
Appeal Decision

Site visit made on 25 May 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/U5930/W/21/3278352

Highway land opposite 10 Selborne Road, Walthamstow, London E17 7LT

- 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 Waltham Forest.
 - The application Ref 211272, dated 27 March 2022, was refused by notice dated 14 June 2021.
 - The development proposed is an 18m Phase 8 monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A, paragraph A.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an 18m Phase 8 monopole C/W wrapround cabinet at base and associated ancillary works at Highway land opposite 10 Selborne Road, Walthamstow, London E17 7LT in accordance with the application Ref 211272, dated 27 March 2022 and the details submitted with it, including drawing nos 002 SITE LOCATION PLAN rev B, 100 EXISTING SITE PLAN rev B, 150 EXISTING ELEVATION A rev B, 210 PROPOSED H3G SITE PLAN rev B, 260 PROPOSED H3G ELEVATION rev B, 305 EQUIPMENT SCHEDULE & SUPPORT STRUCTURE DETAILS.

Preliminary Matters

2. Although the appellant highlights that the associated ancillary equipment cabinets are within the size limits such as to be classified as permitted development without prior approval, the proposal before me relates to the whole installation. I have dealt with the appeal on that basis.
3. The Council's Highways team has indicated that a permit to dig will not be issued at the location proposed, within the footway. Whilst that may have implications for implementation were this appeal to succeed, I have made my decision only on matters relating to siting and appearance.

Main Issues

4. 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.

5. The main issues are therefore the effect of the siting and appearance of the proposal on the character and appearance of the area and on highway safety for pedestrians and pedestrian movement, and, if any harm would occur, whether this is outweighed by the need for the proposal to be sited as proposed taking into account any suitable alternative locations.

Reasons

6. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Character and appearance

7. The appeal site is located on a wide street in a predominantly commercial area. There are existing vertical elements such as street lights. There are also fairly tall and mature trees in the vicinity of the site, including to the north along the same side of the road and along a significant length of the road on the opposite side. The trees would provide a degree of screening from certain angles, particularly when viewing the proposed monopole from mid-distance. Nevertheless, there would be some harm from the monopole due to its height, which would be significantly taller than the existing street lights and trees, and many, but not all, of the surrounding buildings.
8. The proposed monopole and cabinets would create a degree of clutter as perceived at street level. However, any effect would be limited because all of the proposed equipment would be located in a line, close to the back of the footway, and set away from the nearest street lights. Importantly, the proposal would be seen in the context of a number of sizeable commercial buildings close to the appeal site that are much bulkier, and in some cases taller, than the proposed monopole, and along a road with a strong commercial character and appearance in general. A condition is not required to control the colour of the proposed equipment because the colours have been set out in the equipment schedule as being grey steel, which would help them blend into the street scene. The degree of harm I have identified would therefore be limited.
9. In so far as they are a material consideration in cases such as this, there would be no conflict either with 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), both of which expect proposals to be of high quality design. Nor would there be conflict with paragraph 115 of the Framework, which states that telecommunications equipment should be sympathetically designed and camouflaged where appropriate.

Pedestrian movement and safety

10. The proposal would introduce a monopole with a base on a footway, as well as the associated cabinets. However, as noted above, all of the equipment would

be located to the back of the footway and there would remain a clear width of just over 1.84m of useable footway between the proposed equipment and the kerb. There is therefore no issue with cumulative barriers to pedestrian movement or safety.

11. The footway here is relatively well used because it is on a commercial street and provides access to a nearby shopping centre, amongst other destinations and businesses. However, the remaining width would be adequate to allow the free movement of pedestrians including pedestrians passing one another in different directions, or small groups walking together. Consequently, the proposed siting would not result in material harm to pedestrian movement or safety.
12. In so far as they are a material consideration in cases such as this, there would be no conflict either with Policy CS15 of the CS, which expects proposals to improve the way places function, Policy DM29 of the DMP, which expects the provision of appropriate physical and safe connections with streets, or Policy DM30 of the DMP, which seeks design that allows for people to conveniently reach and use open air facilities.

Alternative locations

13. In so far as they are a material consideration in cases such as this, 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. This approach is reflected in Policy DM37 of the DMP.
14. There are no existing masts to use close to the appeal site. 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. The search area used by the appellant is not contested, and I have no reason to disagree.
15. Alternative sites have been discounted for various reasons, including proximity to residential occupiers, narrowness of footway, and complications regarding moving services. I visited the alternative sites highlighted by the appellant and agree with the conclusions of the report. I particularly note that the appeal site is in a busy, commercial area. Although there are some residential properties nearby, it is not unacceptably close to any dwellings, and is further away from dwellings than would be possible in the majority of the site search area, which is predominantly residential in character. There are no obvious alternatives that would be an improvement on the appeal site. Consequently, I am satisfied that the appellant has considered and reasonably eliminated an appropriate range of alternative sites.

Other Matter

16. 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

17. Whilst I have found that the siting proposed would not result in material harm to pedestrian movement and safety, I have found that the proposal would result in limited harm to the character and appearance of the area. The proposal would have significant benefits in terms of improving the 5G coverage in the area, as specifically supported by paragraph 114 of the Framework. This, taken together with the lack of any identified suitable alternative sites, is sufficient to outweigh the limited harm I have identified.
18. The Council has stated that there is a future plan to renew the streetscape of Selborne Road to coincide with The Mall redevelopment and that it is likely that the proposal would impact on those works. However, no information has been provided regarding these works, nor how the appeal scheme may affect them. I am not therefore able to assess any potential effect(s) of the proposal on them. I can therefore only place very limited weight on this consideration.
19. For the reasons given above, I conclude that the appeal should be allowed and that prior approval should be granted.

Conditions

20. Any planning permission granted under Article 3(1) and Schedule 2, Part 16, Class A 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 five 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.
21. The Council requested that the development begin no later than three years from the date of permission. However, no material reasons were provided to justify shortening the standard implementation time of five years from receipt of the application. This condition is not, therefore, necessary and I have not imposed it. The Council also requested that various drawings and documents be listed on the decision. I have listed the drawings related to the proposal, including the equipment schedule, which by themselves would adequately control the detail of the development. The additional supporting information is not necessary and I have therefore not included it.

O S Woodward
INSPECTOR