



Appeal Decision

Site visit made on 5 June 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2020

Appeal Ref: APP/R5510/C/18/3218643

117-119 Victoria Road, Ruislip, Middlesex HA4 9BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Cornerstone Telecommunications Infrastructure Limited against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 15 November 2018.
- The breach of planning control as alleged in the notice is the installation of electronic communications apparatus on the rooftop.
- The requirements of the notice are:
 - i. Remove all pole mounted telecommunication antennas together with all associated long support poles from the land.
 - ii. Remove from the land all telecommunications installations and apparatus including the equipment cabinets associated with the pole mounted telecommunications antennas.
 - iii. Remove from the land all debris, waste, building materials, fixtures and fittings, plant equipment and machinery resulting from the works listed above.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed and the enforcement notice is quashed

Procedural Matter

1. A site visit took place on 5 June 2019, but it was not possible to inspect the roof top location in detail and therefore it was agreed that a further visit would be required. For various reasons it has not been possible to arrange a second site visit and therefore the decision is based on the written evidence submitted and my observations made at the original inspection.

The appeal on ground (c)

2. The ground of appeal is that the matter alleged does not constitute a breach of planning control. Development by or on behalf of an electronic telecommunications code operator for the purpose of the electronic communications network consisting of the installation of any electronic communications apparatus is permitted development according to Class A of Part 16, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). However, with reference to building-based apparatus there are restrictions on development permitted.

3. The Council's case that the development is a breach of planning control is based on the view that it does not comply with conditions relating to the location of the electronic apparatus on a building. Specifically, that it conflicts with paragraph A.1(2)(d)(i) which states that development is not permitted by Class A (a) if, in the case of the installation of antenna on a building which is less than 15 metres in height *"the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building or structure on which the antenna is to be located"*.
4. The Council considers that the roof of the appeal property constitutes a *"roof slope"* which is within 20 metres of a highway. The antennas are clearly not located on a wall and therefore, this appeal on ground (c) turns on whether or not the roof in question constitutes a slope. It is common ground that the roof is flat, but there is conflict regarding whether the flat roof can be described as a *"roof slope"*.
5. There is no definition of *"slope"* in the GPDO and therefore the ordinary meaning of the language used should be ascertained when interpreting the Order. The word *"slope"* suggests an inclined position, direction or state and a rising or falling plane with there being a difference in levels between the two ends or sides of a thing. Plainly, that definition cannot be used to describe a surface which is flat. As such, it is my understanding that reference to a *"roof slope"* in Part 16 cannot be referring to a roof which is flat. Furthermore, I do not see that a flat roof can be described as *"facing a highway"*.
6. Therefore, The installation of electronic communications apparatus on the rooftop of the appeal property constitutes permitted development by virtue of Class A of Part 16, Schedule 2 of the GPDO, development by or on behalf of an electronic code operator for the purpose of the operator's electronic network.

Conclusion

7. For the reasons given above I conclude that the appeal should succeed on ground (c). Accordingly, the enforcement notice will be quashed. In these circumstances the appeal on grounds (a), (f) and (g) set out in section 174(2) of the 1990 Act as amended does not need to be considered.

Formal Decision

8. The appeal is allowed and the enforcement notice is quashed.

A A Phillips

INSPECTOR