
Appeal Decision

Site visit made on 15 November 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/L5240/W/16/3157724

Peaks Hill Rise SW, Woodcote, Purley CR8 3HQ

- 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 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by CTIL and Vodafone Ltd and Telefonica UK Ltd against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/00429/DT, dated 26 January 2016, was refused by notice dated 21 March 2016.
 - The development proposed is Installation of 12.5m Telecommunications Streetpole and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address given on the appeal form differs from that in the original application. In accordance with normal practice my decision uses the address given in the application. Although the appeal was submitted on behalf of 'Vodafone/O2', the agent has subsequently agreed that it should be determined in the name given in the application i.e. 'CTIL and Vodafone Ltd and Telefonica UK Ltd'.
3. The application was made under the procedures in paragraph A.3(3) of Part 16, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the 'GPDO'). In accordance with the GPDO I have determined the appeal solely in relation to matters concerning the siting and appearance of the development.
4. The Appellant has, following the Council's decision, submitted a revised plan which shows that two small dishes, which were previously proposed to be located on the streetpole, have been removed from the proposed development. The Inspectorate's guidance¹ states that an appeal should not be used to evolve a scheme. However, in this case I have considered the appeal on the basis of the revised plans as the change proposed is of a minor nature and this approach does not prejudice the interests of any party.
5. The Appellant has also, following the submission of statements, submitted maps showing the strength of signal within the Appellant's mobile network

¹ 'Procedural Guide: Planning appeals – England', The Planning Inspectorate, August 2016 - paragraph M.2.1

coverage in the area. As this information helps to assess any justification for the proposed development in accordance with national planning policy I have, exceptionally, accepted it as late evidence, together with photomontages which were referred to but not included in the Appellant's original statement. I arranged for the Council to be given an opportunity to comment on the additional documents if they wished but no further comments were received.

Main Issues

6. The main issues are:

- (a) the effect of the proposed development on the streetscene; and
- (b) whether any harm in relation to issue (a) would be outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

Policy Matters

- 7. The National Planning Policy Framework (the 'Framework') confirms in summary that local planning authorities should support the expansion of electronic communications systems and should not question the need for such systems. However, paragraph 43 of the Framework also states that local planning authorities should aim to keep the numbers of telecommunications masts and sites to a minimum consistent with the efficient operation of the network. Existing masts, buildings, and other structures should be used unless the need for a new site has been justified.
- 8. The development plan policies referred to by the Council are also material to my decision insofar as they relate to siting and appearance.

Streetscene

- 9. The appeal site is prominently located in a suburban residential area beside the A2022, which is known as Foxley Lane at this point and links Purley with Epsom. The dwellings in the area are mainly substantial detached houses set behind front gardens within extensive plots. There are many trees in the area, which has a spacious and verdant character.
- 10. The site itself is within a strip of verge which runs alongside part of Foxley Lane between the carriageway and footway. The strip is about 10 metres wide at this point and contains 2 fruit trees and a crescent shaped flower bed. The site is separated from nearby houses to the south by the footway and there is a line of black street light columns on the other side of Foxley Lane. Whilst the site is visually screened from the houses by trees and other vegetation within their extensive front gardens, it is prominent in views from a substantial length of Foxley Lane and its adjacent footways. The site contributes substantially to the character of the area.
- 11. Due to the intervening line of houses on the south side of Foxley Lane there is no direct inter-visibility between the site and the nearby Webb Estate and Upper Woodcote Village Conservation Area (the 'Conservation Area'). However, the site immediately adjoins, and forms part of the visual setting of, a Local Area of Special Character as identified in the Croydon Replacement Unitary Development Plan (CRUDP) 2006.

12. The proposed development would include a pole and separate equipment cabinet. The equipment cabinet would be relatively small, and could, considered in isolation, be built as 'permitted development' without the need for prior approval. The length of highway verge which would accommodate the proposals is not presently cluttered with street furniture and has a backdrop of mature trees and shrubbery when viewed from nearby footways and from passing vehicles on Foxley Lane. The proposed development would not affect the setting of the Conservation Area.
13. However, the pole would be much higher and thicker than the existing street light columns. It would also be located immediately next to the carriageway and would be clearly seen in front of the background vegetation when viewed from the footways on either side of Foxley Lane. It would stand out prominently when seen from a considerable length of Foxley Lane and its adjacent footways. Due to its position in relation to the flower bed, it would also harm the public's enjoyment of this feature and its setting within the highway verge.
14. The application states that the pole would be finished in brown. Whilst the Appellant has indicated a willingness to consider alternative colour finishes, the GPDO contains no provision allowing a condition to be imposed to cover this matter. In any event, a revision to the colour of the mast would not remove the harm that it would cause.
15. I conclude that the proposed development would cause moderate harm to the character and appearance of the area. Its approval would conflict with Saved Policy UC5 of the CRUDP and Policy SP4.1 of the Croydon Local Plan Strategic Policies (CLPSP) 2013. As the proposal would be harmful in relation to this issue, under the approach in paragraph 43 of the Framework, it should only be allowed if there is clear evidence that provision to meet the need for it could not be more suitably made on an alternative site or building in the area.

Alternative sites

16. The coverage plots provided by the Appellant show areas around the appeal site in which 3G coverage is less effective than in neighbouring areas. The Appellant has also provided an assessment of the feasibility in technical, planning and land ownership terms of providing apparatus using different methods and locations in and around the area of search. The Council has not produced any substantive evidence to suggest that any location other than those assessed by the Appellant would be feasible and more acceptable in planning terms than the appeal site. The fact that the proposal would provide services on behalf of 2 operators instead of one also weighs in its favour.
17. Of the alternative sites which have been assessed by the Appellant, I agree that only one (Westfield Nursing Home) has a reasonable likelihood of being more suitable on planning and highways grounds to meet the identified operational needs of the Appellant. Even here, there is no guarantee that a detailed proposal would be more suitable than that subject to appeal. I also note that the owner of Westfield Nursing Home has withdrawn their interest in making this site available.
18. Set against these points, however, no correspondence confirming the lack of availability of Westside Nursing Home has been provided. As it may be sited on a building, an installation at Westside Nursing Home could, subject to its

design and siting, be more suitable than the appeal proposal in terms of the approach in paragraph 43 of the Framework.

19. The network coverage maps show that an area around the appeal site does not provide adequate coverage for indoor use of a hand portable mobile in 'urban' or 'dense urban' areas. However, no part of this area is shown as having insufficient coverage to provide this service in a 'suburban' area. Given that the area could reasonably be regarded as 'suburban' this undermines the locational case for the new mast which is proposed. The maps also show little difference between the benefit to be derived from a 12.5 metre pole compared to a lower one.
20. I consider that, whilst a fairly robust locational case has been forward, this contains weaknesses as identified above.

Other Considerations

21. The Appellant has submitted evidence which demonstrates that the proposal would comply with health guidelines laid down by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The proposed development would also be in a location where it would not cause any material harm to the living conditions of occupiers of any neighbouring dwelling or to highway safety. These points however need to be considered in the context of my earlier findings.

Conclusions

22. I have found that the appeal proposal would cause moderate harm to the streetscene. Set against this harm, whilst a fairly robust locational case has been forward, this contains weaknesses. I am not convinced that the provision of a new mast as proposed has been adequately justified as required by paragraph 43 of the Framework.
23. For these reasons, I dismiss the appeal.

Jonathan Clarke

INSPECTOR