



Appeal Decision

Site visit made on 8 August 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 17th September 2019

Appeal Ref: APP/D1590/W/19/3230390

Southern Footway Belton Gardens, Leigh on Sea, SS9 2EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by EE Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 19/00515/TEL, dated 15 March 2019, was refused by notice dated 26 April 2019.
 - The development proposed is installation of 12m high Alpha 8 slimline telecommunications street-pole and 3No. equipment cabinets and ancillary apparatus within footway.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of installation of 12m high Alpha 8 slimline telecommunications street-pole and 3No. equipment cabinets and ancillary apparatus within footway at Southern Footway Belton Gardens, Leigh on Sea SS9 2EJ in accordance with the terms of the application Ref 19/00515/TEL, dated 15 March 2019, and the plans submitted with it including:
Drawing No 76938, 1 GA 01 Rev G; Drawing No 76938, 1 GA 02 Rev G;
Drawing No 76938, 1 GA 03 Rev G.

Application for costs

2. An application for costs was made by EE Ltd against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning Policy

4. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework)

only in so far as they are a material consideration relevant to matters of siting and appearance.

5. As the principle of development is not a consideration, the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed development upon the character and appearance of the area, and whether any harm caused is outweighed by the need to site the installation in the location proposed.

Reasons

7. The street-pole with associated cabinets would be located on a widened section of footway adjacent to the carriageway. While I acknowledge that the cabinets would not be screened, they would be coloured dark green and would blend in with the trees and shrubs on the adjoining open space. Being set at the back of the wide footway, nearest the vegetation, the cabinets would also not materially affect the sense of spaciousness of the road junction. Accordingly, the cabinets would not represent visual clutter even when taken in combination with nearby signage.
8. The proposed street-pole would have antennas set in a tight configuration at its top. The resulting uniform and relatively slimline circumference would reduce the pole's visual impact and assimilate it into the vertically engineered context of nearby street lighting columns lining the carriageway. Although 3m higher than the nearest street lighting columns, and outside of the pattern of their regular spacing, the proposed street-pole would not be so much higher than the 9m high street furniture so as to appear particularly prominent or incongruous within their setting. Further, it would be coloured olive brown so as to blend in with the land behind it when seen from elevated positions to the north of the site.
9. The appellant has submitted photomontages of views towards the appeal site, with simulated views of the proposed street-pole. I give this evidence significant weight due to the comprehensiveness of views assessed, from different orientations and distances, with detailed consideration of the effects of topography, screening and context.
10. Due to the topographical features and height of land to the north relative to the appeal site, views from this direction would be largely limited to those from the open land and Nature Reserve to the south of Marine Parade. Looking down towards the street-pole, its appearance of height would be diminished with very limited breaking of the sky-line. Extensive views from the west and east would be limited through tall vegetation to the side of bending highways and the effects of land levels which drop to the east of the site. Views of the proposal from the lower land to the south, including from the High Road within the conservation area and the Marina, would be significantly screened by vegetation and the railway which runs close to the south of the appeal site. Views of the upper section of the pole from this direction would be experienced in the context of the dominant man-made vertical overhead structures of the railway and would not have an adverse material impact within this setting.

11. Taken all into account, the proposal is acceptable on its merits, causing no harm to character and appearance or visual amenity. For the reasons set out above I conclude that, due to its siting and appearance, the proposed development would not have a harmful effect upon the character and appearance of the area and so, insofar as they are a material consideration, would be in accordance with Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1 and DM6 of the Southend-on-Sea Development Management Document (2015) as supported by the Council's Design and Townscape Guide (2009).

Conditions

12. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Andrew Walker

INSPECTOR