

Appeal Decision

Site visit made on 27 September 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 27 October 2016

Appeal Ref: APP/G5180/W/16/3153202

**Frankwood Avenue Bus Stop, Frankwood Avenue, London BR5 1BN
(NGR 543947, 167543)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Paragraph A.3 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by CTIL, Vodafone Ltd and Telefónica UK Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00451/TELECOM, dated 28 January 2016, was refused by notice dated 11 March 2016.
 - The development proposed is installation of 10m T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Paragraph A.3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of development comprising installation of 10m T-Range Replica Telegraph Pole on a new root foundation and associated ancillary development at Frankwood Avenue Bus Stop, Frankwood Avenue, London BR5 1BN (NGR 543947, 167543) in accordance with the terms of the application Ref DC/16/00451/TELECOM, dated 28 January 2016.

Application for costs

2. An application for costs was made by CTIL, Vodafone Ltd and Telefónica UK Ltd against the Council of the London Borough of Bromley. This application will be the subject of a separate decision.

Procedural Matters

3. The Council has used an amended site address and description of development on the decision notice. There is nothing to indicate that this has been formally agreed between the parties. My formal decision therefore takes its wording from the original application letter.
 4. The provisions of the above Order 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. My determination of this appeal has been made in the same manner.
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5. The appellant has submitted a revised set of plans showing the relocation of the equipment cabinet to the opposite side of the replica telegraph pole. This amendment is necessary to avoid a recently installed BT manhole. I have been invited to determine the appeal on the basis of the revised plans. However, they have not been the subject of consultation and there is no evidence that the local planning authority has agreed to the change. Interested parties may feel prejudiced were I to consider the revised plans. For this reason my decision is based on the plans considered by the Council which for the avoidance of doubt comprise Drawing nos 100 Rev F, 200 Rev F, 300 Rev F and 400 Rev F.

Main Issue

6. The main issue is the effect of the proposal on the street scene.

Reasons

7. The appeal site forms part of the grass highway verge on the south side of Frankswood Avenue, between its junctions with Lakeswood Road and Crescent Drive. To the rear of the verge and the adjoining footway is a large triangular shaped piece of green containing a number of semi-mature trees. This area makes a positive contribution to the character and appearance of the locality.
8. Frankswood Avenue is a busy main road and public transport route. The short section between Crescent Drive and Lakeswood Road has a variety of street furniture including a bus shelter, street lights and a telegraph pole. There is also a central refuge with illuminated bollards and a pole mounted light to assist pedestrians crossing the road.
9. The proposed development would be sited roughly midway between a pair of street lights and adjacent to the central refuge. It would consist of a 10 metre high 'timber effect' monopole together with an equipment cabinet close to its base. The latter would measure 1900mm by 800mm in footprint and 1650mm in height.
10. The monopole would be taller and wider than the telegraph poles it is designed to replicate. Whilst this would give it greater presence, the general appearance would be similar. The monopole would of necessity rise above adjacent street lights and trees, but the difference in height would not be significant and in my judgement the structure would not be obtrusive or unduly prominent. It would be read in the context of other vertical elements of street furniture and would be assimilated into the street scene without creating a sense of clutter. The adjacent trees would filter views of the development from some angles and provide a pleasant backdrop in others. This would assist in mitigating the visual impact.
11. The equipment cabinet would be comparable in appearance to other forms of utility cabinet which are commonly found within the public realm. Although relatively large, the proposed cabinet would be set back from the kerb and it would be factory finished in green. This would help the structure blend with its surroundings and offset any adverse effects on the street scene.
12. I acknowledge that the new installation would be visible from a number of surrounding dwellings. This would inevitably lead to a change in outlook for the occupiers of those properties. However, the development would not be dominant or overbearing, owing to the separation distances involved.

13. I have noted the concerns from residents regarding the potential health hazards from mobile phone masts. Such matters can in principle be material considerations in planning decisions. However, the National Planning Policy Framework (the Framework) makes clear at Paragraph 46 that local planning authorities should not determine health safeguards if the proposal meets International Commission¹ guidelines for public exposure. The application is accompanied by a declaration of conformity in this regard. There are no substantive grounds to support taking a different approach to that advocated in the Framework and therefore health concerns do not justify dismissing the appeal.
14. Objectors have challenged whether the installation is genuinely required. However, the Framework stipulates that local planning authorities should not question the need for the telecommunications system. I am satisfied from the evidence before me that the proposal would meet a deficiency in coverage for the 3G and 4G networks being operated by O2 and Vodafone.
15. The appellant has explored other sites, including the possibility of erecting antennas on an existing building, mast or other structure. However, it is evident that there are no alternative sites which are both available and technically suitable. The Council does not contend otherwise and has not sought to identify other options. Local residents have suggested a site at Jubilee Park. However, details have not been provided and it is unclear whether the site would achieve the desired coverage. Neither do I know if there is a willing landowner.
16. I am aware that there was a previous application for a 12.5 metre high monopole on the appeal site. That scheme would have been significantly more prominent due to its greater height and the bulbous nature of the antenna shroud. In re-designing the proposal to a single diameter "replica telegraph pole" of lesser height the appellant has shown a readiness to compromise, notwithstanding the fact that the 10 metre scheme would be on the margins of acceptability in terms of the network coverage it would provide. Having regard to the information before me, it is difficult to envisage how the coverage requirement could be met using a smaller or more discreet structure.
17. The Framework reminds local planning authorities that advanced, high quality communications infrastructure is essential for sustainable economic growth. It states that they should support the expansion of electronic communications networks, including telecommunications and high speed broadband. Policy 4.11 of the London Plan is consistent with national policy in seeking to facilitate the provision and delivery of the information and communications technology (ICT) infrastructure a modern and developing economy needs.
18. Policy BE22 of the London Borough of Bromley Unitary Development Plan (2006) seeks, amongst other things, to prevent harm to the character and appearance of the area and the visual and residential amenity of occupiers of neighbouring properties. I find no conflict with this policy. The proposal would also comply with Paragraph 43 of the Framework which states that equipment should be sympathetically designed and camouflaged where appropriate. Accordingly, I conclude that there would be no material harm to the street scene.

¹ International Commission on Non-ionising Radiation Protection

Other Matters

19. I am told that the Frankswood Avenue amenity space has been identified as Local Green Space. This is a material consideration but given the early stage of preparation of the emerging local plan it carries very limited weight². In any event, I do not consider that the proposal would harm the special qualities or amenity value of the open space.
20. I note the comment from objectors that the appeal site falls within a potential Conservation Area. I have no confirmation from the Council that such a designation has been made and therefore the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply.
21. The appellant has presented detailed evidence regarding what it considers to be a negative approach by the Council towards telecommunications development in the Borough. This has had no bearing on my decision and I have determined the appeal on its own planning merits.
22. Concerns have been raised regarding the potential for damage to tree roots and obstruction to sight lines for pedestrian and road users. However, there is no firm evidence to support either objection and as such these issues would not justify dismissal of the appeal. I have had regard to all other matters raised, including in relation to the effect on property values, damage to the grass verge from engineer activity and rubbish around the equipment cabinet. However, they do not alter my conclusions.

Conclusion

23. Drawing matters together, whilst I accept that the proposed development would represent a change to the street scene, I do not consider that it would be significant or materially harmful. Having regard to the technical requirement, the absence of suitable alternative sites and the policy support for telecommunications at national and London level, I am satisfied that the siting and design of the scheme is acceptable.
24. For the above reasons, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

² Paragraph 216 of the Framework provides advice on the weight to be given to emerging plans.