
Appeal Decision

Site visit made on 3 April 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 2nd May 2017

Appeal Ref: APP/Z5630/W/17/3167754

Land to the north side of Coombe Lane West, Kingston upon Thames, Surrey KT2 7EX

- 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 GPDO).
 - The appeal is made by CTIL and Vodafone Limited against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 16/14730/TEL, dated 15 July 2016, was refused by notice dated 7 September 2016.
 - The development proposed is the installation of a 12.5 metre high monopole supporting 6 no. antennas, the installation of a radio equipment cabinet and development works ancillary thereto.
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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 (as amended) for the installation of a 12.5 metre high monopole supporting 6 no. antennas, the installation of a radio equipment cabinet and development works ancillary thereto at land to the north side of Coombe Lane West, Kingston upon Thames, Surrey KT2 7EX in accordance with the terms of the application, Ref 16/14730/TEL, dated 15 July 2016, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location maps drawing no. 100A, proposed site plan drawing no. 100C, proposed site elevation drawing no. 300A.

Preliminary Matters

2. A revised plan (proposed site plan drawing no. 100C) accompanies the appeal. This relocates the equipment cabinet from a position adjacent to the highway footpath to one close to the front boundary wall of 51 Coombe Lane West. The Council and interested parties have objected to this amendment being considered as part of the appeal. However, this would not materially alter the effects of this proposal, which relate principally to the siting and appearance of the monopole. The relocated cabinet would not increase the visual prominence of the proposal and so not potentially prejudice the Council's position or that of interested parties. Therefore I have dealt with the appeal on the basis of this amendment.
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3. The appellant has questioned the validity of the Council's notice to 'reject' the details submitted as having not adequately met the requirements of Part 16 of the GPDO. However, the appeal is clearly over the Council's decision not to grant prior approval for the details submitted. Given the conclusions reached I have not found it necessary to consider this matter further.

Main Issue

4. The effect of the proposal on the character and appearance of the surrounding area and whether any harm caused would be outweighed by the need to site the installation in the location proposed.

Reasons

5. The proposal is for the installation of a 12.5 metre high replica telegraph pole radio base station supporting 6 no. antennas enclosed within a GRP shroud. There will also be a radio equipment cabinet near to the pole, in an amended position as described above. The scheme would provide 3G and 4G coverage to the area for both Vodafone and Telefónica systems from a shared monopole. The height of the pole is stated as the minimum needed to provide the required level of coverage to the target area.
6. Coombe Lane West is part of the main A238 entering Kingston from the east. Whilst this is a busy road the location has a strong residential character with large, spacious housing running quite close to the tree-lined street. There are paved footways either side of the road and in this location a wide grass verge runs along its north side.
7. A fairly continuous line of mature trees stand along the back edge of the footway adjacent to the grass verge in this stretch of Coombe Lane West. The monopole would be sited within an open gap between two mature Limes which are set back slightly from the general run of trees, towards the middle of the verge. At the rear of the site, where the re-positioned cabinet would stand, is the tall brick frontage wall to No 51, immediately behind which is a row of closely-set mature cypress trees.
8. In paragraphs 42 – 46 of the National Planning Policy Framework (the Framework) the Government supports a high quality communications infrastructure as essential for sustainable economic growth and in playing a vital role in the provision of local community facilities and services. The Council's development plan is the Core Strategy (CS), adopted a month after the publication of the Framework in April 2012.
9. Following the advice of the Framework the Council has not sought to question the need for this proposal. However, the CS is a material consideration in the assessment of the siting and appearance of this proposal, which the Council has found contrary to policies CS8, DM10 and DM12. These policies address issues relevant to character, design and heritage with particular regard to the surrounding Strategic Area of Special Character (SASC).
10. The SASC covers a large part of the northern part of the Borough. The area is based on a Character Study which refers to the very high quality landscape, with roads with a variety of enclosures but universally garlanded by trees or green space and interspersed by mature trees through-out.

11. The aims of policies CS8, DM10 and DM12 to protect the attractive suburban character of this area from inappropriate development would be generally consistent with the aims of the Framework. However the Framework also states that in preparing Local Plans, Councils should support the expansion of electronic communications networks, which the CS does not specifically address.
12. In addition, the Council has not fully substantiated why this proposal would be particularly unacceptable in this location compared to elsewhere in the SASC. This concern is compounded by the evidence that there has been no prior agreement over alternative options for the siting of this proposal. The weight that can be given to protecting the SASC must therefore be tempered by the Framework's requirement that a ban on new telecommunications development in certain areas should not be imposed.
13. The general appearance of the street scene is of a verdant, suburban character. Quite slender modern-style lamp posts punctuate the roadside, on alternating sides of the street, with the occasional telegraph pole which the monopole with its brown coloured, wood effect finish would be designed to resemble. Various other elements of street furniture feature in this area, such as bus stops and shelters, waste bins and electrical cabinets, but the tall, mature trees provide the most dominant feature.
14. I have had regard to the summer-time photomontages provided and assessed the proposal at my early April visit, when the deciduous trees were beginning to come into leaf. Arriving from the east I passed the existing slimmer grey monopoles near the Golf Club Drive junction and at the A3 intersection. However, in this case, within a line of trees and in a general verdant location, the thicker telegraph pole replica design, coloured brown, would be an optimal choice.
15. The provisions of the GPDO mean that the principle of this proposal is not under question and so the Council's development plan policies are material considerations only insofar as they apply to matters of siting and appearance. The Council considers the installation to be an incongruous feature in the street scene. However, whilst the installation would inevitably have a utilitarian appearance, and be more prominent in winter when the deciduous trees have lost their leaves, the brown-coloured telegraph pole design would respond adequately to the natural vertical emphasis of the surrounding trees. Set back from the edge of the pavement, the line of trees along the street would screen the installation from more distant views along the street. At closer range, the backdrop of cypress trees would soften the visual impact of the installation from the opposite side of the road and screen the development from vantage points to the north.
16. The Council's second reason for refusal is that it has not been demonstrated that the siting of the installation would not harm the surrounding trees which, if lost, would detract from the character and appearance of the surroundings within the designated SASC. This issue is addressed in the Arboricultural Impact Assessment¹ (AIA) submitted with the appeal to which regard has been given. The Council has not responded further in respect of this report but I have considered comments made by interested parties.

¹ BS5837 Arboricultural Impact Assessment – Tamla Trees December 2016

17. The AIA assesses the effect of the monopole and both the original and revised positions of the service cabinet in respect of the mature lime trees either side of the installation and the row of cypress trees behind the front wall to No 51. Having examined the details provided by the Council none of these trees would appear to be protected by the Tree Preservation Order No.3 1976. However, these trees make an important contribution to the character and appearance of this area and would provide screening and moderate the visual impact of this proposal.
18. The installation involves a relatively small developed footprint. The excavation would affect only a small part of the root protection area of the nearest lime tree to the west of the proposed monopole. This would be installed on augered footings which would minimise collateral tree root damage. The revised cabinet position would be closer to the group of cypress trees but, whilst no trial excavation has been carried out, it is reasonably likely that the boundary wall would have deflected significant root growth away from the verge.
19. Subject to standard tree protection measures the limited extent of hand dug trenching and footings involved in this scheme would not likely threaten the lifespan of these trees. Consequently, they would continue to thrive and reduce the visual impact of this proposal. The AIA had not considered the small tree recently planted close to the position of the monopole. However, due to its small size this would have little bearing on my conclusions over visual impact.
20. The appearance and siting of this installation would result in some moderate harm to the attractive appearance of this tree-lined street and the pleasing suburban character of the surrounding area. This would conflict with the aims of CS policies CS8, DM10 and DM12 in respect of preserving the general character and appearance of the SASC. However, the scale of harm caused to the significance of the SASC as a whole would be relatively small and, in the absence of the potential availability of alternative sites in this area, would be outweighed by the need put forward in respect of the enhanced signal coverage that would be provided.

Other Matters

21. Consideration has been given to the further concerns raised by interested parties. I am not persuaded that this proposal, particularly with the re-sited cabinet, would reduce visibility onto the highway from adjacent drives such as to have any material impact on road safety, and the Council has raised no objections on these grounds.
22. Potential health effects have been raised. 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 or that a departure from national policy would be justified in this case.
23. Concerns are expressed over this proposal leading to the introduction of further equipment cabinets, as has occurred with similar installations elsewhere. However, this appeal can only be assessed on the elements proposed and

cannot alter what might be further provided through permitted development rights. Whilst appreciating the concern expressed over 'cabinet creep' this would not provide an adequate basis for resisting this proposal.

24. The proposal would be visible from neighbouring houses and, whilst affecting present views, the effect would not be overbearing such that it would have a materially harmful impact on the living conditions of any nearby occupiers.
25. There is criticism of the photomontages submitted including the fact these do not reflect the appearance of the installation during winter months. Whilst I have considered these visual representations, my decision is based on an assessment made at a site visit when the roadside trees were not yet in leaf.
26. Account has been taken of the concerns expressed over the appellants' lack of prior engagement with the local community. However, this does not alter my findings, based on the evidence, that prior discussions with the Council had not proved fruitful in identifying the potential for alternative locations.
27. Interested parties have queried the need for this installation based on their own evidence of good signal strength in this location. However, this would not prove there was no requirement in relation to capacity and signal strength in the wider area. The advice in the Framework is clear that prior approval does not depend upon a demonstration of need.
28. The appellant has referred to a large number of other appeals in support of this proposal and interested parties have rebutted this evidence. However, issues in relation to siting and appearance will vary between sites and therefore this appeal has been determined on its own, individual merits.

Conditions

29. The Council has suggested a condition that once no longer required the installation be removed and the land restored to its former condition. Such a condition is deemed to be applied under paragraph A2 of Part 16 of the GPDO. However, a condition is necessary in the interests of certainty that the installation accords with the submitted drawings, including the revised siting for the cabinet.

Conclusion

30. For the reasons given, and having taken into consideration all other matters raised, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR