



Appeal Decision

Site visit made on 20 October 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/A5840/W/20/3254830

Land adj. Penrose Street, Walworth, London SE17 3DU

- 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 Hutchinson 3G UK Ltd against the decision of the Council of the London Borough of Southwark.
 - The application Ref 20/AP/1187, dated 23 April 2020, was refused by notice dated 12 June 2020.
 - The development proposed is prior approval notification for proposed telecommunications installation: proposed Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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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 proposed Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works at land adj. Penrose Street, Walworth London SE17 3DU dated 23 April 2020, and the plans submitted with it including 002 Site Location Plan SWK10060_M001A; 005 Cherry Picker and Crane Location SWK10060_M001A; 100 Existing Site Plan SWK100600_M001A; 150 Existing Elevation A SWK10060_M001A; 210 Proposed H3G Site Plan SWK10060_M001 and 260 Proposed H3G Elevation SWK10060_M001A.

Procedural Matter

2. 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.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to 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

4. The main issues are:

- Whether or not the proposed development satisfies the limitations on height specified within paragraph A.1 of Part 16, Class A of the GPDO; and
- The effect of the proposed development upon the pedestrian environment.

Reasons

Limitations on the height of the proposed development

5. The proposed development includes a 20m high monopole. The Council's decision notice states that the height would not accord with Part (a) of A.1 of Part 16 of the GPDO, although there is no such part of the current version of the GPDO. There is a restriction on development exceeding 15m in height at Part 16 A.1(1)(a) but this applies to electronic communication apparatus other than a mast.
6. The definition of a mast in this context is set out at paragraph A.4 and based on the evidence before me the monopole would meet this definition.
7. The height limitations relevant to the installation of masts are specified at Part 16 paragraph A.1(1)(c). This states that development is not permitted if the mast, including any antenna, would exceed a height of 25m above ground level on unprotected land; or 20m above ground level on article 2(3) land or land which is on a highway.
8. The appeal site is located on a highway and would not exceed a height of 20m above ground level. I therefore conclude that the proposal would satisfy the limitations set out at paragraph A.1(1)(c) of Part 16, Class A of the GPDO. As the development includes the installation of a mast, it follows that determination as to whether prior approval as to the siting and appearance of the development is required in accordance with provisions at condition A.2(3) and paragraph A.3.

Pedestrian environment

9. The appeal site is an area of pavement on the junction of Penrose Street and Penrose Grove free of street furniture. Trees, street lighting and bus stops and shelters are features in the wider street scene. In addition to residential development including tall blocks of flats, a church hall and schools are located within the immediate area with a high footfall during parts of the day.
10. Along with the mast the proposal includes the installation of three cabinets. The mast would be located on the corner where the pavement is at its widest and free of street furniture. The cabinets would be positioned against railings just before the junction. It would reduce the width of the pavement. However, in my view even the narrower width of pavement available would still allow users to pass one another including those pushing a baby buggy or groups of people walking along the pavement. As such, the proposed development would not introduce excessive clutter on the pavement and would not present an obstruction to pedestrian movement or adversely affect pedestrian safety.
11. I conclude that the proposed development would not adversely affect pedestrian movement or safety.

Other Matters

12. The monopole at a height of 20m would be significantly taller than nearby street furniture. However, it would be viewed against existing built form of taller height and against their overall proportions, the scale of the monopole would not be unduly dominant. I find that the height of the proposed monopole would result in some visual impact, but that it would sit acceptably within the street scene and would not be an incongruous or visually intrusive feature within this urban setting.
13. Concerns have been raised about potential effects on health. However, 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, the National Planning Policy Framework (the Framework) in paragraph 116 advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
14. There is no evidence to indicate that the proposed development would generate noise to adversely affect the living conditions of nearby occupants.
15. There is no substantive evidence to suggest that the appellant has not carried out proper consultation with local stakeholders. The Council have not indicated that this is a matter in dispute and I have no reason to disagree with the Council in this regard.
16. The effect on property values is a matter which falls outside of what I can consider in my decision.

Conditions

17. Standard conditions are set out in the GPDO for development permitted under Class A, Part 16 and as such it is not necessary to impose conditions beyond those.

Conclusion

18. For the reasons set out above the appeal is allowed and prior approval is granted.

B Thandi

INSPECTOR