
Appeal Decision

Site visit made on 4 September 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 25th September 2017

Appeal Ref: APP/M4320/W/17/3176041

One Stop Shop, 30-32 Belmont Street, Southport PR8 1LY

- 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 to the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - The appeal is made by Vodafone Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2017/00080, dated 10 January 2017, was refused by notice dated 7 March 2017.
 - The development proposed is the installation of a 15 metre monopole with 3no shrouded antennas, 2no equipment cabinets, 1no metre pillar and 7no bollards ancillary thereto.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 for the installation of a 15 metre monopole with 3no shrouded antennas, 2no equipment cabinets, 1no metre pillar and 7no bollards ancillary thereto at land at One Stop Shop, 30-32 Belmont Street, Southport PR8 1LY in accordance with the terms of the application Ref DC/2017/00080, dated 7 March 2017, and the plans submitted with it.

Procedural Matter

2. Whilst prior approval cases are not required by statute to be determined in accordance with the development plan, local policies may be relevant as material considerations. I understand that following the decision in this case the Local Plan for Sefton 2017 (Local Plan) has been adopted. This supersedes the Sefton Unitary Development Plan, and as such Policies MD8, H10 and DQ1 are no longer relevant. Policies HC3 and EQ2 of the Local Plan now carry full weight. Notwithstanding this change, the relevant aspects of development plan policy in relation to design and non-residential development in residential areas remains the same, and the national policy regarding electronic communications is as set out in the National Planning Policy Framework (Framework). As such I am satisfied that neither party has been prejudiced by this change in policy circumstances.
3. I note that the appellant submitted a number of documents in support of the appeal which were not previously seen by the Council or interested parties. However these are background documents which, whilst they are submitted in support of the appellant's case, they do not relate specifically to the appeal

site. As such I do not believe that the case made by either the Council or interested parties would be prejudiced by the consideration of this material.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposal on the living conditions of nearby residents and the character and appearance of the area, and whether any harm caused would be outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

5. The appeal site is located within a predominately residential area. It is in the easternmost part of the open forecourt to *One Stop Shop*, directly adjacent to both the shared boundary fence with No 34 Belmont Street and the pavement to Belmont Street. The proposed apparatus would comprise two equipment cabinets painted green and set against the fence line, a 1 metre pillar and a 15m monopole. This latter element would be set 3.5m away from the shared boundary so as to be outside of the canopy of the tree within the garden of No 34, which I understand is protected by a Tree Preservation Order (TPO). It would have three shrouded antenna arranged as a single stack. The area would be enclosed by 7 bollards.
6. I note that the Council has no objection to the ground base equipment and I have no reason to take a different view. This decision therefore focuses on the effect of the monopole.

Living conditions

7. The proposed apparatus would be located close to the first floor flats above *One Stop Shop*, and as such it would be seen at close range from those windows facing this part of the forecourt. However, the current view over the tarmacked parking area and road, including street signage, is not in itself of any great merit, though I accept that it is softened by the backdrop of garden trees relating to 19, 21 and 34 Belmont Street. In this context the monopole, the upper section of which I understand would be painted ivory, would appear as a relatively slim addition to an area of mixed character. Also, as it would be viewed from relatively close range, the eye would not naturally be drawn to its full height. As such I do not consider that it would appear as an overly intrusive or domineering addition.
8. Slightly further to the south, I have also considered the outlook from the front windows of No 34 Belmont Street. In this case the front garden trees to this property, including that protected by TPO, would to a large degree screen the immediate views of the monopole. I accept that this screening would diminish with leaf fall in winter months, though even without their leaves the presence of these trees would filter views of the monopole. I am therefore satisfied that the monopole would not be unacceptable in this regard.
9. I accept that the monopole would appear as a visible element of the outlook from the front facing windows of No 19 and No 21 Belmont Street. However, this would be viewed in the context of the open forecourt of *One Stop Shop*, other street furniture and the regular movement of vehicles around this area. Views would also be filtered by the presence of garden trees along the boundary of these dwellings with Belmont Street, though again I accept that

this effect would diminish to some degree in winter months. Overall my view is that there is sufficient distraction in the local streetscene to ensure that the addition of the slim and static monopole would not dominate or cause significant harm to outlook for the residents of these properties.

10. Dwellings at No 70 and 72 Talbot Street and No 28 Belmont Street are located on the opposite side of the junction and have open views of the forecourt from the front of their properties. I accept that these more distant viewpoints would take in a greater proportion of the height of this monopole. However, as this would be seen against the backdrop of the road, traffic movement on the forecourt and the backdrop of mature trees, the monopole itself would not be an unduly prominent feature of the outlook from these dwellings.
11. I conclude on this issue that the siting and appearance of the proposal would not cause harm to the living conditions of the occupiers of nearby properties with particular reference to outlook. Accordingly, it would comply with Local Plan Policy HC3 which requires that non-residential development in residential areas should not have an unacceptable effect on the living conditions of neighbouring properties.

Character and appearance

12. The open forecourt area is an unusual element within the regular street pattern of mostly detached and semi-detached houses. Its location at the junction of Talbot Street and Belmont Street creates wider and more open views within this moderately high density area. The forecourt itself has a range of existing street furniture including lampposts, signage, bins and a letterbox, and is framed by the pleasant backdrop of mature trees. In this context the monopole at 15m in height would rise considerably above the height of the adjacent trees, noted by the appellant as being approximately 8.9m¹. It would also be painted in the colours of the local authority, the top most prominent section being *ivory*.
13. The photomontages presented by the appellant illustrate that in views from the north east along Talbot Street and south east along Belmont Street, the presence of garden trees and existing buildings would mask all but the upper portion of this structure.
14. However, in medium distance views from the north western section of Belmont Street and the south western section of Talbot Street the height and stark appearance of this structure would be apparent. As such the monopole would stand out as a visible and discordant feature in these parts of the streetscape.
15. The appellant points out that this corner is commercial in nature, and I have noted that there is a range of lower level existing street furniture. I also accept that the design of this structure would be well below the maximum height which can be considered through the prior approval process, and that its slim design would be the technical minimum required given the nature of this installation. I also accept that the introduction of a new piece of street furniture will always be noticeable at first. Notwithstanding these considerations this would be an incongruous feature in terms of its scale in views from the northwest and southwest.

¹ Noted on drawing no 301

16. On this point I conclude that the siting and appearance of the monopole would be harmful to the character and appearance of this local area. As such it would conflict with the Local Plan Policy EQ2 and HC3 which require proposals to respond positively to and not harm the local character of an area.

Alternative sites

17. The Framework at paragraph 45 states that applications for telecommunications development, including prior approval, should be supported with the necessary evidence to justify the proposed development. Where a new mast or base station is proposed this includes the need for evidence that the possibility of erecting antennae on an existing building, mast or other structure has been explored as an alternative.
18. In this case the appellant, a joint venture company owned by Vodafone and Telefonica who share their telecommunications infrastructure, has provided technical information to demonstrate that the proposal is required primarily to support mobile technology within this area of Southport. It is relevant to note that this facility would be shared by two operators and would support the provision of multiple technologies in terms of both coverage and capacity. These matters are undisputed by the Council.
19. It is clear that the appellant has taken considerable time and effort to explore the availability of alternative sites within the search area. In doing so the appellant has sought to actively engage the Council including the local elected member and community interests. On this basis up to 40 sites within what is a tight search area have been considered and variously discounted due to factors including highways objections, physical constraints such as the presence of tree roots and underground services, or land ownership issues. Again the Council does not disagree with or provide any competing evidence to contradict this aspect of the appellant's evidence. In these respects both the proposal and the approach to site identification are supported by a number of aspects of industry best practice.
20. I note the suggestion from interested parties that not all alternative sites have been considered. This includes the reference to a press article which followed the Council's refusal to grant prior approval in this case which suggests that various new locations have been put forward by residents and businesses. In this respect interested parties suggest that the equipment should be located on the coast, or on a main road and away from homes. However, these and other suggestions made are outside the search area. On this basis there is no evidence before me that there may be alternative potential sites within the search area. As such the search conducted by the appellant with the support of the Council appears to have been exhaustive, with the appeal site emerging as the least worst option.
21. It is also relevant to note that this scheme falls within the parameters of 'permitted development' under the GPDO². Whilst in such cases the prior approval of the local planning authority is required, this is described as a *light-touch process which applies where the principle of the development has already been established*³. As such, and as the need for this facility is not disputed, this must be balanced against the harm identified. In this respect

² Under Class A of Part 16 of Schedule 2 of the General Permitted Development Order 2015

³ Planning Practice Guidance Paragraph: 028 Reference ID: 13-028-20140306

whilst I have accepted that the monopole would stand out and not readily assimilate into the character of the area when viewed from some directions, the impact of this harm would be on a relatively small scale in terms of its nature and extent. Balanced against this is the fact that this proposal would support the identified need for telecommunication infrastructure to provide mobile coverage over a wider area.

22. On this basis I conclude that the modest degree of harm in relation to the character and appearance of this area would be outweighed by the need to site the installation in the location proposed, having had regard to the potential availability of alternative sites.

Other matters

23. The extent of local opposition to this scheme is clear and it is appropriate to address the additional concerns raised. This includes the comment by some that mobile signal in this area is adequate and that good coverage is not required. However, such partial assessments do not reflect local issues relating to capacity, coverage or signal strength across the area as a whole. Nor do they reflect the fact that mobile technology and its associated infrastructure is now an essential aspect of everyday life.
24. Concerns have been raised about the potential effects of such equipment on health, including reference to the Stewart Report 2000 and the '*precautionary principle*'. 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 is before me to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
25. It is suggested that existing parking problems within the forecourt area would be exacerbated by the addition of the proposed monopole and ground based apparatus. I noted on my site visit that the parking arrangements, including points of entry and exit, are unclear and that as a result parking can be haphazard. However, the main area of use at the time of my visit was along the Talbot Street frontage. As such the addition of the proposed apparatus to the east, adjacent to Belmont Street and enclosed by bollards, would not itself suggest safety issues in relation to the access to or use of this area. Furthermore the open and accessible nature of this site with good visibility means that there would not be concerns about maintenance vehicles accessing this area.
26. Concerns have also been expressed about the loss of property values that may result from this installation. However, I have not seen any evidence that this would be the case. Furthermore, planning is concerned with land use in the public interest. As such the protection of private interests such as property values are not material to the consideration of such cases.
27. There is also concern that by allowing this scheme a subsequent proposal for larger apparatus would be likely. However if this were the case such a scheme would have to be determined on its own merits.

Conclusion

28. Part 5 of the Framework sets out Government planning policy for supporting high quality communications infrastructure, which is essential for sustainable economic growth and plays an important role in the provision of local community services and facilities. In this case the harm found in relation to some aspects of the siting and appearance of this proposal would be significantly outweighed by the benefits provided by the improved network coverage and capacity for the local community, business and visitors to this area.
29. For these reasons above I conclude that this appeal should be allowed. There is no authority in such cases to apply any further conditions beyond the deemed conditions for development by electronic telecommunications code operators. As such it is not possible to impose the condition suggested by the Council relating to the painting of the monopole in terms of the proportions to be used for the agreed colours. However, as this is illustrated in the plans and supporting information, it is not necessary to seek further control of this matter.

AJ Mageean

INSPECTOR