



Appeal Decision

Site visit made on 19 July 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2023

Appeal Ref: APP/D5120/W/23/3314740

James Watt Way, Slade Green, Erith DA8 1BA

- 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 Bexley.
 - The application Ref 22/02426/GPDO8, dated 23 September 2022, was refused by notice dated 22 November 2022.
 - The development proposed is described in the application form as "Proposed telecommunications installation: 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works."
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Decision

1. The appeal is dismissed.

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(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 Bexley Local Plan (the Local Plan) was adopted in April 2023. The policies from the Core Strategy February 2012 and Unitary Development Plan (UDP) 2004, referred to by the Council in their decision notice, are now superseded by the adoption of the Local Plan. I have therefore disregarded the superseded policies. Both parties have had an opportunity to comment on this change.
4. The principle of development is established by the GPDO, which does not require regard be had to the development plan. I have therefore had regard to the policies of the Local Plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including the setting of the non-designated heritage asset (NDHA) at 70 Pier Road, 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

6. The appeal site is located within the footpath on the periphery of a pedestrianised area, adjacent to a roundabout on James Watt Way. The surrounding area is predominantly urban and contemporary in character, including a mix of commercial and residential uses. Development to the east of the site is typically low in height, including a large supermarket and surrounding surface car parks, a petrol station, and terraced housing. To the west however, there are some examples of larger scale development around Erith town centre, including several apartment buildings.
7. In the immediate vicinity of the site, tree and shrub planting within the roundabout and along the roadside softens the built development. There are also several vertical structures nearby, including street lighting columns, CCTV and flagpoles at the neighbouring supermarket, traffic and directional signs, and a sculpture in the pedestrianised space close to the appeal site.
8. The NDHA is a traditional two storey building with accommodation in the roof space. It is of an attractive symmetrical design with decorative features that positively contributes to the character and appearance of the area. It sits in close proximity to the appeal site, facing onto the pedestrianised area. Despite some screening provided by street trees, it remains prominent in views from James Watt Way, Colebrook Street, Pier Road and other public vantage points nearby. As an historic building it sits somewhat isolated in its contemporary surroundings. However, its setting is enhanced by the nearby greenery and the space provided by the pedestrianised area to the front.
9. Though the proposed mast would not be as tall as some nearby buildings, it would be comparable in height to the NDHA, somewhat diminishing its status in the street scene. It would also be noticeably taller than neighbouring trees, street lighting columns and other vertical structures, and would therefore be a prominent feature locally.
10. Street lighting columns in the setting of the NDHA and along Pier Road have been rationalised, are slender and of a distinctive, more sympathetic design. Such structures are also common features of the highway and pedestrianised streets. The appeal proposal on the other hand would be appreciably wider, and have an industrial appearance, reinforced by the associated cabinets.
11. Some screening would be provided by existing tree and shrub planting nearby. However, this would be less effective in winter months due to its largely deciduous nature, and the proposal would remain prominent in views from the pedestrianised spaces to the west where there is less tree cover.
12. The proposal would therefore appear as an incongruous feature in a prominent position with limited screening. It would therefore detract from the prevailing character and appearance of the area, and the setting of the NDHA.
13. The appellant states in their Appeal Statement that the colouring of the equipment can be specified as deemed appropriate. However, there are no provisions within the GPDO to apply additional conditions, beyond the deemed conditions for this type of development. In any event, this would not overcome the identified harm resulting from the siting, scale and form of the mast.
14. I also recognise that the siting of the proposal in this location may limit its impact on pedestrian movement and views from residential properties.

However, this does not outweigh the identified harm to the character and appearance of the area and the setting of the NDHA.

15. Paragraph 115 of the Framework indicates that communication mast numbers 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. It encourages the use of existing masts. Paragraph 117 states evidence should be provided demonstrating alternatives have been considered.
16. The appellant advises that the cell search area is extremely constrained and the only viable site option has been put forward. Figure 5 of the appellant's Appeal Statement shows there is poor coverage in areas to the south and east of the appeal site. The supporting Site Specific Supplementary Information (SSSI) states the equipment has to be located in or very close to the location of the "nominal site". This is indicated to be to the south of the appeal site, on Manor Road. This location has been discounted however due to insufficient pavement width and the effect on pedestrian flow.
17. The SSSI considers several other locations along Manor Road and around the nearby roundabout. These alternative sites all appear to be subject to various constraints in terms of their visibility in the street scene, relationship to neighbouring properties and the width of the footpath. The reasons given for discounting these alternatives therefore appear to be reasonable.
18. However, the SSSI also considers a rooftop location on the large building adjacent to the NDHA. The SSSI indicates this location would provide the required 5G coverage however it is not considered viable. No further clarification on this is provided, and so it is unclear why this is not suitable.
19. Furthermore, the outer limits of the cell search area are not clearly defined. The appeal site would be further from the nominal site than all of the other locations considered. The extent to which the proposed mast would be sited away from the nominal site, yet would remain viable, suggests the equipment could be located within a wider area than that which has been considered.
20. On the basis of the information before me, I do not find that less harmful alternatives have been thoroughly considered, or that the appeal site is the only viable site option.
21. I therefore conclude that the siting and appearance of the proposal would have a harmful effect on the character and appearance of the area, including the setting of the NDHA at 70 Pier Road. This harm is not outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.
22. The proposal would be contrary to Policies DP8, SP6 and DP14 of the Local Plan. These policies, among other provisions, seek to ensure development of this nature is sited and designed to minimise its visual impact and appearance, does not cause undue harm to the character or appearance of the area, and conserves the significance of heritage assets and their settings.
23. With respect to paragraph 203 of the Framework, considerable harm would be caused to the significance of the NDHA through harm to its setting. The proposal would support the expansion of electronic communications networks, with associated economic and social benefits, as recognised in Paragraph 114

of the Framework, and in the appeal decision referred to by the appellant¹. However, the evidence in this instance does not adequately demonstrate that there is a need for the installation to be sited as proposed. I therefore do not consider the benefits of locating the mast on this site would outweigh the identified harm to the NDHA.

Other Matters

24. The Framework acknowledges the benefits of early engagement and good quality pre-application discussion. I recognise that the appellant may have sought pre-application advice from the Council prior to submission of the application, and that no responses were received. However, I have considered the appeal on the basis of the information before me and my own observations and this therefore does not lead me to a different conclusion in respect of the main issue.
25. The appellant also considers that the associated ancillary equipment cabinets would otherwise be classified as permitted development without prior approval. This would not alter my findings on the identified harm caused by the mast.
26. My attention has been drawn to another appeal decision² in the London Borough of Southwark, where a similar installation was allowed. Only limited details of this case are before me. However, in that case the main issues related to whether or not the proposed mast would satisfy the limitations on height specified within the GPDO, and the effects of the proposed development upon the pedestrian environment. These matters are not in dispute in this instance. This does not therefore lead me to a difference conclusion on the main issue.

Conclusion

27. For the reasons given above, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR

¹ Appeal Ref: APP/G4240/W/20/3263529

² Appeal Ref: APP/A5840/W/20/3254830