



Appeal Decision

Site visit made on 11 October 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal Ref: APP/D1590/W/21/3285792

Lifstan Way, Southend on Sea SS1 2YA

- 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 Thomas Gallivan (CK Hutchison Networks (UK) Ltd) against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/01460/TEL, dated 15 July 2021, was refused by notice dated 24 August 2021.
 - The development proposed is a 15m high 'slim line' Phase 8 H3G street pole c/w wrap around cabinet and 3no. cabinets with 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 high 'slim line' Phase 8 H3G street pole c/w wrap around cabinet and 3no. cabinets with ancillary works at land at Lifstan Way, Southend on Sea SS1 2YA in accordance with the terms of the application Ref 21/01460/TEL, dated 15 July 2021, and the plan submitted with it including 002 Site Location Plan – SOS15067_Planning_Rev C, 215 Proposed Site Plan – SOS15067_Planning_Rev C, 265 Proposed Site Elevation – SOS15067_Planning_Rev C, 304 Proposed Configuration Antenna Schedule – SOS15067_Planning_Rev C and 307 Equipment Schedules & Dependencies – SOS15067_Planning_Rev C.

Procedural Matters

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 Council has referred to a number of development plan policies in its decision notice. However, 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, any related guidance and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant 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 and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site is part of a wide grass verge running along the western side of Lifstan Way, a road which separates Southchurch Park and another open space to the east, amongst the built-up confines of Southend on Sea. The verge separates the road from a footpath and contains a number of existing lamp posts and trees. There are also floodlights to the rear of the appeal site, within Southchurch Park, which the appellant indicates are approximately 12 metres in height. The proposed mast, at a height of 15 metres, would be located adjacent to an existing tree, said to be some 9 metres in height. The equipment cabinets would be positioned adjacent to the mast in a single line near to the footpath.
6. Although it is noted that radio antennas must be clear of obstructions, as the proposed mast would be located between two open spaces with limited built form surrounding it, it would be a highly visible addition within the streetscene and from surrounding viewpoints. It would also be considerably higher than the surrounding street paraphernalia, including the floodlights within Southchurch Park, and more prominent due to its bulky and top-heavy design. Due to its significant height and prominent appearance, along with the open nature of the immediate area, the proposed mast would be a visually dominant addition to the surrounding area.
7. Whilst the proposed cabinets have been set back from the pavement and positioned in a single line to avoid a cluttered appearance, their cumulatively size and bulky design would make them a highly noticeable feature within the streetscene. The existing grass verges along Lifstan Way are largely unobstructed, only by intermittent trees and lamp posts which, unlike the proposed cabinets, have a limited footprint. Therefore, the presence of these large structures would be an incongruous addition to the area.
8. However, it is noted that telecommunications equipment of a similar scale and appearance is not uncommon within built-up areas such as this one and that the proposal has been designed to ensure that the colour matches the existing street furniture. Nevertheless, due to their dominant and incongruous nature, the proposed mast and cabinets would have a moderately harmful impact on the character and appearance of the area.
9. Paragraph 117 of the Framework states that applications for electronic communications development (including applications for prior approval under the GPDO 2015) should be supported by the necessary evidence to justify the proposed development. The appellant has identified a requirement to provide 5G network coverage around Lifstan Way and has undertaken a survey considering the possibility of mast and site sharing or the use of existing buildings or structures, as required by paragraph 117(c). However, no suitable sites were identified and therefore a new location was sought. The Council have not disputed the need for the proposed installation or the resultant public

benefits and, from the evidence provided, I see no reason to take a different view.

10. The appellant has stated that the intended target area around Lifstan Way has a radius of approximately 100 metres and that due to the high frequency and low power outputs of such installations, these areas are generally very constrained. As well as the appeal site, four other sites have been considered to accommodate the proposed development. However, these were discounted for various reasons relating narrow pavements, the impact upon vehicle visibility splays and restrictions to property access. It is also noted that the alternative sites are located much closer to the surrounding residential properties than the appeal site, which would have a greater impact on the living conditions of the occupiers of these neighbouring dwellings. Again, this analysis has not been disputed by the Council and I can see that there is clear and persuasive evidence for discounting these alternative sites. Therefore, it is unlikely that a more suitable site may reasonably be available to fulfil the identified need. As such proposals are permitted development and have been accepted in principle, this need is given significant weight.
11. For the reasons set out above, the proposed installation would have a moderately harmful impact on the character and appearance of the area. However, as it is unlikely that a more suitable site would be available to achieve the identified need of providing 5G network coverage in this area, the need for the installation would be given significant weight which, in this instance, outweighs the harm that I have found. Therefore, on balance, I find the siting and appearance of the proposed installation acceptable.

Other Matters

12. Concerns have been raised by a third party about the potential impact of the proposed mast on airborne wildlife. However, this is not a consideration under Schedule 2, Part 16, Class A of the GPDO 2015 and therefore I cannot consider it as part of this appeal.

Conditions

13. 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

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

E Grierson

INSPECTOR