



Appeal Decision

Site visit made on 15 December 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2021

Appeal Ref: APP/Y9507/W/20/3255530

Falmer Road, Rottingdean, Brighton BN2 7DT

Grid Ref Easting: 536201, Grid Ref Northing: 104266

- 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 Telefonica UK Limited against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/05604/PA16, dated 21 November 2019, was refused by notice dated 8 January 2020.
 - The development proposed is installation of a 15m shrouded streetpole, 2 no. equipment cabinets and equipment ancillary thereto.
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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 a 15m shrouded streetpole, 2 no. equipment cabinets and equipment ancillary thereto at land at Falmer Road, Rottingdean, Brighton BN2 7DT in accordance with the terms of the application Ref: SDNP/19/05604/PA16, dated 21 November 2019, and the plans submitted on 3 December 2019 including drawing Nos 100.Rev:B, 201.Rev:C and 301.Rev:C.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the '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.
3. The appellant submitted amended plans part way through the determination of the prior approval application. The amended plans were submitted on 3 December 2019 and clarified the colour of the proposed apparatus. The proposed elevations (drawing No 301.Rev:C) show that the proposed streetpole and Lancaster cabin would be galvanised steel, whilst a small cabinet next to the streetpole would be 'Fir Green'. For the avoidance of doubt, I have determined the appeal on the basis of the amended plans.

4. As part of the appeal, the appellant has submitted a panoramic assessment and a photomontage, which includes several computer-generated images of the proposed development. As the submitted documents do not evolve the scheme, and the nature of the concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I determine the appeal taking account of these documents. I have had regard to these documents on the basis that they have been submitted for illustrative purposes.

Planning Policy

5. 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 South Downs National Park Local Plan 2014-2033 (the 'SDLP') and the National Planning Policy Framework (the 'Framework') only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed development upon the landscape and scenic beauty of the South Downs National Park (the 'SDNP').

Reasons

7. It is proposed to erect a 15 metre high single stack streetpole and two equipment cabinets on the grass verge which runs along the eastern side of Falmer Road, near to the junction with Ovingdean Road.
8. Paragraph 113 of the Framework explains that the use of existing masts, buildings and other structures for new electronic communications capability should be encouraged, but where new sites are required communications equipment should be sympathetically designed and camouflaged where appropriate.
9. Paragraph 115(c) of the Framework goes on to state that where a new mast or base station is proposed, an application should be supported by evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
10. Similarly, paragraph 7.236 of the SDLP, which forms part of the supporting text for Policy SD44: Telecommunications and Utilities Infrastructure, explains that proponents of new telecommunications masts must demonstrate that they have exhausted all the opportunities for the use of existing masts and other structures.
11. The appellant's statement explains that prior to the submission of the prior approval application eleven alternative sites were explored by the operator, all of which were discounted as being less preferable.
12. The supplementary information submitted with the prior approval application explains that two of the eleven existing telecommunications sites were further explored before the appeal site was selected. They are identified as the 'Orange Mast' and the 'Arquiva Mast'. The dispute between the parties primarily focuses on these two sites.

13. The Orange Mast is located on the grass verge on the eastern side of Falmer Road, approximately 13 metres to the north of the appeal site, and the site comprises of a 15 metre high streetpole and several equipment cabinets.
14. The appellant states that the existing apparatus cannot be shared because it is operated by a different telecommunications operator. They state that significant alterations would be required if the existing site were to be shared and such alterations would need to include the replacement of the existing streetpole with a higher mast with a significantly larger girth to enable vertical separation between both sets of antennas and an open headframe. They also explain that the foundation to accommodate such a mast would exceed the width of the adopted verge on Falmer Road.
15. The Arquivo Mast is located approximately 300 metres to the north of Ovingdean Road adjacent to an existing bridleway. The appellant's initial supporting statement explains that to provide horizontal and vertical separation between antennas, which avoids interference, the existing mast at the site would need to increase in height by 3 metres, or a much larger headframe would need to be installed.
16. However, the appellant's statement provides further detail and explains that the peripheral and elevated position of the Arquivo site mean it is not operationally feasible for mast sharing. They explain that whilst such a location may be viable for 2G coverage requirements, 3G and 4G base stations, such as the proposed development, must limit their coverage to smaller cell areas to ensure effective services are provided and to prevent interference between cell area solutions.
17. The evidence before me demonstrates that the appellant has explored the possibility of upgrading/sharing existing masts and other structures in a comprehensive manner. Therefore, I am satisfied that the appellant has exhausted all opportunities for the use of existing masts and other structures within the operational area.
18. Falmer Road is a long road, which links the settlements of Rottingdean and Woodingdean. The road cuts through an undeveloped strip of chalk downland which provides visual and physical separation between the two settlements. On my site visit, I observed that the road was busy with a high number of traffic movements. Along either side of the road there are a significant number of tall lampposts, many of which have road signage affixed to them.
19. Owing to the positioning of the proposed telecommunications apparatus on the grass verge of Falmer Road and the prevalence of existing items of tall street furniture on Falmer Road, several items of which, including the existing Orange Mast, which is of a similar height and appearance to the proposed streetpole, are situated in close proximity to the appeal site, in addition to the muted light grey colour of the proposed streetpole, when viewed from the street and the wider landscape, as illustrated by the appellant's photomontage, I consider that the proposal would successfully assimilate into the existing context of Falmer Road.
20. The Authority argue that upgrading the existing Arquivo Mast would be preferable to the proposed development, albeit that such works would likely result in the increase in height of the existing mast by 3 metres and a larger antenna. However, as set out above, the appellant explains that upgrading the

existing mast would not be operationally feasible for 3G and 4G. To this regard, paragraph 116 of the Framework states that local planning authorities should not question the need for an electronic communications system.

21. The Authority have drawn my attention to several dismissed appeal decisions concerning telecommunications apparatus within the SDNP. However, the respective decisions relate to proposed development within different parts of the SDNP, all of which are located a considerable distance from the appeal site. Moreover, two of the decisions concern masts which are 20 metres high, whereas the proposal would be 15 metres high. For these reasons, I consider that the previously dismissed appeals are materially different to the current proposal. As such, I have afforded the previous decisions limited weight.
22. In conclusion, the proposal would have a neutral impact upon and thus conserve the landscape and scenic beauty of the SDNP. As such, the proposal would accord with Policy SD44 of the SDLP and the Framework policies which support high quality communications and the conservation of designated landscapes. Consequently, I consider that the siting and appearance of the proposed development would be acceptable.

Conditions

23. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), 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.
24. The Authority have suggested an additional planning condition related to biodiversity net gains and the provision of landscape screening. However, the GPDO 2015 does not provide any specific authority for imposing additional conditions beyond the deemed conditions mentioned above. Consequently, I have not imposed this suggested condition.

Conclusion

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

Christopher Miell
INSPECTOR