



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: 2nd November 2023

Appeal Ref: APP/G5180/W/22/3302869

Hornbrook House Car Park, High Street, Chislehurst, London BR7 5AB

- 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 MBNL (EE Ltd & H3G UK Ltd) against the decision of the Council of the London Borough of Bromley.
 - The application Ref 22/00969/TELCOM, dated 4 March 2022, was refused by notice dated 25 April 2022.
 - The development proposed is: the installation of a 20m high monopole with 1No. wraparound cabinet, supporting 6No. antenna apertures & 2No. 600mm dishes; installation of 6No. cabinets; ancillary development thereto.
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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 provisions of the GPDO do not require regard be had to the development plan in this case. I have therefore had regard to the policies of the development plan and the National Planning Policy Framework ("the Framework") only in so far as they are material considerations relevant to matters of siting and appearance.
4. The Government published a revised Framework on 5 September 2023, replacing the previous version dating from July 2021. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the September 2023 version.

Main Issue

5. The main issues are the effect of the siting and appearance of the proposal upon the character and appearance of the Chislehurst Conservation Area, and whether any harm caused is outweighed by the need to site the installation in the proposed location taking into account any suitable alternatives.

Reasons

Character and appearance

6. The appeal relates to a car park on the west side of Chislehurst's High Street. At the western end of the site, a timber fence separates the public car park from the private parking forecourt of Hornbrook House, a part one-, part two-storey building in commercial use; beyond Hornbrook House to the west is a golf course. Housing on Kingsley Mews lies immediately to the north of the site, while to the south are the two four-storey blocks of flats making up Hollington Court, and a three-storey building at No 3 High Street¹ which is in a range of commercial and office uses. North of the appeal site the High Street is predominantly commercial in nature; on the east side of the High Street is an area of open space, including Prickend Pond, which forms part of Chislehurst Commons.
7. 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 benefits of the proposal (paragraph 202).
8. The CCA covers an extensive area, but the Council's 2001 *Supplementary Planning Guidance for Chislehurst Conservation Area* identifies the High Street area as "the functional town centre of Chislehurst", though it also emphasises that it "still exudes the sense of a village High Street, assisted by its proximity to open lands and the pond". 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 village-like character which parts of Chislehurst retain, and the way its growth around the woodlands and open grassed areas of the commons connects it to its rural past.
9. The proposed development is the installation of a 20m high monopole mast with a wraparound base cabinet; this would be sited towards close to the northern end of the timber fence separating the public car park from the private forecourt of Hornbrook House beyond. There would also be six additional equipment cabinets, which would be installed in a line to the south of the mast. The appeal statement confirmed that the equipment would be in a light grey (RAL 7035) finish².

¹ This building is also referred to as "3A-5 High Street" in the appellants' evidence.

² The *Site-Specific Supplementary Information* document provided with the application stated that the mast and cabinets would be painted green, although as it gave the RAL code for light grey (RAL 7035) it appears that this was an error.

10. I saw that there are a small number of existing lighting columns within the public car park; I have not been provided with detailed information about the height of those columns, but nothing I have seen suggests that they are close to the 20m height of the proposed monopole mast. The mature trees to the west of Hornbrook House would form the backdrop for medium to long range views of the mast (such as from the car park entrance, or from Heathfield Lane across the common). While this would partly alleviate the visual impact of the installation, the height and girth of the mast would nevertheless make it a prominent addition to the local skyline. In closer views, such as from dwellings on Kingsley Mews or from some flats within Hollington Court, the installation would be seen within the relatively open expanse of the public and private car parks, and in this setting it would be a harsh and intrusive feature.
11. The proposed grey colouring of the mast might go some way towards blending the mast with the sky on an overcast day (as was shown in the submitted photomontages) but would be unlikely to have a similar effect on a brighter day; it would also not disguise the mast's appearance in closer views such as from within the public car park or from the nearest flats and houses. The car park and nearby business uses give the appeal site's immediate surroundings a commercial, or at least semi-commercial, nature. However, the height and sheer starkness of the mast would both jar with the wider village-like character of the High Street, and intrude into the historic intervisibility between the commons and the surrounding built-up areas of Chislehurst.
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. Given the vast size of the CCA as a whole, I consider that the harm to it as a designated heritage asset would be, in the Framework's terms, less than substantial. 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.

Public benefits, 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 proposed development would provide network coverage for two mobile communications operators. The appeal site is not an established telecommunications site; it would be a new installation, although the appellants' evidence is clear that it is to replace a previous rooftop base station at No 3 High Street. The No 3 High Street site served both network operators but was decommissioned in May 2022 for reasons described as "beyond the operators' control" (although this is not further explained). The supporting information submitted with the application indicates that the proposed

development would fill the gap in the operators' network coverage caused by the loss of the previous base station; it would also support the roll out of 5G technology in accordance with aspirations in the Framework.

16. The appellants' evidence explains that the search area for a new mast is tightly constrained by the need to provide the replacement coverage for the previous base station at No 3 High Street, while also being sufficiently distant from other base stations serving the same operators so as not to cause network interference. It is also explained that the height and width of the mast would be the minimum to address operational requirements relating to the nature of the area.
17. I am satisfied that the appellants have 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 for a new base station is necessarily small. However, these are not considerations which mean that any proposed scheme is acceptable, and an appropriate balance must still be struck.
18. The appellants have outlined twelve alternate sites that were considered but discounted for a variety of reasons³, although little substantive detail was provided about these alternatives. Four rooftop sites (sites 6, 9, 11 and 12) were discounted as being physically or structurally unsuitable; site 11 is also on a locally-listed building. Two sites (sites 2 and 3) were discounted due to there being insufficient space for telecommunications equipment, and one (site 5) because of the presence of underground services in the vicinity. Notwithstanding the lack of further information, I nevertheless accept that the technical reasons summarised may well make these seven sites unsuitable.
19. The remaining five sites were discounted for planning, rather than technical, reasons. Sites 1 (Chislehurst Common) and 4 (Chislehurst Golf Course) were discounted on the grounds that the proposed car park site "is more commercial in nature" than those sites. While I was only able to view the entrance to the golf club from public land, I accept that both of these sites are relatively open spaces where a telecommunications mast would be likely to be more prominent, and intrusive, than at the appeal site.
20. Site 7 (Belmont Lane) was discounted as being directly overlooked by residential properties, and therefore the "more commercial" setting of the appeal site was preferred. This location was also described in the Site-Specific Supplementary Information as being outside a locally-listed building, although no further information was provided.
21. Two further car park sites were considered. Site 8 (car park opposite the Co-Op at White Horse Hill) was discounted because of "limited space for vehicular movement", because "an installation at this location could cause loss of residential parking which may lead to overspill parking onto the surrounding roads and potentially traffic disruption in the wider area", because an installation there would be "directly overlooked by residential properties", and

³ For clarity, I have referred here to the alternate sites using the numbers which they were given in the *Site-Specific Supplementary Information* document; they were presented in a different order (and not numbered) in the appeal statement.

because the appeal site is more commercial in nature. However, the car park provides short-stay rather than longer term parking, and there is nothing before me to demonstrate that the loss of one or two parking spaces (which seems a reasonable estimate of the impact of an installation similar to the appeal scheme) would lead to discernible disruption to traffic. I also saw that the nearest dwellings would mostly have oblique, rather than direct, views of that site.

22. Site 10 (High Street car park) was discounted as being “very exposed”. I saw that that car park is an open area between, and overlooked from, the rear of many houses on the surrounding streets. While I was not provided with further details of where within the car park the appellants had considered, the general setting behind surrounding buildings means that an installation at this site would be likely to be less exposed in some respects than the appeal site. An installation here would quite possibly have less visual impact on significant views from the Commons than would the appeal scheme.
23. The previous base station at No 3 High Street was within the CCA, and the appellants’ statement indicates that “the entire search area is constrained” to the conservation area. However, the alternative sites 7 and 8 are outside the boundary of the CCA and therefore, on the face of it, in less visually sensitive areas than the appeal proposal. The evidence which is before me is insufficient in detail to allow me to conclude that a location elsewhere, even in the constrained area necessary to fill the gap in the appellants’ networks caused by the loss of the previous base station, could not provide a less visually harmful alternative to the appeal site.

Other Matters

24. The appellants have drawn my attention to a number of other appeal decisions relating to proposals for telecommunications installations. I acknowledge the need to give due weight to the benefits of improved digital communications, as set out in the Winchester⁴ and Sheffield⁵ decisions to which I was directed. Neither of those appeals related to sites within a conservation area, however, and the question of *how* the overall balance should be struck is not necessarily comparable to this case.
25. I also acknowledge, quoting the Inspector in another Sheffield appeal decision to which my attention was drawn⁶, that “there is no requirement within the Framework or the GPDO for developers to select the best feasible siting where a site as proposed is considered to be acceptable”. In that case, as in an earlier appeal decision in Stafford to which the appellants also referred, the Inspector did not find that the siting or appearance of the installation would cause unacceptable harm to the character and appearance of the locality. The circumstances in both those cases differ from this appeal, where I have found harm to the CCA as described above.
26. Finally, the appellants drew my attention to three appeal decisions in which designated heritage assets were a relevant consideration; relating to sites in

⁴ PINS Ref: APP/L1765/W/18/3197522

⁵ PINS Ref: APP/J4423/W/21/3268791

⁶ PINS Ref: APP/J4423/W/17/3188962

Mendip⁷, in Harrow⁸, and in Hillingdon⁹. In the Mendip case the appeal site was close to, rather than within, a conservation area; I note also that the Inspector considered that the immediate context of the proposed mast included several tall items of street furniture including a row of lighting columns and some telegraph poles which would reduce its visual impact. In both the Harrow and Hillingdon cases, although the Inspectors found that there would be some harm to designated heritage assets, they were satisfied that there was an absence of suitable alternative sites in the vicinity. They concluded that the harm which would be caused would be outweighed by the need to site the telecommunications masts in the locations proposed. None of these three appeals is therefore directly analogous to the case now before me.

Planning Balance and Conclusion

27. The siting and appearance of the proposal would result in less than substantial harm to the character and appearance of the CCA. Balanced against this harm, there would be considerable public benefits in improving connectivity to mobile telecommunications networks, filling the network gaps created by the decommissioning of the nearby base station at No 3 High Street, and expanding 5G coverage in the area. However, it has not been clearly demonstrated that there are no other options for siting the installation that would achieve the same benefits but with less harm, or no harm, being caused to the designated heritage asset.
28. Consequently, while I give considerable weight to the public benefits of the proposal, 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.
29. For the reasons given above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector

⁷ PINS Ref: APP/Q3305/W/18/3206555

⁸ PINS Ref: APP/M5450/W/17/3180345

⁹ PINS Ref: APP/R5510/W/21/3269903