



Appeal Decision

Site visit made on 31 May 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Appeal Ref: APP/C5690/W/23/3334595

Land at St Mildreds Road, Lewisham

(Grid Ref Easting: 539523; Grid Ref Northing: 173729)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 GPDO).
 - The appeal is made by Cornerstone against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/23/131150.
 - The development proposed is the installation of a 17.5m monopole comprising 6 no antennas and 2 no dishes together with the addition of 2 no cabinets together with ancillary development thereto.
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Decision

1. The appeal is allowed and prior 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 installation of a 17.5m monopole comprising 6 no antennas and 2 no dishes together with the addition of 2 no cabinets together with ancillary development thereto at Land at St Mildreds Road, Lewisham in accordance with the application DC/23/131150 and the details submitted with it including plan Nos 100 Rev A (Site Location Maps), 201 Rev B (Proposed Site Plan) and 301 Rev C (Proposed North Site Elevation).

Preliminary Matter

2. Because this is an application for prior approval the provisions of the GPDO 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. This appeal will be determined on the same basis.

Main Issues

3. The main issues are:
 - The effect of the siting and appearance of the proposed installation on the character and appearance of the area and the living conditions of nearby residents (including 98 St Mildreds Road) in respect of outlook; and
 - If any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Siting and Appearance

4. The appeal site would be located within the pavement adjacent to St Mildreds Road, which is one of the main roads leading through this area. Due to the location and height of the proposed pole and antennas, the appeal proposal would be a prominent feature within the streetscape. The proposed cabinets would also add clutter.
5. However, the proposal would be viewed within the context of nearby advertisement hoardings as well as a railway bridge and embankment. There are also a number of vertical features in the immediate area, including streetlights, traffic signals and signage. Trees would also provide a degree of screening in views along the streetscape, although this would be reduced when the trees are not in leaf. The cabinets would also be viewed against fencing on an adjacent area of scrubland and would reflect the height of this boundary treatment.
6. The proposed pole and antennas would project significantly above nearby features, and the cabinets would also be visible within the pavement. But given the variety of utilitarian and prominent features in this area, as well as the degree of screening, the harm to the character and appearance of the streetscape would only be of a limited degree.
7. The proposal would be visible from dwellings in the vicinity, including No 98 adjacent to the site and those across St Mildreds Road, particularly due to the projection above background features. However, the appeal site is offset from the frontage of No 98 which would mitigate the proposal's prominence in views from that dwelling. The appeal site is also separated from the front elevations of dwellings opposite and the proposal would be viewed across a busy highway. Due to matters including the arrangement, separation distance and context of the appeal proposal, I consider that the harm to the outlook from dwellings in the area would be no more than limited.
8. I conclude that the siting and appearance of the installation would result in some harm to the character and appearance of the area and the outlook from nearby dwellings, albeit the level of harm would be limited. In making this assessment I have had regard to mitigating factors including the context established by other features in the area, screening, and the relationship with dwellings.
9. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, due to the limited harm arising from the siting and appearance of the proposal, it would be contrary to Policy 15 of the Core Strategy 2011 and Policies 30 and 35 of the Development Management Local Plan 2014 (the DMLP) which together seek to ensure that development in the public realm is sensitive to local context and responds to local character.
10. Reference has been made to a reduction in the height of the proposal compared to a previous scheme, and in that respect the proposal would comply with Policy 39 of the DMLP which encourages a design that minimises the size of telecommunications apparatus.

11. The National Planning Policy Framework (the Framework) is also a material consideration and this includes a section on supporting high quality communications. Notwithstanding the limited nature of the harm I have identified, the proposal would be contrary to the Framework which advises that electronic communications equipment on new sites should be sympathetically designed and camouflaged where appropriate.

Alternative Sites

12. The appellant has identified this area as having long standing poor mobile connectivity and refers to a need for partial replacement of 3G and 4G coverage as well as new 5G coverage and capacity. This has been supported by coverage plots showing signal strength across the area. Detailed evidence has been provided which identifies the cell search area and a number of alternative sites that were considered and discounted, including existing sites, buildings and structures and ground based installations. This reflects the sequential procedure as set out in paragraph 121 of the Framework.
13. The appellant has provided clear and detailed reasons why each of the alternative identified sites were discounted. The Council has not sought to challenge these reasons as such or suggest alternative sites. Instead, it contends that the assessment largely discounted each of these sites due to operational requirements, rather than considering their impact on public or neighbouring amenity. However, the Council's approach on this matter is flawed. Whilst there may be sites which are better sited in respect of character and appearance as well as amenity considerations, there is little point in assessing those sites if they do not meet operational requirements to support high quality communications. On the basis of the evidence before me, the appellant's site selection process is robust and the Council has provided no substantive evidence to demonstrate otherwise.
14. Based on what I have seen and read, I am satisfied that there are no other mast site sharing opportunities, suitable buildings or other structures within the required cell area that would be capable of, or more appropriate for, accommodating the proposed installation. The lack of alternative options to deliver improved coverage and capacity within the required area is a consideration which weighs strongly in favour of the appeal.
15. As stated previously, there is no requirement to have regard to the development plan. Nevertheless, the proposal would comply with Policy 39 of the DMLP regarding evidence that the possibility of erecting antennae on an existing building, structure or mast site has been explored.
16. The proposal would also comply with the Framework in respect of the consideration of alternative sites, including the possibility of erecting antennas on an existing building, mast or other structure.

Conditions

17. The GPDO 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

18. The siting and appearance of the proposal would result in limited harm to the character and appearance of the area and the living conditions of residents. However, in the absence of a more suitable alternative site within the required area and the need for the installation, that harm would be outweighed by the benefits provided by the improved telecommunications coverage and capacity. The proposal would therefore comply with the Framework when read as a whole with due regard to supporting high quality communications.
19. I therefore conclude that the appeal should be allowed and that prior approval should be granted.

David Cross

INSPECTOR