



---

# Appeal Decision

Site visit made on 10 January 2024

**by B Pattison BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 January 2024**

---

**Appeal Ref: APP/G5180/W/23/3325138**

**Land at Sainsburys Chislehurst, Chislehurst Sainsburys Car Park,  
Chislehurst High Street, Chislehurst BR7 5AG**

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Cornerstone against the decision of the London Borough of Bromley.
  - The application DC/22/04480/TELCOM, dated 31 October 2022, was refused by notice dated 3 January 2023.
  - The development proposed is the proposed installation of 17.5m Orion pole (painted grey) supporting 6no antennas, 2 No dishes, addition of proposed York cabinet (painted fir green) (1900 x 660 x 1750mm high) and proposed Shire cabinet (painted fir green) (1050 x 660 x 1750mm high) together with ancillary development thereto.
- 

## 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 proposed installation of 17.5m Orion pole (painted grey) supporting 6no antennas, 2 No dishes, addition of proposed York cabinet (painted fir green) (1900 x 660 x 1750mm high) and proposed Shire cabinet (painted fir green) (1050 x 660 x 1750mm high) together with ancillary development thereto at Land at Sainsburys Chislehurst, Chislehurst Sainsburys Car Park, Chislehurst High Street, Chislehurst BR7 5AG in accordance with the application ref: Ref DC/22/04480/TELCOM, dated 31 October 2022, and the plans submitted with it including drawing numbers 100 Rev B (Site location plan), 101 Rev B (Lease drawing) and 200 Rev A (Existing site plan), 201 Rev C (Proposed site plan), 300 Rev A (Existing site elevation) and 301 Rev C (Proposed site elevation).

## 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 proposal 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies 37, 41 and 89 of the Bromley Local Plan (2019) are material

considerations as they relate to issues of siting and appearance. In particular, they expect proposals within conservation areas to preserve and enhance their characteristics and appearance and require development involving telecommunications masts to be sited to achieve operational efficiency, taking account of the existing and planned future networks and that there should be no significant adverse effect on the external appearance or the visual amenities of the area.

4. Similarly, the National Planning Policy Framework (2023) (the Framework) is also a material consideration and this includes a section on supporting high quality communications.
5. The Government published a revised Framework in December 2023, replacing the previous version dating from September 2023. 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 December 2023 version.

### **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposal upon the character or appearance of the street scene and Chislehurst Conservation Area (CCA) 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**

7. The appeal site is located on a landscaped area within a car park to the rear of a large supermarket building which fronts Chislehurst High Street. The car park is accessed from Willow Grove, from which public views into the car park are available. The site's other boundaries are marked by a brick wall which forms the boundary with the rear gardens of residential properties on Empress Drive and Furzefield Close.
8. I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which places a duty upon the decisionmaker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.
9. The CCA covers an extensive area, but the Council's Supplementary Planning Guidance for Chislehurst Conservation Area (2001) identifies the High Street area as the functional town centre of Chislehurst, which 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.
10. The supermarket, and the associated car park, is commercial in character. The car park is a large, busy, hard surfaced area which, at the time of my site visit, had frequent comings and goings. It contains a range of street furniture including lighting columns, street signs, advertisements and supermarket

trolley stores. The large footprint and mansard roof of the supermarket are at odds to the finer urban grain of the majority of buildings within this part of the CCA. Overall, due to the car park's functional appearance, which is marked by parked vehicles and various street furniture, I consider that the site and its immediate surrounds within the car park make a neutral contribution to the significance of the CA as a whole.

11. The proposed pole would occupy a prominent location from closer views within the car park. It would also be visible from Willow Grove at the entrance to the car park. Both of these locations are within the CCA. The top of the pole would be visible in long range views from in front of 77-88 Chislehurst High Street. However, due to the screening provided by buildings fronting the street it would not be visible in the vast majority of views from the High Street. Empress Drive and Furzefield Road to the rear of the car park are lined by two storey terraced and semi-detached properties which would significantly limit views of the pole from public vantage points, albeit the pole would be visible in private views from the rear windows and gardens of properties on these streets.
12. The pole's design is utilitarian by virtue of its form and scale. The submitted evidence confirms that its relationship with surrounding buildings governs the height of the mast sought. Further technical requirements dictate the dimensions of the external antennae which would be fixed to the proposed pole. As a result it would be thicker in girth and taller in height than the adjacent lighting columns and trees, and would have large, bulky antennae atop.
13. The large size and utilitarian appearance of the proposed pole would appear out of scale and overly prominent from views within the car park and from Willow Grove. The trees within the car park would offer some screening but not to sufficiently reduce the visual impact of the pole, given its size. The proposed grey colouring of the pole would not disguise its appearance in closer views from within the car park. The cabinets, given their limited scale, would not have a detrimental visual impact.
14. I therefore conclude that the siting and appearance of the development would have a moderately harmful visual effect on the street scene and would neither preserve nor enhance the character or appearance of the CCA. As such, the proposal would fail to meet the requirements of Section 72(1) of the Act
15. Paragraph 206 of the Framework advises that any harm to or loss of significance of a heritage asset requires clear and convincing justification, whilst paragraph 208 states that any harm that is less than substantial must be weighed against the public benefits of the proposal. Given the localised impact of the development, the harm it would cause to the significance of the CA is considered to be less than substantial. I must therefore consider the public benefits of the installation.
16. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. There is clear need for, and importance of, the rollout of the 5G network.

17. The proposal would upgrade the digital telecommunications network in the local coverage area by allowing for additional coverage and capacity, including the introduction of 5G technology to the area. This would contribute towards economic growth, social inclusion and well-being, with a key benefit for residents, businesses, students and visitors of the area being faster mobile download/upload speeds.
18. The main parties agree that the requirement for the pole and equipment within the immediate locality is clear. The appellant sets out that no mast or site sharing opportunities or appropriate existing buildings or structures were identified, in accordance with Paragraph 121 c) of the Framework.
19. The appellant has ruled out a large number of alternative sites within the designated search area, including sites which are located outside the CCA. The Council has not suggested any alternative sites. However, they argue that the appellant has not properly addressed the potential sites in the area as they state that the information provided to explain why each site has been discounted is limited.
20. A number of the discounted sites would clearly be in more prominent locations within the CCA and are therefore likely to have a greater impact on the character or appearance of the CCA. Furthermore, other sites have been discounted due to reasons such as their proximity to residential properties, insufficient pavement widths and poor levels of screening necessary to conceal the pole. From the submitted evidence before me, and my observations during my site visit, there is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered. Accordingly, I have no substantive evidence before me to suggest that there would be other more suitable sites within the target area. The lack of realistic alternative options to deliver improved coverage and capacity is therefore a consideration which weighs significantly in favour of the development.
21. In this case, I conclude that the siting and appearance of the proposed installation would lead to less than substantial harm to the significance of the CCA. However, this harm would be outweighed by the combination of material considerations, the lack of alternative sites and the significant public, economic and social benefits that would stem from the proposal. I conclude that the benefits resulting from the proposed development would outweigh the less than substantial harm to the significance of the CCA as a heritage asset.

### **Other Matters**

22. Having noted the location of the nearest dwellings, given the separation distance to the proposal, I do not consider that it would be harmful in this respect.
23. Concerns have been raised in relation to highway safety and future access to the car park. As the proposal would be installed within a landscaped area within the car park, I have no substantive evidence that it would be harmful to highway safety, nor would it affect public access. Similarly, as the cabinets would not be located within car parking spaces the proposal will not result in the loss of car parking spaces. The need for the development is addressed above, and the impact upon the natural environment and wildlife are not substantiated.

24. The Council refer to a recent appeal decision relating to a telecommunications monopole and apparatus within a car park elsewhere on Chislehurst High Street and within the CCA (APP/G5180/W/22/3302869). In that instance the proposal was taller at 20 metres in height and would be more prominent in longer views from within the CCA and, in particular, it would intrude into the historic intervisibility between the commons and the surrounding built-up areas of Chislehurst. For these reasons, that appeal is therefore not directly analogous to the case now before me.

#### *Health*

25. Concerns have been raised in relation to the proximity of the proposal to houses and the potential impact on the health of those nearby. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

#### **Conditions**

26. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.
27. There is no authority in this type of case to apply any further conditions beyond these deemed conditions for development by electronic telecommunications code operators as set out in the GPDO. I have therefore not imposed the Council's suggested condition which would require the details of materials and finishes of the proposal's external surfaces.

#### **Planning Balance and Conclusion**

28. Paragraph 118 of the Framework states that, amongst other things, planning decisions should support the expansion of electronic communications networks including next generation mobile technology, such as 5G. The proposal would provide benefits through the upgrade to digital telecommunications in this area, allowing for additional coverage and capacity, including 5G technology in the locality.
29. The wider benefits have effectively been recognised by the grant of planning permission under Article 3(1) of the GPDO. These factors weigh in favour of the proposal.
30. A balance should be struck between visual impact and the need for the proposal to be sited in the proposed location. The need for this installation

weighs in favour of the appeal as do the benefits of improved connectivity. In these circumstances, the need for the telecommunications development and the absence of any suitable alternative, outweighs the less than substantial harm to the significance of the CCA as a heritage asset.

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

*B Pattison*

INSPECTOR