
Appeal Decision

Site visit made on 31 October 2016

by Daniel Hartley MTP MBA MRTPI

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

Decision date: 03 November 2016

Appeal Ref: APP/D5120/W/16/3155664

Junction of Penhill Road and Harcourt Avenue, Bexley DA5 3AT

- 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 H3G Ltd and EE Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/00536/GPDO8, dated 4 February 2016, was refused by notice dated 11 April 2016.
 - The development proposed is the replacement of a 10 metre phase 3 monopole with a 10 metre slimline monopole and 1 No additional equipment cabinet.
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Decision

1. I allow the appeal and grant approval under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for the siting and appearance of the replacement of a 10 metre phase 3 monopole with a 10 metre slimline monopole and 1 No additional equipment cabinet on land at the Junction of Penhill Road and Harcourt Avenue, Bexley DA5 3AT in accordance with the terms of the application Ref 16/00536/GPDO8, dated 4 February 2016, and amended drawing Nos BEX015-001 Rev E; BEX015-002 Rev E; BEX015-003 Rev E and BEX015-004 Rev E submitted with it.

Procedural Matter

2. The appellant has submitted amended plans as part of this appeal. The only change relates to an annotation on the plans which explicitly refers to the removal of the existing telecommunications pole if the appeal proposal was implemented. The appellant has commented that *"with regard to the removal of the existing monopole, this would be on the same day that the new mast is erected. During the works the base station will be switched off and switched back on once the new mast has been erected and the existing mast removed"*. The Town and Country Planning (General Permitted Development) (England) Order 2015 does not give any authority for conditions to be imposed beyond the deemed conditions for development by electronic communications code operators. I have accepted the amended plans as they merely provide additional clarification and control in respect of the removal of the existing monopole. I have made reference to such plans in the decision above.

Main Issue

3. The main issue is the effect of the proposal upon the character and appearance of the area in respect of the siting and appearance of the development.

Reasons

Site and proposal

4. The appeal site relates to a grass verge adjacent to the junction of Harcourt Avenue and Penhill Road. The area is residential in character. The site already includes a 10 metre high telecommunications monopole as well as a number of equipment cabinets.
5. It is proposed to replace an existing 10 metre high monopole which was allowed on appeal (APP/D5120/A/07/2036446) in 2007 and to erect a 10 metre high (green colour) "Hutchinson engineering alpha tower". This would be positioned on the grass verge land and about 1 metre closer than the existing pole to the terraced residential properties on Harcourt Avenue. In addition, it is proposed to erect a green coloured equipment cabin next to the existing equipment cabinets.

Character and appearance

6. The area already includes a telecommunications pole which is similar in height to that which is proposed. Whilst the proposed pole would be marginally wider than the existing, it is not considered that there would be a material difference to the character and appearance of the area if the appeal pole were to be allowed. I acknowledge that the pole would be sited in a slightly different position to the existing pole, but such a change would not be significant when viewed from the street-scene.
7. As is the case for the current telecommunications pole, it would be seen in the context of a number street lights and would not appear out of place or incongruous within the context of the area. The erection of two poles would unacceptably add the amount of street clutter in the locality. Hence, it would be necessary to ensure that the existing mast was permanently removed in the event that the appeal proposal was implemented. This can be achieved (and potentially enforced) in terms of a specific reference to the amended plan submitted as part of this appeal.
8. I note that there are a number of equipment cabinets already in this area. An additional equipment cabinet would undoubtedly have some impact. However, this impact has to be balanced against the technological need for an additional cabinet in association with the proposed telecommunications pole. The proposal would allow two operators to use and share the apparatus to provide improved 2G and 3G coverage and also to provide 4G coverage. The latter is not currently provided by the existing telecommunications pole/equipment. I afford considerable weight to the proposed improvements to the type and extent of mobile phone coverage in the locality particularly as paragraph 42 of the National Planning Policy Framework (the Framework) states "*advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services*".

9. Whilst the erection of an additional cabinet would undoubtedly have some impact upon the character and appearance of the area, this has to be weighed against the fact that it would be positioned against a number of existing telecommunications equipment cabinets and that they would all be essentially confined to one contained area. In addition, the appellant has commented that *"we cannot remove any of the existing cabinets as they all serve a different purpose, namely power, 2G capability and 3G capability. The new cabinet will add 4G capability. The cabinets do serve two operators though. There is currently no technology available to amalgamate cabinets, currently only much larger equipment cabins have the capacity, this would not be appropriate given the street-scene setting"*. The proposed cabinet would be located in part of the street where passers-by are already used to seeing cabinets and a telecommunications mast. Therefore, whilst the proposal would have some impact upon the character and appearance of the area, I do not consider that such an impact would be significant. In any event, any such impact would be outweighed by the telecommunication benefits arising out of the proposal.
10. For the reasons outlined above, I conclude that the proposal would not have a significantly adverse effect upon the character and appearance of the area. Consequently, the proposal would accord with the design and amenity aims of saved Policies ENV39 and ENV 45 of the Bexley Council Unitary Development Plan and the Framework.

Other Matters

11. I have taken into account representation made by other interested parties. Comments have been made about the effect of the proposal upon the health of those who live close to the site. However, paragraph 46 of the Framework states that *"local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure"*. Therefore, I do not consider that the proposal would lead to any adverse health issues as the ICNIRP certificate has been completed by the appellant.
12. I note the views expressed about the effect of the proposal upon property values. However, the courts have held that this is not a material planning consideration. In any event, I do not have any objective evidence to indicate that the proposal would lead to reduction in property values in the area. I acknowledge that the occupier of No 161 Harcourt Avenue would prefer it if the money was spent on CCTV in the area. I am required to determine the proposal as submitted and this is not a matter which would reasonably justify dismissing the appeal.

Conclusion

13. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR