



Appeal Decision

Site visit made on 17 October 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/G5180/W/22/3310754

**Kimmeridge Road Streetworks, Kimmeridge Road, Elmstead, Bromley
SE9 4EA**

- 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/22/03378/TELCOM, dated 21 August 2022, was refused by notice dated 14 October 2022.
 - The development is proposed telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 15.0m Phase 9 slimline Monopole and associated ancillary works at Kimmeridge Road Streetworks, Kimmeridge Road, Elmstead, Bromley SE9 4EA in accordance with the terms of the application, Ref DC/22/03378/TELCOM, dated 21 August 2022 and the plans submitted with it, including: BMY12887_M003/C: 002: Site Location Plan; BMY12887_M003/C: 100 Existing Site Plan; BMY12887_M003/C: 150 Existing Elevation A; BMY12887_M003/C: 210 Proposed Site Plan; BMY12887_M003/C: 260 Proposed Elevation.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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 Council has referenced development plan policies in its decision notice. However, the principle of the development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework only insofar as they are a material consideration relevant to matters of siting and appearance.

4. The appellant's Statement of Case refers to a 18m high monopole. I have determined the appeal based on the proposal description set out on the planning application form and the proposed plans, which refer to a 15m high monopole.

Background and Main Issues

5. The Council has confirmed in their Statement of Case that the second reason for refusal relating to highway safety has been withdrawn. Consequently, the main issues are:
 - the effect of the siting and appearance of the proposed installation 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 proposal would be sited at the back edge of a wide footway, which is located to the front of a supermarket. Topographically, the supermarket lies on higher land than the highway. There is an access ramp and railings between the appeal site and supermarket frontage. To the front of the railings are several cabinets, a phone box, litter bin and a bench. There are also streetlights, bollards and recycling receptacles within the immediate vicinity. There is a telecommunication mast and cabinets on the footway adjacent to the side elevation of the supermarket.
7. Vertical features form part of the character of the area, including streetlights, a telecommunication mast and trees. Although the supermarket is a single storey building, it is a relatively high building, which lies in an elevated position above the footway. There is also a 3 storey terrace with accommodation in the roof opposite the appeal site. The proposed mast would be taller than the existing, nearby mast; however, the proposed mast would be sited on lower level land, set further back from the carriageway and would be slimmer in appearance. I acknowledge that the proposed mast would be higher than the adjacent buildings and nearby street furniture and there would be no vegetation or screening directly to the front of the proposed mast and cabinets. However, I do not find that the proposal would be unduly prominent or appear as an alien or incongruous feature in the street scene.
8. I am satisfied from my site visit that the scheme would not be on the site of the recently installed community fibre cabinets. The proposed mast and cabinets would continue the existing line of street furniture to the front of the railings. Given that the proposal would be sited at the back edge of the pavement, in line with the existing street furniture, it would not lead to undue visual clutter or result in a harmful loss of openness in the area.
9. While the colour of the proposed telecommunication installation is not specified, I noted a variety of colours of street furniture in the immediate vicinity, including grey, black, brown and green. The standard colours of such telecommunication infrastructure would not appear out of character in this location.

10. For the reasons given above, I conclude that the siting and appearance of the proposed installation would not be harmful to the character and appearance of the area.
11. Insofar as they are a material consideration, the proposal would accord with Policies 37 and 89 of the Bromley Local Plan January 2019, which among other things refer to general design standards and require that the design and siting of the telecommunication infrastructure minimises its visual impact.
12. Given that I have found no harm to the character and appearance of the area, it is not necessary for me to take account of any suitable alternatives.

Other Matters

13. 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.
14. The Council allege that the proposal would have a greater impact than some previously refused schemes in the area. Full details of the previously refused schemes are not before me and in any event, I am required to determine the appeal on its own merits.

Conditions

15. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

A James

INSPECTOR