



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: 15 August 2023

Appeal Ref: APP/D5120/W/23/3314523

Little Heath Road, Bexley DA7 5HB

- 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 22/02503/GPDO8, dated 6 October 2022, was refused by notice dated 30 November 2022.
 - The development proposed is described in the application from as "Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets."
-

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February 2012 and Unitary Development Plan (UDP) 2004, referred to by the Council in their decision notice, are now superseded by the adoption of the Local Plan. I have therefore disregarded the superseded policies.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 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 behind the public footpath on the edge of a triangular parcel of public open space along Little Heath Road. The surrounding area is residential in nature, with the public open space surrounded primarily by traditional semi-detached two storey dwellings on all sides. Along with the grass verges and other modest parcels of open space in the vicinity, this provides respite from the otherwise dense urban grain and gives the street and surrounding area a spacious and somewhat verdant character and appearance.
7. The public open space features sporadic tree and shrub planting, though none of the trees here are particularly high. Some larger trees can be found in the verges surrounding the appeal site and in neighbouring gardens. Vertical features in the immediate area are otherwise limited to street lighting columns, telegraph poles and occasional traffic signs. Some smaller elements of street furniture can also be found locally, including utility cabinets and street signs.
8. The proposal would be more than double the height of nearby street lighting columns. The design of the proposed mast is relatively slimline, having been changed prior to submission to a smaller phase 9 mast type, to reduce the visual impact of the installation. However, it would still be considerably wider than other vertical structures in the area, particularly at its base. It would also be substantially taller than existing trees within this area of public open space.
9. Though the proposed mast would be similar in height to some larger trees elsewhere in the area, these would provide little screening given their sporadic nature and distance from the site. Due to the relative openness of the public space and the wider street scene, the proposed mast would be a very prominent feature in local views and would dominate the surrounding area.
10. The proposal would therefore appear as an incongruous feature in a prominent position with limited screening. While the proposed mast would be coloured green, this would not overcome the identified harm resulting from the siting and scale of the mast. It would therefore detract from the prevailing character and appearance of the area.
11. 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.
12. The appellant advises that the cell search area is extremely constrained and the optimum solution from the perspective of cell planning and radio coverage has been put forward. Figure 4 of the appellant's Site Specific Supplementary Information (SSSI) indicates there is limited coverage in the areas around the appeal site and across a wider area to the south.
13. However, the outer limits of the cell search area are not clearly defined. The SSSI refers to the target search area being shown by a red outline illustrated within Figure 4, yet there is no red outline shown. The appellant's Appeal Statement describes the target search area as having a radius of approximately 100 metres, centred over the Little Heath Road area. However, this does not correspond with the yellow area outlined in Figure 1 of that document, which is centred over Pickford Lane / Orchard Close.

14. The SSSI shows the “nominal point”, which it is understood the equipment has to be located close to. However, this is located some distance to the south of the appeal site, on Orchard Close. The extent to which the proposed mast would be sited away from this marker, yet remains viable, suggests the equipment could be located within a much wider area.
15. The SSSI sets out a list of discounted options for a new base station, all of which are closer to the nominal point. I recognise these alternative sites may be subject to similar constraints as the appeal site, are close to residential properties or are in areas with insufficient pavement width. The reasons for discounting these alternatives, based on the limited information provided and my own observations, would therefore appear to be reasonable.
16. The appellant also contends that no mast/site sharing opportunities or existing buildings/structures have been identified, which could have provided a suitable alternative. Though interested parties have referred to an existing mast at the junction of Little Heath Road and The Pantiles, this is considerably further from the nominal point than the appeal site and in an area with good coverage. There is no compelling evidence before me to suggest any such sequentially preferable alternatives exist, and so I have no reason to conclude otherwise.
17. However, there remain locations within a similar distance to the nominal point as the appeal site, which may not be subject to the same constraints as the other sites considered, but do not appear to have been given any consideration. This could include, but is not limited to, land at the junction of Hudson Road and Sheldon Road, referred to in representations from interested parties. The lack of clarity on the extent of the search area therefore does not lead me to conclude that less harmful alternatives have been thoroughly considered, or that the appeal site is the only viable option.
18. I therefore conclude that the siting and appearance of the proposal would have a harmful effect on the character and appearance of the area. This harm is not outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.
19. The proposal would be contrary to Policies DP8 and DP11 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, is complimentary and does not cause undue harm to the character or appearance of the area.

Other Matters

20. The Framework acknowledges the benefits of early engagement and good quality pre-application discussion. The appellant advises that they sought pre-application advice from the Council prior to submission of the application. 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.
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. The appellant 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.
23. My attention has been brought to another appeal decision¹ 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. There are therefore material differences between this case and the appeal scheme. This does not therefore lead me to a difference conclusion on the main issue.

Conclusion

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

Ryan Cowley

INSPECTOR

¹ Appeal Ref: APP/A5840/W/20/3254830