

Appeal Decision

Site visit made on 7 September 2016

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/G5180/W/16/3151516

Land within the footpath, Hayes Lane, Beckenham, BR2 0NS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CTIL, Vodafone Ltd and Telefonica UK Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00300/TELCOM, dated 20 January 2016, was refused by notice dated 3 March 2016.
 - The development proposed is installation of a 12.5m Hutchinson Engineering T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development.
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Preliminary matter

1. The Appeal application indicates that the proposed replica telegraph pole and cabinet would be painted green. The Appellants have suggested and the Council has agreed that the proposed equipment would blend in more readily with the street scene if painted light grey. However, the Council disagree and so this Appeal has been determined on the basis that the colour of the proposed apparatus would be green, as outlined in the Appeal application.

Decision

2. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of installation of a 12.5m Hutchinson Engineering T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development at land within the footpath, Hayes Lane, Beckenham, BR2 0NS in accordance with the terms of the application Ref DC/16/00300/TELCOM, dated 20 January 2016, and the plans submitted with it.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

4. The Appeal site is located in an established residential area, which is characterised by detached dwellings with good sized gardens. The soft planting
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within the gardens, together with the grass verges and trees both within the verges and the gardens all contribute to the spacious suburban character and appearance of the area, which is within the Park Langley Area of Residential Character (PLARC).

5. Policy BE22 of the UDP relates specifically to telecommunications equipment and amongst other things seeks to ensure that such equipment does not adversely affect the character and appearance of the area. It encourages minimising the visual impact of such developments through screening by trees or other landscaping. The supporting text to this policy encourages mast sharing and advises that policy BE22 is intended to secure a balance between the expansion of telecommunications and minimising the impact on the environment. Amongst other things section 7 of the National Planning Policy Framework (NPPF) seeks to ensure that new development functions well and adds to the overall quality of the area.
6. The proposed equipment comprises a 12.5m high replica telegraph pole with a diameter of approximately 0.35m. The proposed single cabinet would be 1.6 metres high, 1.85 m wide and 0.75, deep. Both pieces of equipment would be sited along the back edge of the pavement, on the west side of Hayes Lane and a short distance to the northwest of the junction of Hayes Lane with Braebourne Rise and Romanhurst Gardens. It would be set back against the tall side boundary fence at 2 Braebourne Rise (No.2), along a stretch of Hayes Lane that rises to the north.
7. The proposed pole would be materially taller than the street lights and the dwellings in the area. However its lower section would be screened in views along Hayes Lane by the mature boundary hedges fronting Hayes Lane, a short distance to the north and south of the proposed equipment. Where it could be seen in views from the south it would be seen against the backcloth of mature trees and street lighting. This includes from the bus stop and pedestrian crossing point located a short distance to the southeast of the Appeal site. From the north the proposed pole would be seen in the foreground to the road junction, a tall street light and a bus stop.
8. From Braebourne Rise and Romanhurst Gardens the proposed equipment would be largely screened by existing dwellings and the mature planting and trees within gardens. From the entrance to Hengist Way and the east side of Hayes Lane in the immediate area the proposed pole would be fully visible. However, it would be seen against the backcloth of the adjacent garage and fence and in the context of the street furniture around the road junction to the south. At the same time the trees and hedges within the immediate area would continue to dominate the street scene.
9. Overall due to its siting and design the proposed replica telegraph pole and associated cabinet would not appear dominant or unduly prominent within the street scene. The existing dwellings, trees, hedges and street lights would remain the dominant features within the street scene, even during the winter months. As such, the level of harm resulting from the presence and utilitarian appearance of the proposed equipment would be very limited. Whilst the proposed apparatus would detract slightly from the appearance of the immediate street scene, it would not adversely affect the character and appearance of the surrounding area, or the PLARC. At the same time by

improving mobile electronic communications services would add to the overall quality of the area.

10. However, whilst very limited, it is acknowledged that any visual harm would be contrary to the design and appearance objectives of policy BE1 of the London Borough of Bromley Unitary Development Plan 2006 (UDP). Amongst other things it states that development should be attractive to look at and should not detract from the existing street scene.
11. The closest dwelling to the proposed pole would be No.2. The lower part of the pole would be screened from the rear windows and garden of that property by the boundary fence and hedge and by the large detached garage within the rear garden of that property. At the same time the pole would be located to the northeast of the dwelling and so would not dominate or be visually overbearing in the outlook from the rear facing rooms of the dwelling at No.2.
12. The proposed equipment would similarly be visible from other nearby dwellings and rear gardens, although the distances would be greater and at more oblique angles. It would not be visually overbearing or otherwise have a materially adverse impact on the outlook from these dwellings.
13. Some concern has been expressed about the potential health effects of the installation. These concerns are a material consideration but the Appellants have confirmed 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 NPPF advises that health safeguards are not something for decision-makers to determine. No evidence has been adduced of sufficient authority to justify setting aside this advice.
14. Notwithstanding this, the modest level of harm to the appearance of the immediate street scene that would be caused by the proposal needs to be weighed against the benefits that would result from the scheme.
15. As stated in the NPPF and The London Plan 2016, the development of high speed broadband technology and other communications networks play a vital role in enhancing the provision of local community facilities and services. The delivery of an ICT network to ensure suitable and adequate network coverage across London, including well designed and located street based apparatus, should be facilitated.
16. Whilst the proposal does not involve the use or replacement of an existing mast or other structure the equipment would be shared by two telecommunications operators. The proposal would likely bring about significant improvements in telecommunications signal coverage in the area, which would benefit the local community as a whole, both socially and economically. It could also potentially result in environmental benefits by increasing the ability for residents to work from home, thus reducing the need to travel.
17. For these reasons, the significant benefits that would result from the scheme would clearly outweigh the small amount of harm that would be caused to the character and appearance of the immediate street scene. Whilst a lower pole would have slightly less impact on the character and appearance of the street scene, the Appellants have confirmed that the proposed pole is the minimum

height necessary to achieve the improvements to the mobile phone network coverage sought. This reasonably reflects the topography and the considerable number of trees in the area.

18. The Appellants have provided details of eight alternative sites that were considered and have outlined the reasons why they were rejected. Also, two proposals for telecommunications poles and cabinets were refused within the past six years on the opposite side of Hayes Lane to the Appeal site. With both schemes the equipment would have been located in more prominent positions within the grass verge and one of the schemes included a 25m high monopole and four cabinets.
19. In view of the limited effect that the proposed development would have on the appearance of the immediate street scene and the living conditions of local residents, there is no need for the search for an alternative site to be extended.
20. Consideration has been given to the concerns raised in relation to the possible impact of the proposed equipment on two nearby trees. The proposed equipment would be located within an area that is already hard surfaced and is adjacent to a detached garage. The equipment would also be sited at least nine metres from the trunk of the closest tree. As a consequence the installation of the proposed equipment should not impact on the immediate or longer term health of any trees in the locality.
21. In relation to precedent, each proposal needs to be assessed on its individual merits and in light of the prevailing planning policies. The Appellants and the Council have referred to various planning decisions in the immediate locality and elsewhere relating to telecommunications apparatus. However, they have not set a precedent or influenced the individual assessment of the current Appeal scheme, as their circumstances are not identical to the Appeal scheme.
22. Finally, the concerns expressed by the Appellants regarding the handling of the Appeal application and the approach towards telecommunications proposals by the Council are noted. However, they are not material to the consideration of the planning merits of the Appeal scheme.
23. I conclude that the proposed scheme would not have an adverse impact on the character and appearance of the surrounding area. It complies with the objectives and criteria set out in policy BS22 of the UDP, as well as the policies and guidance relating to telecommunications equipment as set out in the London Plan 2016 and the NPPF. This clearly outweighs the modest level of harm to the appearance of the immediate street scene and the associated conflict with policy BE1 of the UDP.

Elizabeth Lawrence

INSPECTOR