
Appeal Decision

Site visit made on 23 March 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/U5930/W/21/3275825
High Road, Leyton, London E10 5QE

- 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 UK Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 210875, dated 17 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is the installation of a 15 metre high Phase 8 Monopole complete with wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 16, Class A(a) of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (the 2015 Order) grants permitted development to electronic communications operators for the installation of electronic communications apparatus. This is what is proposed for the appeal.
3. The proposal complies with the relevant limitations on permitted development, as set out at Paragraph A.1 of the 2015 Order. Paragraph A.3(4) of the 2015 Order confirms that the permitted development is subject to the 'prior approval' of the siting and appearance of the proposed development. I have had regard to the policies of the Development Plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. The appellant states that the ground level cabinets do not form part of the proposal because they are permitted development falling outside of the prior approval process. However, it is reasonable to assume that these would only be constructed as part of the proposed works as they are intrinsically connected to the functioning of the proposed mast. They would not be built if the mast were not built, and equally the mast would not be built without the ground level works. I have therefore considered the cumulative effect of the proposed mast and ground level works.

Main Issue

5. The main issue is whether the proposed development should be granted prior approval by Article 3, Schedule 2, Part 16, Class A of the 2015 Order, with particular regard to the effect of the proposed development on siting and appearance.

Reasons

6. In this case, siting and appearance are affected by the effect of the proposal on the character and appearance of the area, on highway safety for pedestrians, and the consideration of alternative siting options.

Character and appearance

7. Policy CS15 of the Waltham Forest Local Plan – Core Strategy, adopted 2012 (the CS) and Policy DM29 of the Waltham Forest Local Plan – Development Management Policies, adopted 2013 (the DMP) expect proposals to be of high quality design. Paragraph 115 of the Framework states that telecommunications equipment should be sympathetically designed and camouflaged where appropriate.
8. The appeal site is located on the western footpath of High Road Leyton, adjacent to Maud Road. The surrounding area is currently host to several trees, benches, streetlights, bins, signs, cabinets, cycle parking hoops, and three bus stops. There is also an existing mast nearby to the south. The area is already visually cluttered, with several vertical structures, particularly the streetlights and the existing mast. The proposed mast would be taller than any of the existing apparatus, but in the context of the surrounding structures it would be of an acceptable appearance. The cabinets would add additional visual clutter at street level, but this would be seen in the context of the existing bus stops, large street sign, and some existing cabinets.
9. Residential properties are located to the north and west of the proposed site location, and some of the properties overlook the proposed mast. However, in the context as described above, there would be no material harm to the visual amenities of the occupants of the affected properties.
10. Overall, the character and appearance of the area is already busy, commercial, urban, and it would not be materially harmed by the proposal, despite it introducing additional visual clutter to the street scene.

Highway safety and pedestrian movement

11. Policy CS15 of the CS expects proposals to improve the way places function. Policy DM29 of the DMP expects the provision of appropriate physical and safe connections with streets. Policy DM30 of the DMP seeks design that allows for people to conveniently reach and use open air facilities.
12. The overall width of the pavement where the proposed installations would be located is wide. However, the proposed mast and cabinets would be located directly behind two existing bus stops. This is a particularly busy area of footway, not only from the bus stops, but also due to proximity to Leyton Underground Station, and it linking the two main shopping areas in Leyton either side of the station. The area behind the bus stops is fairly narrow because of existing street trees, benches, cycle parking (which is not shown on

the submitted drawings), and existing cabinets. The proposal would materially add to this street clutter, effectively blocking the walking route immediately behind the bus stops. There are alternative routes to the other side of the proposed equipment or to the front of the bus stops, but these are fairly narrow and have high footfall. There would also be the likelihood that the diversion of pedestrians, at least in part, to in front of the bus stops would impede people getting on and off from busses, harming highway safety.

13. Overall, the proposal would unacceptably obstruct pedestrian movement and hinder the free flow of pedestrians, creating a pinch point at a particularly busy and important part of the footway in and around the bus stops, thereby also likely harming highway safety.

Alternative locations

14. Policy DM37 of the DMP requires that telecommunications apparatus only be located so as to complete or improve coverage, and that it should not stand alone where site or mast sharing would provide equally adequate coverage. Paragraph 115 of the Framework states that sites for communications masts should be kept to a minimum and that the use of existing masts for new electronic communications capability should be encouraged. Paragraph 117 states that, for a new mast, evidence should be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
15. There is an existing mast in proximity to the proposed monopole. The appellant has stated that it would be preferable to erect the new monopole and associated infrastructure rather than use and/or extend the existing mast, because a shared replacement or extended mast that has been upgraded to a 5G structure would require multiple levels of open antenna headframes on a bulky mast. However, even if the existing mast would need to be demolished and redeveloped, or kept and significantly extended, it is possible that the resulting structure(s) would still have a lesser effect on siting and appearance than the proposal. Full details of what the replacement structure(s) would comprise or, alternatively, technical justifications for why this is not feasible have not been provided.
16. The appellant has also considered a number of alternative sites, within a search area where the 5G communication apparatus needs to be erected for suitable network coverage. I agree with the search area. However, a forensic and detailed alternative sites assessment has not been provided. For example, I observed on my site visit that one of the discounted alternative site locations included an area of wider pavement on the opposite side of the road from residential properties.
17. Without a more detailed alternative sites search, and without further justification for not re-using the site of the existing mast close to the appeal site, it has not been adequately demonstrated that the appeal site is the preferable location for the proposal within the search area. This is particularly necessary in light of the harm to highway safety and pedestrian movement that I have identified above.

Other Matter

18. 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), thereby complying with paragraph 117 of the Framework. 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. The proposal is therefore acceptable in this regard.

Planning Balance and Conclusion

19. Paragraph 114 of the Framework supports the expansion of electronic communications networks, including next generation mobile technology. There would be social and economic benefits from the proposal in these regards, which would facilitate the provision of 5G communications, which would help the delivery of economic growth, as well as enhancing local facilities and services via better connectivity and communication. I attribute moderate positive weight to these factors.
20. However, these benefits are outweighed by the harm I have identified above to pedestrian movement and highway safety, to which I attribute significant negative weight. In addition, and importantly, the lack of a robust alternative sites search has failed to demonstrate that the appeal site is the preferable location for the proposal and that the benefits could not be achieved in a less harmful location.
21. For the reasons given above, I conclude that the appeal should be dismissed.

O S Woodward
INSPECTOR