The Planning Inspectorate

Appeal Decision

Site visit made on 6 April 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/Y3805/W/20/3263605
Grass verge on north side of Upper Shoreham Road (to south of Buckingham Park), Shoreham BN43 6BE

- 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 '2015 Order').
- The appeal is made by Cornerstone Limited against the decision of Adur District Council.
- The application AWDM/1158/20, dated 24 July 2020, was refused by notice dated 17 September 2020.
- The development proposed is the installation of a 17.5m high monopole supporting 6 no. antennas, 2 no. equipment cabinets and an electrical meter cabinet, and development works ancillary thereto.

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 installation of a 17.5m high monopole supporting 6 no. antennas, 2 no. equipment cabinets and an electrical meter cabinet, and development works ancillary thereto on grass verge on north side of Upper Shoreham Road (to south of Buckingham Park), Shoreham BN43 6BE in accordance with the terms of the application, AWDM/1158/20, dated 24 July 2020, and the plans submitted with it.

Preliminary Matters

2. The provisions of the 2015 Order 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 principle of development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan in so far as they are material to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the retention and maintenance of trees.

Reasons

5. The site lies adjacent to the junction of Upper Shoreham Road with Eastern Avenue. Upper Shoreham Road is a main distributor for the area, with the carriageways separated by central refuges and grass verges on both sides of the junction. Along the north side of the road is a broad grass verge containing a variety of trees that separate and partly screen the road from Buckingham Park, a public recreation ground. The character of the area is generally residential in nature, other than for a convenience shop (in what was formerly a public house) and a funeral parlour on the south side of Upper Shoreham Road, which flank the junction. Upper Shoreham Road, its broad grass verges and the adjacent park gives the area a spacious feel at this point.

6. There are already two existing telecommunication masts adjacent to the junction, one on either side of the road, of a similar design to that proposed. In addition to the two masts, there is a variety of highway related paraphernalia including equipment cabinets, lighting columns along both Upper Shoreham Road and Eastern Avenue, safety railings around the central refuges, a traffic light controlled pedestrian crossing point, and highway bollards both lit and unlit. The appearance of the area therefore already includes a significant amount of street furniture and related structures.

7. The appellant operator currently shares the mast on the north side of Upper Shoreham Road with another operator, but in order to introduce 5G requires their own installation, the current mast being inadequate to accommodate all the antennae required by two operators for full 2G-5G operation. To continue to share the installation, a much more structurally robust mast would be required. Such a structure would be more visually prominent and intrusive than an additional mast of similar dimensions to those already located near the junction and, as noted in the Council's report, it would be difficult to resist a new mast on this basis. Notwithstanding the encouragement to share existing installations given in Policy 37 of the Adur Local Plan 2017 and paragraph 113 of the National Planning Policy Framework (the 'Framework'), I therefore accept that another freestanding mast is preferable to a larger shared structure in this case.

8. The siting of the installation is restricted by the cellular nature of the operator's existing network. The appellant has submitted information indicating that given the constraints of the network a location around the junction is required. The Council has not questioned the conclusions of this locational analysis and I have no reason to do so either.

9. Some of the alternative sites considered are precluded by the proximity of existing antennae of other operators or underground services. One alternative site in the car park of the convenience shop would bring the mast in closer proximity to residential houses and would lead to the loss of parking spaces. A proposal for a 20m mast on the south western side of the junction was refused[1] because of its height and prominence, in part because there was no backdrop of trees.

10. The proposed installation occupies one of the few remaining sites available to accommodate a new mast around the junction. While visible on the roadside, it would be of a similar height and design to other masts adjacent to the junction

[1] AWDM/0087/20

and would be seen against a backdrop of trees in views along Upper Shoreham Road and approaching the site up Eastern Avenue. For these reasons, I consider the proposed site of the installation would be preferable to the site on the south western side of the junction and the site in the car park of the convenience shop. The other sites are ruled out by physical or technical constraints.

11. In terms of appearance the mast would be of a similar design and width to the existing masts, and the equipment cabinets would be similar to those associated with the other installations. The proposed installation would not therefore appear out of place when viewed in conjunction with these structures and the other highway furniture in the area. In terms of height, the mast would be slightly taller than the mast to the east and the same height as the mast on the opposite side of the road. Given its separation from these structures and it being viewed against the backdrop of trees, I consider the difference in height would not be particularly pronounced. The antennae array would rise above the canopy of the adjacent trees, but this is necessary to avoid interference with transmissions.

12. The Council has expressed concern about the impact on the adjacent trees, which form a verdant feature along the road and help define the edge of Buckingham Park. While the Council accepts that it might be physically possible to install the mast and cabinets with minimal damage to roots and without the need for initial tree pruning, its concern is that there would be future pressure to maintain the trees differently, which would erode their public amenity value.

13. As proposed, the installation would have a minimal effect on the trees. I accept that it may require pruning of the nearest trees in the future to avoid interference but such works are likely to be relatively modest and in my view would not significantly reduce the public amenity value of the belt of trees when taken as a whole, or have any material effect on climate change. It would be little different to the maintenance requirements for the tree on the opposite side of the road, which stands in close proximity to the existing mast in that location.

14. Balanced against any restriction that may be caused to the future growth and appearance of the trees is the benefit of improving mobile communications in the area. Paragraph 112 of the Framework emphasises the importance of high quality and reliable communications infrastructure for economic growth and social well-being and advises that decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).

15. I conclude that having regard to the locational restrictions of the telecommunications network, the proposed site is the most preferable given the physical and technical constraints of the alternatives. Within that context the appearance of the installation is also acceptable in preference to a larger structure that would be required to enable mast sharing, and having regard to the other similar structures around the junction. Any restriction on future growth of nearby trees is outweighed by the benefits of improved mobile communications. Taken as a whole, the proposed installation would not harm the character and appearance of the area. In so far as it relates to siting and appearance, I consider the installation would comply with Policy 37 of the Adur Local Plan 2017, which supports the expansion of electronic communications

networks where opportunities for mast sharing have been thoroughly assessed and there are no satisfactory alternative sites available.

Other Matters

16. Concern has been raised in representations about the potential effect of microwave radiation on human health and wildlife. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, paragraph 116 of the Framework advises that health safeguards are not something which a decision-maker should determine. For this reason, the potential effects on health or wildlife are not determining issues in this case.

17. Concern has also been raised that the installation would disrupt the use of the footpath and pedestrian crossing. As the proposed mast and cabinets would all be confined to the grass verge, and would not intrude onto the pavement, I do not consider they would inconvenience users of the footpath.

Conditions

18. Planning permission granted for development under Article 3(1) and Schedule 2, Part 16, Class A of the 2015 Order 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.

Conclusion

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

Guy Davies

INSPECTOR