



Appeal Decision

Site visit made on 5 January 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2022

Appeal Ref: APP/Z5060/W/21/3278046

Parsloes Avenue/Maxey Road, Dagenham, RM9 5QJ

- 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 Hutchison UK Ltd against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/00724/PRICOM, dated 15 April 2021, was refused by notice dated 14 June 2021.
 - The development proposed is a 15m phase 8 monopole c/w wrapround 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 a 15m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works at Parsloes Avenue/Maxey Road, Dagenham, RM9 5QJ in accordance with the terms of application Ref 21/00724/PRICOM, dated 15 April 2021, and drawing nos BAD13271_M002 [Issue B] 002, 210, 260, 303 and 305 submitted with it.

Preliminary Matters

2. Because this is an application for prior approval 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. This appeal will be determined on the same terms.
3. There is also no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, policies in the Core Strategy, the Borough Wide Development Policies (DP) and The London Plan are material considerations insofar as they relate to issues of siting and appearance. In particular, they seek to deliver good design and achieve a high quality built environment. DP Policy BC12 is specifically concerned with telecommunications. Similarly, the National Planning Policy Framework is also a material consideration and this includes a section on supporting high quality communications.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm

would occur, whether this is outweighed by the need for it to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

5. The proposed monopole and cabinets would be located on the back edge of the footway close to the junction between Parsloes Avenue and Maxey Road and near a bus stop. On one side of the appeal site is a swathe of green space with trees and the housing within the extensive Becontree Estate. There is a school and other community buildings on the opposite side of Parsloes Avenue.
6. The Becontree Estate was built as Homes for Heroes between 1921 and 1934 and, at the time, was the largest municipal estate in the world. Whilst this is important as a part of local history the site is not within a conservation area. There is no indication that the emerging Draft Local Plan refers to it as a non-designated heritage asset. Therefore policies which seek to conserve the historic environment are not relevant in this appeal.
7. The Framework confirms that good design is a key aspect of sustainable development. The design of the mast is dictated by technical considerations. In particular, it needs to be a minimum of 15m in height in order to clear surrounding buildings and trees and to ensure that the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) are met. According to the appellant there is no scope to lower the pole as to do so would mean that the cell could not effectively communicate with others and with the wider network. In turn, this would compromise the level of service.
8. The mast would nevertheless be above the top of the immediately adjacent trees, the street lamps that line the road and the houses to the east. Because of its height and position the proposal would stand out in the immediate locality especially when seen close at hand. In longer views along Parsloes Avenue it would be viewed in the context of other vertical elements as well as the bulk of the educational buildings opposite and the dwellings that face onto the open area. These other features mean that the eye would not automatically be drawn to the pole as it would not be in an entirely exposed position. With the on-going roll-out of 5G services neither is such an installation remarkable. The trunks, branches and leaves of the trees would also provide some screening.
9. Three cabinets are required to serve the installation. It is maintained that these are permitted development but they have been included in the application and presumably would not be needed at all if the monopole were not erected. There are other similar structures around the periphery of the green. Whilst the proposed cabinets would add some visual clutter, they are low and unobtrusive and would not intrude unduly into its openness.
10. According to the Framework equipment on new sites should be sympathetically designed and camouflaged where appropriate. In this case the proposal would be obtrusive in short-range views but would have a lesser impact from further afield in the wider street scene. Therefore the harm to the character and appearance of the area would be limited and very localised.

Suitable alternatives

11. The proposed mast is required to fill a coverage 'hole' in north Dagenham as illustrated in the cell search area map. It would enhance 5G coverage levels and network capacity in the Becontree area. Paragraph 117 c) of the Framework expects evidence to be submitted that the possibility of erecting antennas on an existing building, mast or other structure has been explored. The appellant has investigated these options in a sequential manner but none of them are available.
12. The search area for a new mast is extremely constrained geographically. Nevertheless, seven other options have been considered and discounted for a variety of reasons including proximity to residential properties, the presence of underground services and inadequate pavement widths. None of these findings are disputed by the Council and no other locations have been suggested. Moreover, no response was given at the pre-application stage. Therefore there is no evidence to deny the appellant's contention that the siting of the proposed installation is the only viable solution.

Final Balance

13. The proposal would cause limited harm to the character and appearance of the area. Policy BC12 provides that telecommunications development will only be permitted where the siting does not have an adverse effect. However, development plan policy is not determinative and the erection of a mast of this height is accepted in principle by virtue of Part 16 of the Order.
14. Furthermore, the appellant has investigated alternatives and there is nothing to indicate that the proposed siting is not the best available in the light of the technical and operational constraints that exist. This is a compelling consideration given the importance attached to supporting the expansion of electronic communications networks in national policy. It is not tenable to refuse permission when the evidence is that this would create a gap in the network for this operator that could not be filled within the relevant area.
15. The absence of a feasible and practical site elsewhere in this part of Dagenham means that the need for the installation to be sited as proposed outweighs the harm that would occur. As a result the proposed siting is acceptable.

Other Matters

16. In considering the matters of siting and appearance the various social and economic benefits referred to have not been taken into account.
17. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by ICNIRP. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine and there is no reason to depart from national policy in this respect.

Conditions

18. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with

the application, begin within 5 years of the date of the approval and 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, the appeal should be allowed and prior approval should be granted.

David Smith

INSPECTOR