

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/16/3152154

Land in highway verge, St Pauls Wood Hill, Orpington, BR5 2TH.

- 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/15/05644/TELCOM, dated 21 December 2015, was refused by notice dated 11 March 2016.
 - The development proposed is installation of a 10.0m T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development.
-

Decision

1. 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 10.0m T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development at land in highway verge, St Pauls Wood Hill, Orpington, BR5 2TH in accordance with the terms of the application Ref DC/15/05644/TELCOM, dated 21 December 2015 and the plans submitted with it.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area and the living conditions of local residents.

Reasons

3. The Appeal site is located in a suburban residential area, which is primarily characterised by semi-detached dwellings occupying generous sized plots. The wide streets with their tree lined grass verges and open grassed areas (open greens) contribute to the green and spacious character and appearance of the area.
 4. In relation to telecommunications equipment policy BE22 of the London Borough of Bromley Unitary Development Plan (UDP) states that new apparatus should not adversely affect the character and appearance of the area. It advises that the visual impact of such development can be minimised through screening by trees or other landscaping. The supporting text to this policy encourages mast sharing and advises that policy BE22 aims to secure a
-

balance between the expansion of telecommunications and minimising the impact on the environment.

5. The proposed apparatus includes a 10 metre high slimline replica telegraph pole and a single cabinet which would be approximately 1.6 metres in height and 1.9 metres wide. It would be located within a wide grass verge between the highway and the pavement, between a row of trees and a short distance from a pedestrian crossing point in St Pauls Wood Hill. On the opposite side of the pavement is a large open green and on the opposite side of St Pauls Hill Road is another wide verge, with a pavement and dwellings beyond. These dwellings are set back from the highway behind good sized front gardens.
6. The proposed pole would not be materially taller than the nearby street lights and telegraph poles and would be partially screened by the trees along the verge. It would not intrude into the open green to the north and would be in an area where there is a concentration of street furniture and road markings. At the same time it would be located on land which falls to the northeast.
7. As a result of these factors the proposed equipment would be partially screened and would appear modest in form and appearance in views from the southwest and northeast along St Pauls Wood Hill. The proposed apparatus would also be partially screened from the dwellings to the north and southeast by existing trees and where it could be seen it would be at a distance and within a cluster of street furniture. Bearing in mind the pole would be slimline, just 10 metres high and located more than 30 metres from the closest dwelling, it would not be particularly noticeable or otherwise have an overbearing impact on the outlook from nearby dwellings.
8. The proposed equipment would be most visible from the adjacent open green, the pedestrian crossing point in St Pauls Wood Hill and the pavement in the immediate vicinity. From these places the pole and equipment would be openly visible, where due to its utilitarian appearance it would detract from and thus harm the verdant appearance of the verge and the open green.
9. Whilst this harm would be limited, it would be contrary to policy BE22 of the UDP and the design advice set out in the National Planning Policy Framework (NPPF). It would also conflict with policy BE1 of the UDP which states that development should not detract from the existing street scene. Accordingly, this harm needs to be balanced against the benefits that would result from the scheme.
10. Both the NPPF and The London Plan 2016, state that the development of high speed broadband technology and other communications networks plays a vital role in enhancing the provision of local community facilities and services. In addition, that the delivery of an ICT network to provide suitable and adequate network coverage across London, including well designed and located street-based apparatus should be facilitated.
11. The Appellants have submitted evidence to demonstrate that the proposed apparatus would significantly enhance low and high band 2G, 3G and 4G signal coverage in the area. Also, that currently cell search areas for 3G and 4G are extremely constrained with a typical cell radius of 250m. This means that it would not be possible to site the apparatus outside the local area. The proposed enhance signal coverage in the area would benefit the local

community as a whole, both socially and economically and would thus add to the quality of the area. Potentially it could also result in environmental benefits by enabling residents to work from home and so reduce the need to travel.

12. Whilst the proposal does not involve the use or replacement of an existing mast or telephone pole, etc, the equipment would be shared by two telecommunications operators. The Appellants have confirmed that the existing mast located adjacent to the junction of St Pauls Wood Hill and Beddington Road cannot be redeveloped to accommodate CTIL. At the time of the Appeal site visit no other existing poles were evident in the vicinity of the Appeal site.
13. In addition to the existing mast referred to above the Appellants have considered 9 other sites for the proposed apparatus, which have all been discounted for various reasons. Having viewed these sites I have no reason to disagree with the findings of the Appellants regarding their unsuitability.
14. 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 surrounding area. It would help achieve sustainable development in the area and would meet the objectives of policy BE22 of the UDP and section 5 of the NPPF.
15. In relation to precedent, each proposal needs to be assessed on its individual merits and in light of the prevailing planning policies. The Appellant 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 it.
16. Finally, the concerns expressed by the Appellants regarding the handling of the Appeal and other applications for telecommunications apparatus by the Council are noted. However, they are not material to the consideration of the planning merits of the Appeal scheme.
17. I conclude that the proposed scheme 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. It would also add to the quality of the area as required by the NPPF. Overall the merits of the scheme would clearly outweigh the modest level of harm to the character and appearance of the area and the associated conflict with parts of section 7 of the NPPF and policy BE1 of the UDP.

Other matters

18. Local residents have expressed concern regarding the potential health effects of the installation, which are a material consideration. 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 of sufficient authority has been submitted to justify setting aside this advice.

19. It is acknowledged that the proposed pole would add to the number of telecommunications poles in the area as a whole. For the reasons set out above, the provision of the proposed pole is fully justified and it would not set a precedent for further poles in the area. This is because each application for prior approval needs to be assessed on its individual merits.
20. Finally, any financial arrangements between the site owner and the Appellants and the possible impact of the proposal on property values in the locality are not planning matters. As such they are not material to the determination of this Appeal.

Conclusion

21. Having regard to the conclusion on the main issue and taking all other matters into consideration the proposed scheme is approved.

Elizabeth Lawrence

INSPECTOR