

Appeal Decision

Site visit made on 19 September 2016

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 10 October 2016

Appeal Ref: APP/G5180/W/16/3152947

Land in the highway verge, Crofton Road, close to its junction with Crofton Avenue, Orpington, BR6 8JD.

- 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 Vodafone Ltd and Telefonica UK Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/05665/TELCOM dated 24 December 2015, was refused by notice dated 11 February 2016.
 - The development proposed is for the installation of 1No. 10m Hutchinson Engineering T-Range streetpole and associated ancillary development.
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Costs

1. An application for costs was made by Vodafone Ltd and Telefonica UK Ltd against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

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 the installation of 1No. 10m Hutchinson Engineering T-Range streetpole and associated ancillary development at land in the highway verge, Crofton Road, close to its junction with Crofton Avenue, Orpington, BR6 8JD in accordance with the terms of the application, Ref DC/15/05665/TELCOM dated 24 December 2015, and the plans submitted with it.

Main Issues

3. The main issue is the effect of the scheme on the character, appearance and residential amenities of the surrounding area.

Reasons

4. The Appeal site is located within an established suburban residential area, where wide streets, grass verges, an abundance of mature trees and the undulating topography contribute to its spacious and verdant appearance. It is
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also an area where telegraph poles, street light poles and road signage are common place.

5. There is an existing 10 metre high telecoms streetpole and associated cabinet located a short distance to the east of the Appeal site, within the same verge as the proposed equipment. It is partially screened by existing trees and is visually discrete within the street scene.
6. Policy BE22 of the London Borough of Bromley Unitary Development Plan (UDP) seeks to ensure that telecommunications equipment does not adversely affect the character and appearance of the area. With this in mind it seeks to minimise 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. In this respect both policy BE22 of the UDP and its supporting text are generally consistent with section 7 of the National Planning Policy Framework (NPPF), which seeks to ensure that new development responds to local character, functions well and adds to the overall quality of the area.
7. The proposed equipment would be sited between two mature trees, within a wide and well treed verge between the northern and southern sections of Crofton Road and adjacent to the junction of Crofton Road and Crofton Avenue. These and other trees within the verges would partially screen the proposed pole and cabinets in most views along the northern and southern sections of Crofton Road and from Crofton Avenue.
8. Where the proposed pole could be seen it would appear visually discrete and little different to the existing telegraph poles within the street scene. The proposed cabinets would add to the clutter of equipment within this wide verge. However they would be primarily screened or seen against the backcloth of a large evergreen tree. As a consequence the proposed equipment would have a negligible impact on the overall character and appearance of the street scene.
9. The proposed equipment would be sited on the opposite side of the road from the dwellings on the south side of Crofton Road. From these dwellings the cabinets would be seen against the backcloth of the large evergreen tree and the pole would be little different to the telegraph pole located a short distance to the east on the south side of Crofton Road. The proposed equipment would be sited further away from the existing dwellings on the north side of Crofton Road and would similarly be partially screened from them by existing trees. As a consequence neither the pole nor the cabinets would be prominent in views from the adjacent dwellings, even during the winter months.
10. Notwithstanding this, the presence and utilitarian appearance of the proposed equipment would detract slightly from the character and appearance of the grass verge and its immediate setting. Although the level of harm would be very limited it would nonetheless be contrary to the design and appearance objectives of policy BE1 of the UDP. Amongst other things it states that development should be attractive to look at and should not detract from the existing street scene. Accordingly, this harm needs to be weighed against the benefits that would result from the scheme.

11. The NPPF and The London Plan 2016 state that 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.
12. 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. This would accord with the social and economic dimensions of sustainable development and thereby contribute to the overall quality of the area.
13. Although 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. Whilst it would seem logical to share the existing telecoms pole located to the east, the Appellants have confirmed that this would entail its replacement with a taller lattice tower, located within a fenced equipment compound. Without doubt this would have a greater impact on the character and appearance of the locality than the existing and proposed equipment.
14. The Appellants have confirmed that the proposed pole is the minimum height necessary to achieve the improvements to the mobile phone network coverage sought. In addition, the Appellants have provided details of 10 alternative sites that were considered and have outlined the reasons why they were rejected. In view of the extremely limited effect that the proposed development would have on the character and appearance of the verge and the immediate street scene there is no need for the search for an alternative site to be extended.
15. Concerns have been expressed concerning the potential health effects of the proposed installation for local residents and school children and reference has been made to a decision in 2003 to quash an appeal decision for telecoms equipment on health grounds. These concerns are a material consideration. However, the Appellants have confirmed that the proposal has been designed to comply with the current guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). This takes into account both existing and proposed telecoms installations. 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.
16. Overall the benefits that would result from the scheme would clearly outweigh any harm to the character and appearance of the verge, the immediate street scene and the associated conflict with policy BE1 of the UDP.
17. Finally, in recommending that approval is granted for the proposal the Council's officers suggested the imposition of two planning conditions. They related to adherence to the submitted details and the removal of the proposed equipment should it become redundant. However, the Town and Country Planning (General Permitted Development)(England) Order 2015 does not provide any specific authority for imposing additional conditions beyond the deemed

conditions for electronic communications code operators. Consequently I consider that the proposed conditions should not be imposed.

18. I conclude that the proposed scheme would not have a materially adverse impact on the character and appearance of the surrounding area. It would comply with policy BS22 of the UDP and the policies and guidance relating to telecommunications equipment as set out in the London Plan 2016 and the NPPF.

Elizabeth Lawrence

INSPECTOR