

Appeal Decision

Site visit made on 7 March 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 April 2016

Appeal Ref: **APP/G5180/W/15/3135520**

Land at **Foxgrove Road, Beckenham, Kent BR3 5BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by CTIL, Telefonica UK and Vodafone Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/01992/TELECOM, dated 5 May 2015, was refused by notice dated 25 June 2015.
 - The development proposed is installation of 12.5m Hutchinson Engineering Dual Stack T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development.
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Preliminary Matters

1. The development and location as described in the letter of application are set out above. The Council on the decision notice describes the proposal as installation of 12.5m high telecommunications mast and installation of 4 no associated cabinets at ground level on land outside 56E and 56F Foxgrove Road.
2. In the Appeal Statement the appellants refer to amended plans showing the number of cabinets reduced to one. No such plans were submitted with the appeal. Elsewhere the Appeal Statement suggests the number of cabinets could be reduced to two. In the absence of clarity I have considered the appeal on the basis of the original application which proposes four cabinets.

Decision

3. The appeal is dismissed.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area and whether any identified harm would be outweighed by the need for the installation in the location proposed.

Reasons

5. The appeal site is located in a predominantly residential area with a mix of sizes, styles and heights of buildings. Plots are generous with buildings set back. There are mature trees and shrubs in gardens and trees in highway land giving a spacious and verdant character to the area particularly when all the deciduous trees are in leaf. There are street lights, pedestrian refuges and other highway fixtures and fittings along Foxgrove Road.
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6. The proposed mast and cabinets would be positioned on a short stretch of grass verge which adjoins the highway and which is separated from the boundary of residential properties by a pedestrian footway. Foxgrove Road rises up from Westgate Road and the appeal site is near the crown of the hill in a position that would be prominent from both directions.
7. The proposed design would be of simple form imitating the appearance of a telegraph pole. At 12.5m in height, it would be appreciably higher than the street lighting columns, which are shown as about 6m high on the plans, and than the nearest trees, which are depicted as about 7m high, although there are other taller trees further away. The plans show the proposed mast would also have a significantly greater diameter which would set it apart from other columns in the area. Due to its height and bulk and despite the nearby trees the mast would be prominent; over dominant; and visually intrusive in the street scene. This would be particularly so at times when nearby trees are not in leaf when the visual impact of the proposal would not be sufficiently minimised by tree screening.
8. Whilst I acknowledge that signals may be obstructed by tree canopies I have seen no evidence that this particular mast would need to be as high as proposed in this particular location. Moreover, the proposal would not replace any existing equipment in the vicinity such as lamp posts.
9. The proposed cabinets would be of different shapes and sizes and, together with the existing cabinet and lamp post, would create a disparate line of clutter to the further detriment of the character and appearance of the street. Moreover the positioning of one cabinet directly in front of the pedestrian access to the maisonettes at No 56 and another so close to the vehicular access to No 56 means these cabinets would be particularly intrusive and would not amount to good design as envisaged by the National Planning Policy Framework (the Framework) and would be detrimental to the visual amenity of local residents.
10. As set out above I conclude that the proposed mast and cabinets would adversely affect the character and appearance of the area with insufficient screening to minimise the visual impact. Consequently the proposal would conflict with those aspects of Policy BE22 of the London Borough of Bromley Unitary Development Plan (UDP) that require proposals for telecommunications masts or apparatus to demonstrate that the character and appearance of the area and the visual and residential amenity of occupiers of neighbouring properties would not be adversely affected and that the visual impact of the development would be adequately minimised by tree screening or other landscaping. It would also conflict with that part of Policy BE1 of the UDP and those principles of the Framework that require a high standard of design that does not detract from the street scene. A different colour finish would not lead me to any different conclusion.
11. The harm to the character and appearance of the area needs to be weighed against the need for the installation in the location proposed. The evidence indicates that the development is necessary to provide enhanced network services in the area for customers of two providers. These important benefits are in line with the Framework, which recognises that advanced high quality communications infrastructure is essential for economic growth, and with Policy

- 4.11 of the London Plan which encourages a connected economy. I attach significant weight to these benefits.
12. I acknowledge that the sharing of the proposed mast between Telefonica and Vodafone is an approach which is generally encouraged by the Framework as it would reduce potential demand for a further mast in the area. However, in this case, the benefit of mast sharing is not outweighed by the visual harm caused by the scale of the mast and the size, number and positions of the associated cabinets.
 13. The appellants have considered 15 other sites but conclude these are not suitable alternatives and that there are no sequentially preferable sites. Limited details are provided. As described by the appellants six of these relate to existing buildings which are considered too low or where occupiers would find the proposals too intrusive; five appear to be road side locations and are discounted due to lack of response from the Site Provider although the extent to which these have been pursued is not clear. The remaining four are stated as having nearby trees that are too high or the site would be too exposed and/or would be outside the search area. Given the limited nature of the information before me, I am not satisfied that the appellants have robustly explored all less harmful options for the provision of a more environmentally acceptable solution so I afford the lack of an identified alternative limited weight in favour of the scheme.
 14. The proposed site is too far from the Downs Hill Conservation Area to have any significant effect upon it.
 15. Third parties have raised concerns about the health risks associated with this type of installation particularly as there is a school on Westgate Road and Foxgrove Road is the route taken to Ravensbourne Station. However, the appellants have confirmed that the proposal would comply with the International Commission on Non-Ionizing Radiation Protection guidelines and so, in accordance with the Framework, such concerns cannot be given weight in the context of this appeal. Concerns have also been raised about highway safety. However, the Council's Highway Engineer has raised no objections on highway safety grounds and in the absence of substantial evidence to the contrary I see no reason to disagree.
 16. I am aware of the history of a refusal of a lower mast on the site and I am told that the Council has recently refused a scheme with a revised design. This has not led me to any different overall conclusion regarding the appeal proposal before me.

Overall Conclusion

17. I have found that the proposed installation would result in material harm to the character and appearance of the area and would conflict with Policies in the UDP and those principles of the Framework that require good design. I give this significant weight. The proposal would assist in providing good quality communications infrastructure and would satisfy those principles of the Framework and the London Plan that recognise this is essential for economic growth and I attach significant weight to these benefits.
18. It is necessary to balance the harm against the benefits. In this case, I conclude that the need for the development in the manner and location

proposed and the limited evidence there is that there is no more acceptable alternative solution together do not outweigh the harm that I have identified above. For the reasons set out and taking into account all relevant matters raised I conclude that the appeal should be dismissed.

SDHarley

INSPECTOR