



Appeal Decision

Site visit made on 24 July 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/P1560/D/19/3226638

5 Lupin Way, Clacton-on-Sea, Essex, CO16 7DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Woodward against the decision of Tendring District Council.
 - The application Ref 18/02052/FUL, dated 12 December 2018, was refused by notice dated 5 February 2019.
 - The development proposed is described as "To move co-linear antenna to other side of property. To install cobweb antenna and 2m beam to original place on roof (not installed yet). To erect a tower by (MM0CUG) and to install a HF antenna on the top (HEXBEAM) sitting height (app) 4.5 m. Extend height around 10-12m."
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Decision

1. The appeal is dismissed insofar as it relates to the installation of a cobweb antenna and 2m beam to the roof and the retention of the HexBeam antenna incorporating a tower and installation of a HF antenna.
2. The appeal is allowed insofar as it relates to the moving of the co-linear antenna to the opposite side of the property and planning permission is granted to move the co-linear antenna to the opposite side of the property at 5 Lupin Way, Clacton-on-Sea, Essex, CO16 7DX in accordance with the terms of the application, Ref 18/02052/FUL, dated 12 December 2018, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Unless varied by other conditions of this decision, the development hereby permitted, insofar as it relates to the relocation of the co-linear antenna only, shall be carried out in accordance with the plans submitted with the application.

Procedural Matters

3. The description of development on the application form is complex. For clarity I have used the description of the development provided on the Refusal Notice within this decision as this identifies the proposed development more clearly. The development is therefore "To move co-linear antenna to the opposite side of property. Install a cobweb antenna and 2m beam to the roof. Retention of the HexBeam antenna incorporating a tower and installation of a HF antenna".

4. For the reasons that follow, I find the proposed moving of the co-linear antenna (antenna 1) to the opposite side of the property to be acceptable and it is clearly severable both physically and functionally from the installation of the cobweb antenna and 2m beam (antenna 2) to the roof and the retention of the HexBeam antenna incorporating a tower and installation of a HF antenna (antenna 3). Therefore, I intend to issue a split decision in this case and grant planning permission for the relocation of the co-linear antenna.
5. At the time of my visit antenna 3 had been erected, antenna 1 had been moved and another antenna was present on the ridge line of the roof.
6. Revisions have been made to the National Planning Policy Framework (the Framework) and a revised version was published in February 2019. The changes to the Framework do not materially alter the paragraphs within the Framework most relevant to this appeal.
7. The Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) (the Emerging Local Plan) has been published but has not yet been examined and found sound. Therefore, it attracts limited weight as a material consideration.

Main Issues

8. The main issues are the effect of the proposed mast and antennae on the character and appearance of the area and on neighbours' living conditions, particularly in relation to outlook.

Reasons

9. 5 Lupin Way is an end of terrace two storey house lying within an established residential area comprising mainly two storey houses of various designs, with a mix of detached or semi-detached houses and short terraces. The character and appearance of the area is that of a moderately dense residential housing estate. The roofs of the area feature aerials of various designs and sizes, but generally of a modest size associated with television reception. A notable exception is a large aerial erected on the gable end of 7 Ruaton Drive, a house to the rear of No5. Several houses have rear faces towards the garden of No 5, many featuring windows at upper floor level.
10. Antenna 1 has been moved along the ridge of the roof of the house to the boundary with the neighbour. Antenna 2 would be erected part-way along the ridge, and antenna 3, an antenna in the form of a dish-shape atop an extendable tower, has been erected in the back garden of the house.
11. When extended, the tower and large dish of antenna 3 is visible from the street on Ruaton Drive, Salvia Close, Marigold Avenue and Lupin Way. It is, in both extended and unextended form visible from the rear windows of neighbouring properties. Antenna 2 would also be visible on the ridge line of No 5 from similar vantage points. Antenna 1 is similarly visible.
12. The form of antenna 3 appears as a large, incongruous and alien feature in the domestic setting of the area. Antenna 2 would add to the number of large antennae on the roof and the form of antenna 2 would be incongruous and alien in the domestic setting. Antennae 2 and 3 would be visible from the surrounding streets and from neighbouring dwellings and gardens. Antenna 3 noticeably alters the character of the area when viewed from the street and

- nearby properties. This alteration would be amplified by the addition of antenna 2. In this particular context that lack of conformity would be so significant as to amount to harm.
13. Whilst antenna 2 is small when compared to other antennae with a similar function, it would nonetheless be a sizeable structure and would have a significant presence in the streetscape.
 14. Further, although in the form of a bowl-shaped net, the overall impression of antenna 3 is of an imposing structure. Anyone in the garden of the neighbouring property to the side or to the rear would experience an increased sense of enclosure when in their garden or, in the case of the properties to the rear, at their rear windows when the mast is extended.
 15. Whilst, in the case of antenna 3, the mast can be lowered and the antenna on top dismantled, this is an operation that requires a few people to carry it out, and I have little substantive evidence before me that this operation would be carried out each time the antenna is required for use. I have considered whether a planning condition requiring the dismantling of antenna 3 when not in use would make that part of the proposed development acceptable. However I do not consider that such a condition would, in this case, be reasonable or enforceable.
 16. Antenna 1 is more in keeping with the antennae mounted on surrounding buildings and directly comparable to that mounted on 7 Ruaton Drive. It would not have the same dominating effect and incongruity as either antenna 2 or antenna 3. Further, its shape and form would not have the same enclosing effect on neighbouring properties as antenna 3.
 17. I therefore conclude that antenna 2 and antenna 3 would have an unacceptable effect on the character and appearance of the area and on neighbours' living conditions, particularly in relation to outlook. That part of the development is therefore contrary to Policy QL9, QL10 and QL11 of the Tendring District Local Plan (2007) (the Local Plan) which, amongst other things, seek to ensure that all new development should make a positive contribution to the quality of the local environment, maintain or enhance local character and distinctiveness, relate well to its site and surroundings particularly in relation to its scale, massing, form and design and respect or enhance views and skylines whilst protecting the amenities of nearby properties. Similarly, the development would be contrary to those parts of the Framework whose aim is to achieve well designed places. Although, for the reasons given above, attracting little weight, the proposed development would also be contrary to Draft Policy SPL3 of the Emerging Local Plan which has similar aims.
 18. I further conclude that antenna 1 would not have an unacceptable effect on the character and appearance of the area or on neighbours' living conditions. That part of the development is therefore in accordance with Policies QL9, QL10 and QL11 of the Local Plan and the Framework. Similarly, it would be in accordance with Draft Policy SPL3 of the Emerging Local Plan.

Other Matters

19. Whilst I am aware of the circumstances of the appellant in regard to his wife's health and his position as her carer, I have determined this appeal with regard to planning matters alone.

20. My attention has been brought to an appeal decision in Somerset. I have limited information before me on which to assess the comparability of that case with the appeal before me. In any case, I have determined this appeal on its own merits.

Conditions

21. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans as this provides certainty.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to moving the co-linear antenna to the opposite side of the property but dismissed insofar as it relates to installing a cobweb antenna and 2m beam to the roof and retention of the HexBeam antenna incorporating a tower and installation of a HF antenna.

I Dyer

INSPECTOR