

Appeal Decision

Site visit made on 12 December, 2016

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

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

Decision date: 18th January, 2017

Appeal Ref: APP/K3605/W/16/3157372

Highway verge behind hedge on Claremont Lane, Esher, Surrey, KT10 9EN

- 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.
 - The appeal is made by Vodafone Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2016/1424, dated 29 April, 2016, was refused by notice dated 24 June, 2016.
 - The development proposed is the installation of a 12.5 metre dual user replica telegraph pole and the installation of 1 no. equipment cabinet.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the siting and appearance of a 12.5 metre dual user replica telegraph pole and 1 no. equipment cabinet on land at Highway verge behind hedge on Claremont Lane, Esher, Surrey, KT10 9EN in accordance with the terms of the application Ref 2016/1424, dated 29 April, 2016 and the plans submitted with it.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, and whether any harm caused is outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

Reasons

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) sets out at Schedule 2, Part 16, Class A that specified development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development, subject to conditions. It is not in dispute that the proposal falls within the remit of Schedule 2, Part 16, Class A. The appeal relates to the Council's refusal to grant prior approval for the siting and appearance of the proposed development. I have therefore considered it solely on the basis of siting and appearance, and the principle of the proposed development is not before me. The technical need for the installation has been set out by appellant and is also not in dispute.
 4. The site consists of a fairly wide strip of grass verge adjacent to the main A244 route to Esher town centre, a short distance from the junction with Milbourne
-

Lane. There is a hedge along the front of the site, between the verge and the footway, and there are several trees within the site. In the vicinity there are various examples of existing street furniture, including street lighting columns, traffic signals, road signs and street cabinets. These items form part of the established street scene but cumulatively do not result in an unusually cluttered appearance, particularly as they are generally set among the various trees and hedges along the roadside. Adjacent to the entrance to Claremont Drive, there are two lodge buildings, which are listed grade II. The lodges are situated almost opposite the appeal site, which would be visible from them, across the A244.

5. The proposal involves a 12.5m timber-effect monopole supporting 4 antennas concealed within shrouds at the top of the structure, which would be incorporated within the 'telegraph pole' disguise. There would also be one associated equipment cabinet on the ground adjacent to the pole, situated behind the hedge. The Council has previously refused to grant prior approval at the same site for a 15m monopole supporting 6 antennas with ancillary development, including three ground cabinets, which was subsequently dismissed at appeal¹.
6. While the monopole now proposed would only be sited a short distance back from the edge of the highway, its position within the line of existing trees would provide varying degrees of screening, softening and backdrop. As a result, the siting of the installation would not appear unduly prominent in this location. Furthermore, the top of the 12.5m monopole would extend only marginally above the top of the immediate trees and street lighting columns, and other nearby trees would be taller than it. In addition, the equipment cabinet would be well screened from public view by the hedge. Therefore, the height of the proposal would not be disproportionate or significantly out of keeping with its surroundings.
7. I accept that the monopole would be somewhat more apparent, and the screening somewhat less effective, in close views. However, the 12.5m monopole would be sympathetically designed, for this form of development, in relation to the character of the area, being camouflaged as a timber effect 'telegraph pole'. It would also be of generally uniform diameter along the length of the pole and, while it would be thicker and taller than the existing street columns, it would not be significantly so.
8. The monopole would be positioned a short distance from the nearest street lighting column, and an adjacent road sign, and as a result it would add to the visible level of street furniture at that point. However, the addition of one monopole would not result in a harmfully cluttered appearance in the street scene here, where the existing amount of street furniture is reasonably limited. Furthermore, the proposed timber-effect design and colour would help to ensure the pole would not be unduly conspicuous, set adjacent to the trees.
9. When viewed from the lodges, or as part of their wider setting, the proposal would be separated by the A244, which is 4 lanes wide in the vicinity of the appeal site. Moreover, the monopole would be disguised and viewed in the context of screening and softening vegetation. Similarly, in the outlook from other nearby properties the proposal would be at least partially screened and softened by trees and other vegetation and seen against the wider context of

¹ Ref APP/K3605/W/15/3028017

the street scene. I note that adopted Policy DM16 of the Elmbridge Local Plan Development Management Plan 2015 (DMP) seeks to ensure that installations avoid sensitive local areas, including listed buildings. However, while the proposed development would be perceptible in relation to several nearby properties, including the listed lodges, for the reasons given above I consider that this would not amount to a significant adverse effect on the character and appearance of the surroundings.

10. In light of the above, I consider that while the proposed development would have some visual impact in the street scene, it would not appear unduly prominent, disproportionately large or tall, stark or significantly visually intrusive. Therefore, I conclude that it would not cause significant harm to the character and appearance of the area.
11. In arriving at this position I have had regard to the previous appeal decision. The proposal in the earlier appeal related to a monopole 2.5m taller and notably thicker, particularly in the antenna shroud section, than that before me. Furthermore, it was of a significantly different, un-disguised, design and three ground cabinets were proposed. I have therefore determined this appeal on the specific circumstances and merits of the proposal before me and my findings are not outweighed by the previous decision, which relates to a significantly different scheme.
12. The appellant has undertaken a search for alternative sites, including further investigation of the two sites referred to by the previous Inspector. Of these, the site at the Copsem Lane/Haymeads Drive junction has been ruled out due to the presence of existing underground services along the pavement and verge. The appellant sought pre-application advice from the Council relating to the second site, at the Claremont Lane/ Broom Close junction, and was advised that an installation would not be supported as it would be detrimental to the open, clutter-free appearance there. All other sites considered have been discounted for a variety of reasons.
13. I have no significant evidence before me to counter the assessment of alternative sites, and I see no reason to take a different view. Therefore, notwithstanding that I have found no significant harm in relation to the character and appearance of the area, the siting proposed is further justified in the absence of any suitable and available potential alternative sites.
14. The proposal would be consistent with the relevant elements of adopted Policy DM16 of the DMP, which bears relevance to the subject of this appeal. This policy is generally supportive of the installation of telecommunications equipment subject to certain criteria, including in relation to visual amenities, consideration of alternative sites, miniaturising and camouflaging the apparatus, and taking account of the setting in terms of design, colour and landscaping. The proposal would also accord with the relevant criteria of Paragraphs 42 – 46 of the Framework.

Other Matters

15. Concerns have been raised about the potential effects on health, particularly in relation to the proximity of the proposal to residential properties and to the nearby educational facilities. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation

protection (ICNIRP). In these circumstances the Framework advises that health safeguards are not something which a decision maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with in this case or that a departure from national policy would be justified.

16. Further concerns have been raised that the size of the mast might be increased in subsequent years, and that any reliance on screening would be based on the assumption that the nearby trees and hedge will remain. However, any such future proposal for enlargement would need to be considered on its merits at that time through the appropriate application process, and therefore an unspecified possibility of a future proposal cannot have any bearing on this appeal, which I have considered on the basis of the circumstances and evidence before me. In the absence of any significant evidence to suggest that the nearby trees and hedge are particularly likely to be removed, or are in poor condition, and in light of their relatively unobtrusive position within the highway verge, I can give very little weight to the assumption that they may not be retained. Therefore, these matters do not alter my findings above.

Conditions

17. The GPDO does not provide any specific authority for imposing additional conditions beyond those deemed for development by electronic communications code operators.

Conclusion

18. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR