

GROUND C

(c) that those matters (if they occurred) do not constitute a breach of planning control;

The development, as constructed (and proposed), constitutes permitted development which requires neither an express grant of planning permission nor the prior approval of the LPA under Part 16 of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 – subsequently known as the GPDO. We have appended this legislation.

It has a general grant of planning permission through the GPDO. There has therefore been no breach of planning control and as such these matters have not occurred and this position is set out in Ground B.

However, the following Ground C is based on the matters being the installation of the apparatus only, and, as described below, due to its location and dimensions it does not constitute a breach of planning control.

It is not under dispute that the apparatus has been installed and this can be seen on the roof of Southfleet. Southfleet does not lie within Article 2(3) land and as such permitted development rights are not restricted by those land designations.

Part 16 allows the installation, alteration and replacement of apparatus on a building through A.1-(2) – paragraphs (a) to (f) and sets a limit on the volume of equipment housing through A.1 – (9). These rights apply to Code Operators. Telefónica¹, Vodafone and Cornerstone are all Code Operators and therefore enjoy these rights.

A.1 – (2)

In this case the host building is 18.5m high at the point the antennas are located. This means that the relevant sections of A.1-(2) are (a), (b) and (e).

The following paragraphs of A.1-(2) are not relevant because:

(c) – only relevant for buildings under 15m in height - **the building is over 15m**

(d) – only relevant for buildings under 15m in height and/or where antennas are located below 15m - **the building is over 15m and the antennas are located over 15m**

(f) – only relevant for buildings within Article 2(3) land - **the building is not within Article 2(3) land**

The development as constructed complies with the relevant paragraphs of A.1 –(2) because of the reasons set out below.

Development is permitted if:

¹ Also known as TEF

- (a) – the apparatus does not exceed 10m in height (taken by itself) – **it does not, it measures 4.28m**
- (b) – the apparatus does not exceed the highest part of the building by 8m – **it does not, it exceeds it by only 1m (the highest part being the tower at approx. 21.8m)**
- (e) – the apparatus is located in a building over 15m and the antennas are located at a height greater than 15m however
- (i) – relevant for dish antennas - no proposed dish antenna exceeds 1.3m – **the largest dish is 0.3m**
- (ii) in regard of ‘other antennas’
- (aa) relevant if the development exceeds 5 antenna systems² – **only one antenna system is currently present on the building – operated by TEF (the Vodafone apparatus remains uninstalled)**
- (bb) relevant if any one antenna system is operated by more than one Code Operator – **the antenna system is operated by only one Code Operator (TEF)**
- (iii) relevant where the building is listed or is a scheduled monument – **the building is neither listed nor a scheduled monument**

A.1 – (9)

This permits equipment housing if:

- (a) It is ancillary to the other apparatus installed i.e. antennas. **The installed equipment housing is ancillary to the other telecommunications apparatus**
- (b) The cumulative volume of a rooftop does not exceed 30 m³ – **the cumulative volume of the installed apparatus is only 3.22m³ (that being the installed TEF racks x2 and the Eltek PSU)**
- TEF Rack#1 – 0.75x 0.82x1.8m = 1.107m³
 - TEF Rack #2 – 0.75x0.82x1.8m = 1.107m³
 - Eltek PSU – 0.7x0.82x1.8m = 1.033m³
- (c) It is not within Article 2(3) land or an SSSI (subject to (a) and (b)). **The apparatus is not within Article 2(3) land or an SSSI**

In addition, there is a condition on the GPDO - A.2-(1)(a) which requires that the development should, as far as practicable be sited and designed to minimise its impacts on the host buildings. Taking into account coverage requirements, ICNIRP requirements and the design of the host building, the proposed apparatus is designed and sited as far as practicable to minimise impacts.

It is the case that a separate application with the apparatus enclosed in GRP *could* be taken forward. However, that GRP element would require planning permission (it not being telecommunications apparatus) and as such could not be captured by this condition which relates only to these elements which are permitted development.

² Defined in the GPDO (A.4) as “antenna system” means a set of antennas installed on a building and operated in accordance with the electronic communications code

Appendices

- Part 16 GPDO
- Planning Drawings showing installed apparatus (labelled existing)