



Appeal Decision

Site visit made on 5 December 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/D5120/W/23/3320573

Land associated with 18 to 68 York Avenue, Sidcup DA15 7LH

- 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 Bexley.
 - The application Ref 22/02433/GPDO8, dated 28 September 2022, was refused by notice dated 21 November 2022.
 - The development proposed is the installation of a 16m high Phase 7.2 monopole with 1no. wraparound cabinet at its base to support 3no. antenna apertures and 2no. 300mm diameter transmission dishes along with 6no. equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. 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 (hereafter "the GPDO") permit certain categories of development, including the installation of electronic communications apparatus and ancillary equipment. This is subject to restrictions, limitations, conditions and "prior approval" requirements set out in Paragraphs A.1., A.2. and A.3. of the GPDO.
3. The GPDO does not require regard be had to the development plan in this case. I have had regard to the policies of the development plan only in so far as they are material considerations relevant to matters of siting and appearance. The National Planning Policy Framework ("the Framework") is also a material consideration. A new Bexley Local Plan ("the BLP") was adopted on 26 April 2023, replacing the 2012 Bexley Core Strategy ("the BCS") and saved policies of the 2004 Bexley Unitary Development Plan ("the UDP") which had been referred to in the decision notice. Where necessary in my reasons I have therefore referred to their replacement policies in the BLP.
4. The Government published a revised Framework on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The changes did not have a bearing on the main issues in this appeal, and it was not necessary to seek further comments from the main parties. Where I have referred to specific paragraphs of the Framework, the numbering is from the December 2023 version.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area and, if any harm would be caused, whether this would be outweighed by the need to site the installation in the proposed location.

Reasons

Character and appearance

6. The appeal site is an area of grass verge on the north-western side of a private access road to two care homes, close to its junction with York Avenue and Harland Avenue. The two streets are characterised by large semi-detached houses reflecting the pleasant suburban residential nature of the surrounding area. To the west is the open space of Harland Avenue allotment site, while across a railway line to the north of the appeal site is the public open space of Old Farm Park. North and east of the park is another extensive area of housing. The appeal site is not exceptional, but its verdant state and openness make a positive contribution to the character and appearance of the area.
7. The proposed development is the installation of a 16m high monopole communications mast with a wraparound base cabinet, along with six further equipment cabinets. These would be installed on an open area of the grass verge alongside the private access road. The suburban nature of the area means that street furniture is not uncommon; as might be expected there are lighting columns, telegraph poles, and road signs close to the appeal site. At the same time, the submitted drawings show that the proposed mast would be approximately twice as tall as the nearest lighting columns; notwithstanding that it is described as "slimline", it would also be considerably broader. The height of the mast and its utilitarian appearance would make it a bulky and intrusive addition to the local streetscene.
8. I note the photomontages of the proposed installation submitted by the appellant, which demonstrate that buildings and mature trees would partially obscure at least *some* views of the mast in the surrounding area. However, they represent a very limited selection of viewpoints, and I saw during my site visit that one would not have to move far from them for the mast to quickly become a prominent feature in short or medium-range views.
9. The large mature trees north-east of the site would provide screening from the two care homes and Old Farm Place across the railway. From the residential area to the south, the mast would be very apparent given the openness of the area around the junction of York Avenue and Harland Avenue, where there are few trees or buildings to provide significant screening. Land levels fall away gently from the appeal site to the west, and to the north-west towards and across the railway line; the topography would mean that the mast would be prominent and conspicuous when seen from the open spaces of the allotments and, through wide gaps between areas of tree planting, from parts of Old Farm Park. Given the appeal site's openness and its relatively exposed position, the proposed mast would be a stark and intrusive feature in much of the surrounding area, and would detract from its pleasant suburban setting.
10. I conclude that the siting and appearance of the proposed installation would cause significant harm to the character and appearance of the area. Insofar as

development policies are material considerations, in that they seek to ensure that all development is of high-quality design which contributes positively to the local environment, and that telecommunications installations are sited and designed to minimise their visual impact such that they do not cause undue harm to the character or appearance of the area, the proposal would conflict with Policies SP1, SP5, SP8, DP8 and DP11 of the BLP¹.

Alternatives and other considerations

11. The Framework supports the provision of high quality and reliable communications which it states are essential for economic growth and social well-being. Paragraph 118 states that planning policies and decisions should support the expansion of the electronic communications network, including next generation mobile technology such as 5G.
12. The proposed installation would serve two network operators. The supporting information submitted with the application indicates that the proposed development would fill a substantial "hole" in the operators' networks caused by the decommissioning of an existing site on top of Marlowe House half a mile or so east of the appeal site. The appellant's evidence explains that none of the "sequentially preferable" options set out in the Framework is available, and that the search area for a new mast is constrained by the need to provide the necessary replacement coverage, and to be able to connect to other base stations within the same networks.
13. I am satisfied that the appellant has demonstrated that there is an identified need for the proposed development to be located somewhere within the search area. I also acknowledge that telecommunications installations are now a common feature of the built environment, even in leafy and pleasant suburbia. However, this is not a consideration which means that any such scheme is acceptable, and an appropriate balance must be struck.
14. The appellant outlined alternative sites that were considered but discounted for a variety of reasons, though based on the information put before me it seems that most lie well to the east of the target area. Of 11 sites summarised in the Site-Specific Supplementary Information document which accompanied the planning application, nine were discounted on the basis that their location meant that they would not be technically capable of providing the required replacement coverage. A tenth site was discounted as being "on the wrong side of the railway line", though the significance of this is not clear from the information provided, especially as most of the "search area" lies on the other side of the railway line from the appeal site.
15. Most of those first ten sites considered were also discounted for other reasons, such as their lying within the Green Belt or Metropolitan Open Land. However, although such designations can bring a considerable degree of protection in planning terms, the limited information provided does not clearly demonstrate that the appeal site would be more suitable than the alternatives. An eleventh site, an existing telecommunications site at Wellington Avenue, was described as not being suitable for sharing, though that that site is well to the north-east of the search area identified in the appeal statement.

¹ These replaced Policies CS01 and CS17 of the BCS, and Policies ENV19, ENV39 and ENV45 of the UDP.

16. I note that the Council did not put forward alternatives which it considered might be preferable to the appeal site, and in determining this appeal I have not attempted to appraise other sites which had not been considered by either main party. I acknowledge the apparent difficulty in identifying alternative locations in the target area, but the evidence before me does not explain why the mast would need to be sited on such an exposed part of the grass verge as proposed. If nothing else, based on what I saw on my site visit it may well be that a different siting within the same area of grass verge could be found where the mature trees alongside the access road and the railway would provide far greater screening and thereby result in a less harmful development. Assessing any alternative scheme would of course be a matter for a future decision maker.
17. I recognise that options for siting the development are limited by technical and operational constraints; not least that telecommunications masts must be tall enough to ensure that they provide suitable coverage locally and can connect to other nearby base stations. It is also almost inevitable that a mast within a residential area will be visually intrusive to some extent or other. However, the selected site is open and exposed on its north-western and south-western sides; as I have described above, the siting of the proposed mast would make it particularly harmful when viewed from the surrounding open spaces, and from the area around the junction of York Avenue and Harland Avenue. On the balance of the evidence which has been put before me, I am not satisfied that all reasonable alternatives which may be less harmful than the appeal site have been considered.

Other Matters

18. The appeal site has been the subject of earlier refused applications for prior approval for telecommunications masts; an 8.5m mast was proposed in 2005², and in 2020 a proposal for a 20m monopole³ was followed one for a 19m monopole⁴. The 2005 scheme and the second (19m) 2020 proposal were the subject of appeals, both of which were dismissed, though I was not provided with the first of those appeal decisions. I acknowledge that the mast now proposed would be 3m shorter than that considered by my colleague in the more recent appeal⁵, but while the appellant consider that the earlier concerns have been addressed, for the reasons which I have set out above I find that the siting and appearance of the proposal would have a significant detrimental effect on the character and appearance of the area.
19. The appellant referred 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 Winchester⁶ and Sheffield⁷ decisions to which I was directed. I also acknowledge, quoting the Inspector in another Sheffield appeal decision to which my attention was drawn⁸, 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 the Inspector

² LPA Ref: 05/02229/GPD08

³ LPA Ref: 20/01633/GPD08

⁴ LPA Ref: 20/02850/GPD08

⁵ PINS Ref: APP/D5120/W/21/3276654

⁶ PINS Ref: APP/L1765/W/18/3197522

⁷ PINS Ref: APP/J4423/W/21/3268791

⁸ PINS Ref: APP/J4423/W/17/3188962

did not find that the siting or appearance of the installation would cause unacceptable harm to the character and appearance of the locality, while I have here. While I have had regard to those and other telecommunications schemes to which my attention was drawn (whether allowed by decision of the local planning authority or at appeal), it is not clear that their visual impact, or the harm arising from them, would be directly comparable to the appeal proposal, and they have not altered my conclusion.

Conclusion

20. I acknowledge that the proposed development is necessary to maintain and expand mobile communications (including 5G) coverage in the area, and I attach significant weight to the economic and social benefits provided by improved communications infrastructure. However, I find that the need to site the installation in the proposed location, and other benefits which would result from the proposal, would be outweighed by the significant harm that the siting of the mast would cause to the character and appearance of the area.
21. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector