
Appeal Decision

Site visit made on 3 April 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 30th May 2017

Appeal Ref: APP/D5120/W/16/3166360

Outside 182 and 182a Harcourt Road and at junction with Penhill Road, Bexley, Kent DA5 3EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the provisions of Schedule 2, Part 16, Paragraph A.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 - The appeal is made by Cornerstone Telecommunications Infrastructure Ltd (CTIL) against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/02260/GPDO08, dated 31 August 2016, was refused by notice dated 26 October 2016.
 - The development proposed is the installation of a 10m telecommunications replica telegraph pole and a single equipment cabinet.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Paragraph A.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the installation of a 10m telecommunications replica telegraph pole and a single equipment cabinet at outside 182 and 182a Harcourt Road and at junction with Penhill Road, Bexley, Kent DA5 3EH in accordance with the terms of the application Ref 16/02260/GPDO08, dated 31 August 2016.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The proposed 10m high mast and equipment cabinet would be located within a triangular shaped grassed verge in front of Nos 182 and 182a Harcourt Road. The verge is bisected by a footpath and there is a street light located close to the footway on Harcourt Avenue. On the opposite corner there is a mast set at the back of a smaller grass verge in front of No 179 Harcourt Avenue and five equipment cabinets. An electricity pylon is situated in the middle of Harcourt Road approximately 100m north of the appeal site and is prominent in the street scene due to its substantial height. The site is close to the junction with Penhill Road, a busy main road within an urban area, albeit predominantly residential in character.
 4. The appeal proposal would provide shared 3G and 4G mobile electronic communications for Vodafone and O2 in this part of the Borough through
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CTIL which is a joint venture company owned by Telefónica UK Limited and Vodafone Limited. The appellant has advised that the mast and single equipment cabinet are the minimum size required to accommodate the apparatus for 3G and 4G transmissions. The National Planning Policy Framework is clear that advanced, high quality communications infrastructure is essential for sustainable economic growth and thus the enhancements proposed weigh strongly in favour of the location.

5. The 10m replica telegraph pole and cabinet would be located centrally within the grassed area. When viewed from the east along Penhill Road and from the north it would be seen in the context of a nearby street light of similar height, and other vertical features in the vicinity including a telegraph pole and other street lights. When viewed from the west the mast would be seen against the backdrop of the existing mast on the opposite side of Harcourt Road. Moreover, due to the s-shaped alignment of this section of Penhill Road there would only be short range views of the mast when travelling along the road in either direction. Consequently, as the mast would not significantly exceed the height of other vertical elements in the street scene and would not be located on a prominent skyline ridge, it would blend into its surroundings and would not appear incongruous.
6. The single equipment cabinet would be 1.8m wide, 1.6m high and 0.8m deep, and on its own it would be of a size that would not require prior approval. It would be seen against the backdrop of a brick wall bounding properties on Harcourt Road which rises in height to about 1 metre and would thus not appear overly prominent. Whilst the grassed area has some local visual amenity value, it is adopted highway where there is a statutory right for telecommunications operators to install apparatus under prior approval procedures and is not designated open space. I acknowledge the presence of five 5 equipment cabinets on the opposite side of the junction, but the appeal proposal would not be sited close to these cabinets and therefore would not result in the street scene appearing unduly cluttered.
7. Taking all of above into account, I conclude that the proposal would not be unacceptably harmful to the character and appearance of the surrounding area, and it would comply with Policy ENV39 of the Unitary Development Plan (LP) (2004).
8. The Council considers that other locations such as a commercial parade further north of the site should have been considered to site the proposed installation, but that site is beyond the identified search area for radio frequency coverage of this part of Bexley, and the operators already have a shared radio base in that location. In any case, the availability of alternative sites was not cited as a reason for refusal on the Decision Notice.
9. The appellant has stated that it is not possible to mast share with EE and H3G in this location as a four user street furniture monopole does not exist and a lattice tower would be required to accommodate four operators which would need to be sited on private land in its own compound. Other alternatives to the proposed siting have been considered and discounted, including the nearby pylon and golf course and none of the evidence submitted by the appellant has been challenged by the Council. I have also had regard to the fact that coverage can be affected by topographical features such as hills, trees and buildings and that antennae need to be spaced apart to avoid interference.

10. On balance I am satisfied that alternative means and sites have been considered and discounted and that the appeal proposal is the most suitable option. I therefore conclude that the proposal would accord with LP Policy ENV45, which requires telecommunications equipment to be sited in such a way as to minimise the visual impact and for proposals to demonstrate that alternative sites and site sharing have been explored.

Other Matters

11. Occupiers of nearby properties have expressed concerns with the effect of the proposal on human health, but a ICNIRP certificate has been provided to demonstrate that the proposal complies with its radio frequency public exposure guidelines, and thus I have attached limited weight to this matter.
12. The effect of the proposal on property values is not a planning matter and thus outside the scope of the appeal.

Conclusion

13. The Council has suggested a number of conditions to be attached to the permission in event that the appeal is allowed, two of which are deemed conditions set out in the GPDO in any event. However the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development set out in the GPDO, and in the absence of evidence to the contrary, I find no justification to impose the other suggested conditions.
14. For the reasons set out above, I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR