
Appeal Decision

Site visit made on 22 December 2016

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2017

Appeal Ref: APP/G5180/W/16/3152451

Site at the junction of Park Road and Southend Road, Beckenham BR3 1PH

- 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 CTIL, Vodafone Ltd and Telefonica UK Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00110/FULL1, dated 7 January 2016, was refused by notice dated 27 June 2016.
 - The development proposed is a "12.5m replica telegraph pole style monopole supporting 6 no. VF/TEF antennas (3 no. for further install), one cabinet".
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Procedural matter

1. The application was initially the subject of a 'refusal notice' dated 2 March 2016. However that document did not include any reasons for refusal. This was clearly an administrative error, as subsequently accepted by both parties. When this came to light the Council issued a new document on 27 June 2016, including two reasons for refusal - the effect on the Conservation Area and highway safety. These reasons had been set out in the Council officer's report.
2. The appellants have submitted that there is no authority for the Council to issue a second decision notice to correct errors in the first notice, and that the authority is therefore precluded from submitting evidence in support of its refusal, other than the appeal questionnaire and the officer's report.
3. It is true that the Council has no power to withdraw an issued decision and issue a corrective notice without issuing a formal revocation, although the Council (and indeed the appellants) would have been well aware of the requirement to provide reasons for refusal. However the original notice was invalid as it failed to meet the requirements set out in article 35 of the Development Management Procedure Order 2015, in that it did not include all of the required elements, including full reasons for the refusal, specifying all policies and proposals in the development plan. I have therefore taken the June 2016 decision as being the Council's decision in this case.

Decision

4. The appeal is allowed and planning permission is granted for a 12.5m replica telegraph pole style monopole supporting 6 no. VF/TEF antennas (3 no. for further install), one cabinet on a site at the junction of Park Road and Southend Road, Beckenham BR3 1PH in accordance with the terms of the application, Ref
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DC/16/00110/FULL1, dated 7 January 2016, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100B, 200C, 300C, 400C.
- 3) The monopole shall be painted Sage BS 12-B-17 when first erected and shall be retained in that colour.

Applications for costs

5. Applications for costs were made by CTIL, Vodafone Ltd and Telefonica UK Ltd against the Council of the London Borough of Bromley, and by the London Borough of Bromley against CTIL, Vodafone Ltd and Telefonica UK Ltd. These applications are the subject of separate decisions.

Main issue

6. One of the Council's objections to the proposal was the effect of the equipment cabinet on sightlines which, it was stated, had already been adversely affected by vegetation. After the March 'decision' was issued (but before the June 2016 decision notice) the appellants entered into discussions with the highway authority on this matter. This resulted in an amended location for the equipment cabinet, which was approved by the highway authority in April 2016.
7. The Council has objected to the submission of the amended location plan as part of the appeal as it considers that this would fundamentally alter the assessment of the scheme and that further consultation would need to be carried out. However the equipment cabinet would be a small structure and its relocation would not fundamentally affect the overall appearance of the development. On that basis, I do not consider that the position of any party would be prejudiced by considering the revised plans, and I have dealt with the appeal accordingly.
8. On that basis the main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Southend Road Conservation Area.

Reasons

9. The appeal site is a wide area of pavement at the busy five way junction of Southend Road (the A2015) and Park Road. The convergence of these roads creates an open junction and the site is therefore visible from a number of local vantage points. It is within the Southend Road Conservation Area, which is characterised by large family dwellings, many in Italianate villa style, and flatted developments. Many of the houses and flats stand in large grounds including a significant number of trees, and this gives the area a generally verdant character.
10. The proposal is for the installation of a 12.5 metre telegraph pole style monopole and a small equipment cabinet, both of which would be located at the back edge of the wide pavement. The proposed installation would provide 3G and 4G coverage for two operators.

11. The relevant elements of the development plan are the Further Alterations to the London Plan (FALP) (2015) and the saved policies of the Council's Unitary Development Plan (UDP) (2006).
12. The FALP, at policy 7.8, deals with the desirability of sustaining and enhancing the historic environment. In addition FALP policy 4.11 encourages a connected economy and seeks to facilitate the provision and delivery of information and communications technology. This is supported by other London-wide reports which are not part of the development plan. This approach is in line with the National Planning Policy Framework (the Framework), which states that high quality communications infrastructure is essential for sustainable economic growth.
13. UDP policy BE1 states that development should not detract from the existing street scene, whilst policy BE11 seeks to preserve and enhance the character or appearance of conservation areas.
14. There is an issue between the parties regarding the weight to be attached to UDP policy BE22. This seeks to ensure that new telecommunications apparatus does not, amongst other matters, adversely affect the character and appearance of the area or the visual and residential amenity of local residents. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. Although I am not persuaded that any of the individual criteria in the policy are contrary to the Framework, I agree with the appellants that the overall policy is more restrictive than the Framework, especially as it does not allow for the balancing of various factors. To this extent I consider policy BE22 is out of date and the weight to be given to it is accordingly reduced.
15. The proposed installation would be set in the context of substantial trees and street furniture. In particular there are tall streetlight columns along both sides of Southend Road, along with a range of other street furniture including road signs and bollards. From the submitted evidence and from what I saw on site, I cannot agree with the Council that this section of the junction is relatively free from street furniture. At this location and within the wider area the streetscene includes the range of street furniture of various shapes and sizes that one would expect on a busy urban road.
16. At 12.5 metres in height the proposed monopole would be slightly taller and thicker than the existing streetlight columns (which are about 10 metres high) but this slight additional height and girth would not result in it appearing incongruous. From many directions the monopole would be seen against a backdrop of the substantial trees within South Park Court, or be screened by them. These trees are shown on the appeal plans as being up to 20 metres in height.
17. The appellants have explained that the monopole was proposed to be painted brown to reflect telegraph poles elsewhere in the area. However they have since suggested that a condition could require the monopole to be painted Sage BS 12-B-17 to match the adjoining main road lights. This would further serve to blend the monopole with the other street furniture.
18. The Council has also objected to the size and position of the proposed cabinet which, it is contended, would also appear dominant in the streetscene and erode the open space which exists at this location. However the size and

location of the proposed cabinet would be entirely unexceptional – its presence would be scarcely noticed and would, in any event, be regarded as an entirely normal item of street furniture.

19. The overall effect of the proposal on the Conservation Area is illustrated by the appellants' uncontested photomontages. At most, the effect on the Conservation Area would be limited and accordingly there would be a slight conflict with the design and conservation policies set out above. In the language of the Framework, there would be less than substantial harm to the Conservation Area.
20. In such circumstances, paragraph 134 of the Framework states that the harm should be weighed against the public benefits of the proposal. In this case the benefit relates to the provision of adequate coverage to people living in or working in, or travelling through, the area – this benefit is in line with national and London wide policy.
21. The appellants have set out the inadequate level of coverage in the surrounding area and this technical justification has not been contested. The appellants have explained the lack of alternative locations and no other potential sites have been put forward.
22. I have weighed the very limited harm to the character and appearance of the Conservation Area against the need for the installation in the location proposed. The evidence indicates that the development is necessary to provide enhanced network services in the area for customers of the two providers. This important benefit is in line with the Framework and part of the development plan, and this is sufficient to outweigh any limited harm that would be caused to the Conservation Area.

Other matters and conclusion

23. Concern has been raised by local residents about any effect of the proposal on health. However, the appellants have confirmed that the proposal would comply with the International Commission on Non-Ionizing Radiation Protection guidelines and so, in accordance with the Framework, such concerns cannot be given weight in the context of this appeal.
24. In the Council's report mention was made of a previous refusal in Foxgrove Road. However, from the limited material which has been submitted, this proposal raised additional issues and was in a different location. Each application and appeal has to be determined on its merits, and this previous decision has little bearing on the current case.
25. Various appeal decisions have been put before me by the parties. Some of these are with the same Borough whilst others are from areas across the country. Whilst some illustrate a general point they are all in distinctly different locations and they are therefore of little assistance to me.
26. Both parties have commented at length on the Council's handling of this proposal and telecommunications proposals in general. These are matters which may have a bearing on the costs claims, but are not material considerations in the context of my decision on the planning merits of the case.

27. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector