The Planning Inspectorate

Appeal Decision

Site visit made on 19 May 2021

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/H1515/W/20/3257508
Brentwood Car Park, Coptfold Road, Brentwood, CM14 4BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Cornerstone and Telefonica, against the decision of Brentwood Borough Council.
- The application Ref 20/00466/PNTEL, dated 27 March 2020, was refused by notice dated 11 June 2020.
- The development proposed is the installation 2No. antennas, 2No. transmission dishes, 2No. remote radio units and 1No. GPS module at roof level all inside a GPR Shroud and 3No. equipment cabinets at ground level and ancillary development thereto.

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 (as amended), in respect of development by a telecommunications code system operator for the siting and appearance of 2No. antennas, 2No. transmission dishes, 2No. remote radio units and 1No. GPS module at roof level all inside a GPR Shroud and 3No. equipment cabinets at ground level and ancillary development thereto at Brentwood Car Park, Coptfold Road, Brentwood, CM14 4BH in accordance with the terms of the application Ref 20/00466/PNTEL, dated 27 March 2020, and drawing numbers 200 RevD, 300 RevD, 301RevB, 302 RevB and 303 RevB.

Procedural Matters

2. The appellant has made 2 further appeals[1], which are linked in nature but relate to different sites. Accordingly these appeals, although considered jointly, are subject to separate decisions.

3. Amended plans were submitted with the appeal showing the cable tray in a different position. This does not materially alter the proposal and no party would be prejudiced by this minor change. I have determined the appeal on the basis of the amended plans.

4. 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.

[1] APP/H1515/W/20/3257277 & APP/H1515/W/20/3257274

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

Main Issues

6. The main issues are the effect of the siting and appearance of the development on the character and appearance of the area and the outlook of surrounding residential occupiers; and whether any harm would be outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

Reasons

7. The proposed new equipment would be located partially on the roof top of the multi-storey car park (MSCP) and partially on the ground. The roof equipment would be enclosed by a mock chimney and the ground equipment would be tucked away in a recess between an external stair case and the enclosed stair tower. A cable tray would run between the ground and roof mounted equipment.

8. Despite some concerns and reservations, the council found the ground based equipment to be acceptable. In view of its discreet siting and appearance I have no reason to disagree. The amended plans submitted with the appeal also show the cable tray relocated to a less prominent position in line with comments made by the council in its committee report. The council acknowledge that this is an improvement although not one which outweighs its overall concerns.

9. The roof top equipment would be located on the highest part of the MSCP building. It would be disguised as a chimney type structure measuring approximately 2.1m x 1.5m x 3.0m high. There is no getting away from the fact that the mock chimney enclosure surrounding the roof top equipment would be visible in public views and from nearby residential properties. It would also be visible in longer distance views. However, being visible is not the same as being harmful.

10. Within the context of the MSCP, the proposed equipment enclosure would appear as a minor structure and would have a matching external finish. It would be located a significant distance from the windows and balconies of surrounding residential properties. Consequently it would not block out views and due to its small scale and its distance from properties it would not appear overbearing or over dominant.

11. With the exception of Becket House, surrounding properties are primarily 2 and 3 storeys high. The MSCP building is on a prominent corner in an elevated position. Despite the fact that the proposal would be visible in views from Coptfold Road, Crown Street, Primrose Hill, Queen Street and Rose Valley, it would not be in the direct line of sight of users of the public highway and nearby public spaces. In my view the proposed roof top equipment, with its camouflage surround, would not appear so conspicuous that the eye would be naturally drawn to it.

12. I accept that the mock chimney would project higher than any other part of the existing building, detracting from the current skyline. However, the effect of this on the setting of the nearby conservation area, listed buildings, public spaces, the town centre public realm and the outlook of nearby residents, would be very limited.

13. There is no dispute that a new site is required in this area to replace the former roof top site at Ewing House in Brentwood. I afford this need significant weight. It is also necessary to consider whether or not this need could be met by an alternative site, which would result in less harm. A number of alternative sites have been considered and discounted by the appellants. Additionally, two alternative sites have been submitted to and refused by the council. The appeals against these refusals are also currently before me.

14. Paragraph 113 of the Framework is clear that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. In this case the roof top equipment would be camouflaged by a mock chimney and the cable tray finished in a colour to blend in with the brickwork of the MSCP walls. The Framework also encourages the use of existing buildings, which reduces the need for free standing masts.

15. The alternative appeal sites before me, which I was requested by both main parties to have regards to, demonstrate that the only alternative option currently available is to provide two new ground based masts. I have found that the proposed ground based masts could not be appropriately camouflaged and that their siting and appearance would result in greater harm than this roof top proposal. Having regard to the availability of alternative sites, I therefore find that the very limited visual harm from the siting and appearance of this roof top proposal would be outweighed by the need to provide appropriate coverage in this area.

16. Whilst not determinative, the proposal would accord Policies CP1 and IR2 of the Brentwood Replacement Local Plan (August 2005), which require amongst other things that new telecommunications development would not be detrimental to the appearance of the building upon which it would be sited or to areas or buildings of special historic interest. Policy CP1 requires any form of development to have regard to nearby occupiers. The proposal would also accord with guidance in the Framework.

Other Matters

17. I have taken into account the letters of objection, which in addition to matters of siting and appearance raise concerns relating to health. The appellants have certified that the scheme would meet the International Commission on Non-Ironising Radiation Protection (ICNIRP) guidelines in accordance with paragraph 115 of the Framework. In such circumstances potential health risks are not a matter for my consideration.

18. Concerns have also been raised regarding the impact of a potential future upgrade of the equipment to deliver 5G. However, I can only consider what is currently before me not what may or may not happen in the future.

Conditions and Conclusion

19. There is no authority in this type of case to apply any further conditions beyond the deemed conditions for development by electronic telecommunications code operators as set out in the GPDO 2015.

20. For the reasons given above and having had regard to all relevant matters raised, I conclude that the appeal should be allowed.

Rachael Bartlett

INSPECTOR