
Appeal Decision

Site visit made on 27 September 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 04 November 2016

Appeal Ref: APP/P5870/W/16/3153421

Footway on the northern side of Tilehurst Road, Cheam, Sutton

- 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 Limited against the decision of the Council of the London Borough of Sutton.
 - The application Ref A2015/73404/TOW, dated 24 December 2015, was refused by notice dated 24 February 2016.
 - The development proposed is the installation of a 10 metre dual user replica telegraph monopole and the installation of 1 no. equipment cabinet.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Class A of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the installation of a 10 metre dual user replica telegraph monopole and the installation of 1 no. equipment cabinet on land at the Footway on the northern side of Tilehurst Road, Cheam, Sutton in accordance with the terms of the application Ref A2015/73404/TOW, dated 24 December 2015.

Procedural Matter

2. The post code given as part of the address for the appeal site as set out on the application form is disputed by others. I have, therefore, omitted it from the address as set out above. For clarification, the precise location of the proposed installation on Tilehurst Road is readily apparent from the submitted plans and was clear to me when I visited the site.

Main Issues

3. The main issues are the effect of the development on i) the character and appearance of the area; ii) the living conditions of local residents with particular regard to outlook; and iii) whether the appellant has sufficiently explored the possibility of erecting antennas on an existing building, mast or other structure.

Reasons

Character and Appearance

4. The appeal site is within a suburban residential street. The proposed apparatus would be located towards the back of the footway, adjacent to a side boundary fence and at a point where the path widens, marked by a stagger in the
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fenceline. Accordingly, the proposed apparatus would be recessed from the alignment of the footway further to the west.

5. Tilehurst Road is characterised by two storey dwellings with attractive street trees lining the road. The proposed installation would be adjacent to the long back to back rear gardens associated with the dwellings at 130 Malden Road and 1 Stoughton Avenue respectively, which run parallel to Tilehurst Road.
6. When viewed from certain points along Tilehurst Road to the east and west, the proposed monopole would be seen within the context of other vertical elements in the street scene, primarily mature street trees and occasional lighting columns. Whilst the monopole would be very different in appearance and greater in bulk when compared with these elements, the presence of the trees in particular would help to visually integrate the monopole and reduce any sense of imposition when viewed from this perspective. The proposed installation would also be finished in a more subdued brown colour which would further help to reduce its visual impact.
7. The proposed cabinet would be painted in a subdued dark green colour and would be of typical appearance for this type of commonly seen ancillary street furniture. It would sit below the level of the adjacent fenceline and substantially within the aforementioned recess at the back of the footway where it widens slightly. Its location, combined with the finished colour would ensure that it would not be seen as incongruous or obtrusive in its context.
8. I conclude that the development would not result in harm to the character and appearance of the area. Accordingly, there would be no conflict with Policy BP12 of the Sutton Core Planning Strategy 2009 and Policies DM1, DM3 and DM32 of the Council's Site Development Policies Development Plan Document 2012 (DPD) insofar as they seek to ensure that development respects its local context and character, and maintains and enhances the character and appearance of the local area.

Living conditions

9. The proposed apparatus would be situated on the opposite side of the street to the front elevations of Nos 4 and 6 Tilehurst Road. Whilst the pole would appear very prominent from the front of these dwellings, I consider there would be sufficient separation for it not to dominate or cause significant harm to outlook for residents.
10. During my visit, I viewed the site from the rear gardens of residential dwellings at 130 and 136 Malden Road. The gardens of these properties slope away from the associated houses towards the rear and are significantly below the level of Tilehurst Road. From the information before me, it is undisputed by the parties that the rear gardens of dwellings on Stoughton Avenue are at a similar lower level in relation to Tilehurst Road.
11. From the end of the closest gardens on Malden Road and Stoughton Avenue the monopole would therefore appear considerably taller than it would from the adjacent footway. However from those gardens at such close range, because of the need to look upwards, the eye would not naturally be drawn towards the elevated position of the pole. Rather, it seems to me, the eye would be drawn to viewpoints within the respective gardens.

12. I recognise that from the rear of the nearest dwellings on Malden Road and Stoughton Avenue, and from other properties further away, the pole would be clearly seen. However, it would not be near enough or of a scale and bulk that would cause it to be seen as an overbearing or overly dominant feature in terms of the outlook currently enjoyed by residents.
13. In coming to this view, I have taken into consideration the planned removal of substantial planting from the rear of No 1 Stoughton Avenue, situated adjacent to the mast site and which is referenced in support of the application as helping to soften the visual impact of the monopole. However even if removed, I am not persuaded, given its design and relatively limited scale and the separation distance and orientation of dwellings from which it would be seen, that the monopole would be seen as unduly stark or overbearing.
14. To conclude on this issue, I find that the development proposed would not result in material harm to the living conditions of local residents, having particular regard to their outlook. Accordingly it would not conflict with Policy DM32 of the DPD which seeks to avoid harm to the amenities of occupiers of neighbouring sites.

Alternative sites

15. The appellant has provided technical information to demonstrate how the development is necessary to improve 3G and 4G signal coverage in the locality. This is undisputed by the Council. The proposal would provide facilities for two telecommunication providers which would potentially contribute to reducing the proliferation of masts and which is generally recognised as good practice.
16. The National Planning Policy Framework (the Framework) states at paragraph 45 that applications for telecommunications development including for prior approval should be supported with the necessary evidence to justify the proposed development. Where a new mast is proposed, as in this case, this includes evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored as an alternative.
17. A range of alternative site possibilities, have according to the supporting information been considered by the appellant. Some of these alternatives included existing buildings and structures in the locality, discounted on the basis that they were regarded as physically incapable of supporting the necessary antennas, supporting a sensitively designed scheme or due to technical constraints.
18. A potential site at St. Dunstan's Church, favoured by a number of objectors, was discounted on the basis that it was considered to be of limited technical suitability and that its Grade II* listed status would present difficulties in terms of securing a sensitively designed scheme. It seems to me that those limitations mean that that site would be unlikely to provide a suitable alternative. In any event, I have found no harm in relation to the development proposed, in terms of the character and appearance of the area generally, or to the living conditions of local residents.
19. There is no information before me to suggest that the Council takes issue with the appellant's assessment of the potential use of other buildings, masts or other structures and reasons for discounting these sites. I note that the Council has suggested in correspondence that there are four other sites within

its ownership which accommodate telecommunications equipment and regarding which it would be willing to enter into discussions about their use. However I have not been provided with any further details about the identity of the sites in question.

20. I also note that, contrary to the appellant's assessment, the Council suggests that it would be willing to consider ground based installations at two other sites in its ownership, namely Cheam Recreation Ground and off Tudor Close. However, in accordance with the Framework, as ground based installations, these potential alternative sites would not be in sequentially preferable locations to the appeal site. Accordingly, as I have found the siting and appearance of the current proposal to be acceptable, I do not give any significant weight to these alternative potential sites.
21. I conclude that the appellant has given sufficient consideration to the possibility of using an alternative site.

Other Matters

22. I have taken into account the Framework sets out that the Government is strongly committed to the expansion of the electronic communications network and that this objective is echoed in the London Plan. I attach weight to this consideration. Furthermore I acknowledge that the Government in a recent ministerial statement has set out its intention to further extend permitted development rights for telecommunication development proposals.
23. The Framework also states that if a proposal meets International Commission guidelines for public exposure it should not be necessary to determine further health safeguards. The appellant has submitted evidence that demonstrates that the proposed equipment would comply with the International Commission on non-ionising radiation protection guidelines. I have not been provided with any compelling evidence to suggest that a different approach is required in this specific case. Accordingly the approach taken by the Framework does not support the health fears expressed by local residents. I am therefore unable to justify giving any significant weight to the effect of such fears on living conditions. In addition I find that there is no evidence to suggest that Article 2: The Right to Life of the Human Rights Act 1998 (HRA) would be violated in this regard.
24. Concern has been raised that the development would interfere with rights under Article 1: The Peaceful Enjoyment of Property and Article 8: The Right to Respect for Private and Family Life and for the Home of the HRA. However these are qualified rights and Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well being of the country which has been held to include the protection of the environment and upholding planning policies. Furthermore Article 1 provides that no one shall be deprived of his possessions except, subject to conditions, in the public interest.
25. In this case I have found no conflict with relevant planning policies. Furthermore whilst I acknowledge that residents would experience change to their surroundings, I have not found any material harm in this regard. As such the impact of the change would be outweighed by the wider public interest of the need to to improve 3G and 4G signal coverage in the locality. Accordingly

the degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 or Article 8.

26. With respect to concerns raised regarding noise from the apparatus, I note that the appellant states that the cabinet is designed to minimise noise generated. I have not been presented with any information that would lead me to conclude that any noise emissions would result in harm to the living conditions of residents.
27. I note that the Council's highway engineer has not objected to the proposal and I am satisfied that the footway is wide enough to ensure the installation would not unduly obstruct the movement of pedestrians. Concern has been raised about the position of the proposed cabinet facilitating unauthorised access to private property via an adjacent fence. However I have not been provided with any evidence that the positioning of street furniture close to private property is generally known to cause such an issue. Furthermore its position within the street would allow for a high degree of natural surveillance which would act as a deterrent to anti-social and criminal behaviour.
28. In terms of impact on light, whilst the proposed monopole would no doubt result in some very limited shadowing, the mass of the structure would not be so great as to result in significant harm to living conditions in this regard. Similarly, the development would not significantly interrupt observation of the night sky.
29. With regard to concerns about the physical impact of the development on the integrity of an adjacent retaining wall and storm drain, these are private matters and not for my deliberations in this appeal.
30. I have not been provided with evidence in support of concerns regarding the potential for television and radio interference being caused by the proposed installation. However in the event of this being experienced it would need to be investigated by an alternative agency and is not relevant to my decision in this case.
31. Concerns have also been expressed with regard to loss of property value that may be experienced and fears arising from this. However, I have not seen any evidence that this would be the case. In any event, planning is concerned with land use in the public interest. The protection of private interests, such as property values, is not a material consideration.

Conclusion and Conditions

32. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed. The attention of the appellant is drawn, in this regard, to the standard conditions relating to such approvals, as set out in paragraphs A.2 and A.3 of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Roy Merrett

INSPECTOR