been followed, leading to the conclusion that a new base station is required. The application indicates that a mast of reduced height would not so effectively meet the identified need and that there are no realistic options for mast sharing. Existing masts identified by interested parties are shown in the evidence supporting the application to be part of the existing network. Therefore, there is no clear evidence that a mast sharing option in any of those locations would improve coverage.
 15. With regard to the potential for utilisation of existing structures, I noted during my site visit that there are several substantial five to seven storey, flat roofed buildings further to the east. Although these are some distance from the nominal location, they are close to two of the alternative sites identified by the appellant and within the area which the evidence identifies as a gap in coverage. On the face of it, they offer an elevated rooftop location which has not apparently been considered. While there may well be technical or practical reasons why this is not a feasible option, no detailed explanation has been offered.
 16. Turning to options for a new base station, six alternative sites have been identified by the appellant. The reasons why these have been discounted include narrow pavement widths and highway visibility. The appellant's statement¹ also indicates that one other option was put forward during the site search process. However, no explanation has been provided as to why it was discounted.
 17. Within the general area of the alternative sites, there are several locations with wide grass verges and taller, more extensive tree cover. This includes some of the alternative sites which have been rejected due to limited pavement width. No detailed explanation has been offered as to why the wide grass verges immediately adjacent to those pavements are unsuitable or unavailable, despite the fact that the appeal proposal is itself on a grass verge with a similar relationship to the adjacent pavement.
 18. The Code of Best Practice on Mobile Network Development in England (the Code), published November 2016 and referenced in National Planning Policy Guidance, sets out a range of principles for new installations. They include the application of good siting and sensitivity to context for all telecommunications development, not just in environmentally sensitive areas. Both the Code and the Framework prioritise mast and site sharing wherever possible. The Code also sets out guidance for placing new base stations close to taller features including trees, to mitigate the level of visual intrusion.
 19. Based on the evidence before me, I am not satisfied that the principles in the Code and the Framework have been fully followed in this case. In particular the evidence does not clearly demonstrate that consideration has been given to a

¹ CK Hutchison Networks (UK) Ltd 'Three' Planning Appeal Statement of Case dated 6 May 2022

potential rooftop installation. Neither has adequate consideration apparently been given to alternative sites which benefit from more extensive tree screening and would avoid intruding into the most open parts of the estate.

20. On that basis, I conclude that the harm I have identified would not be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives. As such, to the extent that it is relevant to matters of siting and appearance, the proposal would conflict with Policy 89 of the Bromley Local Plan. This policy, amongst other things, requires that applications for telecommunications development demonstrate that use of existing buildings has been explored and proved to be unsuccessful and that adverse visual impact is minimised through site selection.

Other Matters

21. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.
22. Although the appellant's statement of case suggests that no objections were recorded to the application, the Council's Officer Report makes clear that a wide range of points were raised by interested parties when the application was considered. Additional representations were received in response to notification of this appeal and the main parties have had the opportunity to comment on matters raised therein.
23. A range of other issues were raised by interested parties. Some of these fall within the scope of the relevant prior approval matters, although they were not raised in the Council's reason for refusal. However, since I am dismissing the appeal for other reasons, it is not necessary for me to give these other matters further consideration as they do not lead me to a different overall conclusion.

Conclusion

24. For the above reasons I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR