
Appeal Decisions

Site visit made on 28 June 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 05 December 2016

Appeal A Ref: APP/M5450/W/16/3144481

Hawthorn Centre, Elmgrove Road, Harrow HA1 2RF

- 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, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone Telecommunications Infrastructure Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5525/15, dated 25 November 2015, was refused by notice dated 2 February 2016.
 - The development proposed is erection of 15 m shrouded monopole to support 6 no. telecommunications antenna for shared use by Vodafone and Telefonica which together with the installation of 2 no. dishes and 3 no ground based equipment cabinets will provide 3G and 4G mobile electronic communications services from the installation.
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Appeal B Ref: APP/M5450/W/16/3148990

Hawthorn Centre, Elmgrove Road, Harrow HA1 2RF

- 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, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Cornerstone Telecommunications Infrastructure Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0496/16, dated 2 February 2016, was refused by notice dated 22 April 2016.
 - The development proposed is erection of 12.5 m shrouded monopole to support 3 no. telecommunications antenna for shared use by Vodafone and Telefonica which together with the installation of 2 no. dishes and 3 no ground based equipment cabinets will provide 3G and 4G mobile electronic communications services from the installation.
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Decision

1. Appeal A is dismissed.
 2. Appeal B is allowed and approval is granted under the provisions of Class A of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for the erection of 12.5 m shrouded monopole to support 3 no. telecommunications antenna for shared use by Vodafone and Telefonica which together with the installation of 2 no. dishes and 3 no ground based equipment cabinets will provide 3G and 4G mobile electronic communications services from the installation at the Hawthorn Centre, Elmgrove Road, Harrow HA1 2RF in accordance with the
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terms of the application Ref P/0496/16 dated 2 February 2016 and the plans submitted with it.

Preliminary Matters

3. I have used the spelling for The Hawthorn Centre taken from the Council's decision notice and the sign outside the site.

Background and Main Issues

4. Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") permits development including the installation of electronic communications apparatus subject to compliance with various restrictions and conditions, one of which is that the developer must apply for a determination as to whether prior approval of the local planning authority is required as to the siting and appearance of the development. Accordingly, as there is no dispute as to whether the proposals are permitted development, siting and appearance are the matters which can be taken into account in the consideration of these appeals. I have determined the appeals on this basis.
5. The appellant made two separate applications to the Council for a determination under Schedule 2, Part 16, Class A of the GPDO and with each has provided information relating to the siting and appearance of the development. Both applications have been refused by the Council for the same reasons that the height and location of the mast (also referred to as the shrouded monopole) would result in it being visually intrusive in the street scene to the detriment of the visual amenities of the area. The two proposals differ from one another in terms of the height of the mast sought and the number of shrouded antennae the mast would accommodate. Additionally, the proposed 15m mast would have two 300 mm diameter dishes mounted at 10m above ground level whilst the 12.5 m mast would have the two dishes mounted at 8.5m above ground level. Other matters including the position of the proposed monopole and the siting and size of the equipment cabinets are common to both proposals. Given the similarities between the two proposals it is appropriate to address them in a single decision letter and therefore, other than where specified, the comments relate to both proposals.
6. In respect of both appeals the **main issues** are the effect of the proposal on the street scene and whether any harm caused as a result of this or by any other matters is outweighed by the need to site the installation in the location proposed.

Reasons

7. The proposed telecommunications monopoles and three equipment cabinets would be installed inside the entrance to the Hawthorn Centre. The entrance is adjacent to the junction of Elmgrove Road and Francis Road where the two roads meet more or less at right angles to one another. As Elmgrove Road leads eastwards from Station Road, there is a mix of commercial and residential development and the balance then changes towards residential development. Trees are significant features in the street scene particularly in the vicinity of the Crystal Centre. Nearer the appeal site a hedgerow marks the northern side of the road and trees are less dominant within the street scene but still important.

8. The northern side of Elmgrove Road in the vicinity of the appeal site is commercial in character as a result of the Hawthorn Centre and the Crystal Centre, whilst on the south side of Elmgrove Road development is residential and two storeys in height. Residential development continues southwards on both sides of Francis Road with the east side of Francis Road accommodating three storey flats.
9. Whilst Elmgrove Road was noticeably less busy than Station Road at the time of my site visit, Elmgrove Road nonetheless carries a reasonable level of vehicular, cycle and pedestrian traffic. Pedestrian and cycle traffic also uses the link from the corner of Elmgrove and Francis Road which runs under the railway line and through to the large open space of the recreation ground and nearby community facilities and primary school.
10. The proposed siting of the development is just inside the entrance to The Hawthorn Centre on an area currently used for parking and the siting of a temporary building. A hedge bounds Elmgrove Road on the west side of the site entrance. I am satisfied that the proposed cabinets would not intrude in any harmful way in views from the roads or footpaths outside the site or in views from residential properties.
11. The proposed masts would each be visible in views from both Elmgrove Road and Francis Road. There are a telegraph poles, lighting columns and road signs in the immediate vicinity of the site. Both the proposed masts would be noticeably taller than the lighting columns and telegraph poles, and in the case of the proposed 15 m monopole, considerably taller. Both proposed masts would be taller than the nearest tree which is shown on the drawings as around 10 m in height. Whilst this tree would provide some mitigation in terms of a green backdrop to part of the mast during certain seasons, it would not mask public views of the masts.
12. In views approaching the site eastwards along Elmgrove Road, the alignment of the road would partially shield views of the monopole, other than in views close to the site. The hedgerow and taller tree with weeping form (to the west beyond the site) would also provide some softening of the visual impact of the mast. With regard to views from the footpath leading to and from the playing fields to the east of the site, these would be restricted by the topography and underpass to views close to the site.
13. In longer views from the south, looking towards the appeal site along Francis Road, there are a significant number of street trees, particularly on the east side of the road which would assist in mitigating the visual impact of the mast in longer distance views. However, this will vary accordingly to season and the trees are not sufficiently tall that they would block views of either mast entirely even when in leaf.
14. Taking into account the height of the existing street furniture, trees and buildings, the visual impact of the proposed 15 m mast would be considerable as its height would be significant greater than immediately surrounding features. The proposed 12.5 m mast would also be higher than existing structures but the difference in scale would not be so excessive as to make the mast an unacceptably incongruous feature in the street scene. Nonetheless, the 12.5 m mast would cause a degree of harm as a consequence of its visual impact upon the street scene.

15. The appellant sets out that the proposed installation is needed to provide additional coverage in terms of providing 3G and 4G network coverage to both Vodafone and O2 customers. The sharing of the mast by two operators would accord with the National Planning Policy Framework (Framework) in terms of avoiding an unnecessary proliferation of masts.
16. The appellant has provided details of the other sites considered including using other building or sites or telecommunications installations in the surrounding area. However, these have not proved suitable and the Council has not disputed the search undertaken.
17. Paragraph 45 of the Framework states that applications for telecommunications development including those for prior approval under the terms of the GPDO should include in particular the outcome of consultations with the relevant body where a mast is to be erected near a school or college. The evidence from the appellant states that in respect of the application to which Appeal A relates, letters were sent to schools and local health facilities within 1 km of the site and to local residents within a defined area. The appellant's evidence states that this resulted in a response from a limited number of local residents. The evidence confirms that no further consultation was carried out prior to the submission relating to prior approval for the scheme relating to Appeal B. Nevertheless, I am satisfied on the basis of the evidence provided that the appellant has carried out consultations in respect of telecommunications development on the site broadly in line with the Framework, notwithstanding that some local residents appear not have received such consultation notices. Additional consultation has been undertaken by the Council as a consequence of the applications for prior approval and the appeal process.
18. I am satisfied on the basis of the evidence presented that the appellant has considered and reasonably eliminated a range of alternatives and that the apparatus would be shared to minimise proliferation. These are considerations to which the Framework also refers and to which I attached weight. I have also taken into account that applications for telecommunications masts in the vicinity of the appeal site have been previously refused by the Council for similar reasons to those relating to the appeal proposals.
19. Potential conflict with the development plan focuses around Policy DM49A of the Development Management Policies¹. This policy is specific to telecommunications and supports the installation of equipment where, if a new mast is proposed, it has not been possible to meet operational requirements on an existing mast or building. Criterion c requires there to be no unacceptable impact on areas including designated open space and diversity value. Although the proximity of open space and nature trails are raised by third parties, I find there is no compelling evidence to demonstrate any material conflict with criterion c. Criterion d relates to street based installations contributing to the principles of lifetime neighbourhoods. The proposed installations are not within the street but they would nonetheless impact upon it in visual terms. The sharing of the equipment with two providers and the improved network coverage to residential and commercial users in the area would satisfy criterion d of Policy DM49A.
20. Criterion b of Policy DM49A requires siting and design of the installation to minimise impact on the amenity of neighbouring occupiers and the appearance

¹ Harrow Council Development Management Policies Adopted July 2013

and character of the area. The Council's assessment with regard to the impact of the proposed masts on the amenity of neighbouring occupiers is that there would not be harm as a consequence of any overshadowing, loss of light, or loss of outlook. I have no reason to disagree with this finding. The proposed masts would be clearly visible from the houses on the opposite side of the road to the site and also in oblique views from some other properties but this would not result in unacceptable harm to living conditions.

21. Policy DM1 is a wide ranging policy concerned with achieving a high standard of development for all types of proposals including amenity considerations. The considerations in relation to DM49A outlined above are also applicable to Policy DM1.
22. I have taken into account Core Policy² CS1 which addresses local character and in particular section B of that policy regarding the character of suburban areas and response to local context. Whilst the proposed masts would not reflect local character, the 12.5 m mast would not be significantly out of context in terms of existing street furniture, trees and building scale.
23. In the case of Appeal A the proposed 15 m mast would provide the coverage which the appellant seeks. However, the harmful impact the proposal would have on the street scene and the character and appearance of the area would not be outweighed by the need for the apparatus. With regard to Appeal B, the 12.5 m mast proposed would provide lesser coverage than a 15 m mast but from the evidence provided by the appellant would still provide a satisfactory level of improved coverage of the mobile service for the two operators. Taking into account the circumstances I have described including the permitted development rights of the GPDO, the need for the apparatus proposed is sufficiently compelling to outweigh, as a matter of fact and degree, the limited harmful conflict with the development plan so far as the effect of the proposed development on the street scene and the character and appearance of the area is concerned.

Other matters

24. I am conscious that the proposals have attracted widespread opposition locally both through individual letters and in the form of petitions. In relation to the concerns of objectors about the health implications of the masts, having particular regard to nearby housing and flats as well as routes to local schools, nurseries and community facilities, the appellant has provided a certificate in respect of each proposal to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The Framework confirms that in such circumstances health safeguards are not something which a decision maker should determine. I appreciate the fears that have been expressed by a considerable number of local people on their own behalf and in respect of children walking to and attending schools and nursery. Nevertheless local residents including school children will also benefit from and require access to good mobile coverage.
25. I have taken into consideration in reaching my decision that one of the properties near to the site of the proposed masts is occupied by a person who, by reason of a disability, is likely to spend more time within their home than

² Harrow Core Strategy adopted February 2012

some other local residents. Although I have treated local concerns as a consideration in my decision, none of the representations provide a sufficient basis to demonstrate that this proposal would be harmful to human health. I consider that the circumstances are not so exceptional that they warrant a departure from the clear advice provided within the Framework. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

26. Representations have been made to the effect that the rights of nearby residents, under the Human rights Act 1998, Article 1 of the First Protocol would be violated if the appeals were allowed. I do not consider this argument to be well founded as I have found that the proposed development would not cause unacceptable harm to the living conditions of nearby residents. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.
27. I have noted the concern regarding a reference to floodlighting and the letter from Shared Access dated 2nd February 2016 includes within its heading such reference. However, the proposals before me as shown on the submitted plans and forms relate to telecommunications development.
28. Concern is also expressed regarding noise from the cabinets. The appellant statement advises that the cabinets will produce a negligible amount of noise that will not be heard beyond the existing mature hedge that will act as an acoustic buffer to the low hum the cabinets emit.

Conclusions

29. The comments and concerns of local residents also encompass matters germane to the main issues on which the decisions turn. I have taken into account those and all other matters raised, but none are sufficient to alter the overall balance of my conclusions that, for the above reasons, Appeal A should be dismissed and Appeal B should be allowed. No conditions are necessary in respect of Appeal B as the development order imposes relevant conditions as standard.

Jennifer Tempest

INSPECTOR