



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: 23 November 2022

Appeal Ref: APP/D1590/W/22/3295180

Land adjacent to Prince Avenue, Southend on Sea SS0 0AP

- 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 Telefonica (UK) Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/01730/TEL, dated 20 August 2021, was refused by notice dated 20 September 2021.
 - The development proposed is the installation of a 17.5m mast housing 6 antennas, radio equipment cabinet and enabling operational and development works thereto.
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Decision

1. The appeal is dismissed.

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 (the 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 the safeguarding criteria at London Southend Airport.

Reasons

Character and Appearance

5. The appeal site is part of a grass verge located between the road, Prince Avenue, and a pedestrian footpath. The grass verge is currently occupied by

several large trees and road signs with a fence and mature hedging adjacent to the footpath. To the south of the appeal site is a suburban residential area and to the north of the site is an arterial road (the A127) and several large commercial buildings.

6. The proposed cabinet would be located adjacent to the footpath, set back somewhat from Prince Avenue, relatively modest in size and common in appearance. Therefore, it would have a limited impact on the character and appearance of the area. The proposed mast would be located more centrally on the grass verge, at a height of 17.5 metres. It would be much greater in height than any other structure in the surrounding area, including the streetlights on the nearby A127, and highly visible within the surrounding area.
7. Whilst tall, the simple form and slim line design of the proposed mast, which is typical in appearance for such apparatus, with colouring to match the surrounding street paraphernalia, would help reduce its overall visual impact on the streetscene. Although there is limited existing street furniture on Prince Avenue, the addition of one mast and one cabinet is minimal and would not constitute excessive visual clutter. Its location would also be well separated from the nearby residential area and therefore it would not be a visually dominant addition from these properties.
8. Albeit taller in height, the proposed mast would be viewed against the large number of streetlights on the adjacent main road and therefore would not be a wholly incongruous or dominant addition to the surrounding area. The proposed mast would be an undoubtedly prominent addition to the streetscene due to its significant height. However, due to its positioning and design, it would not result in harm to the character and appearance of the area.

Safeguarding Criteria

9. The proposed mast would be located close to London Southend Airport (LSA). As per the stipulations of Schedule 2, Part 16, Class A, Paragraph A.3(6)(ab) of the GPDO 2015, the Council were required to consult the operators of the civil safeguarding area in which the appeal site is located, namely LSA. Schedule 2, Part 16, Class A, Paragraph A.3(7)(b) of the GPDO 2015 also states that prior approval must not be granted contrary to the advice of any person consulted in accordance with sub-paragraph (6)(ab). LSA have stated that the proposal would conflict with safeguarding criteria and have objected unless a condition, requiring an assessment against the Airport's published and designed instrument flight procedures, is applied.
10. However, the GPDO 2015 does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Therefore, it would not be possible to impose such a condition in order to mitigate LSA's concerns. Whilst the appellant does not consider that the location and height of the proposed mast would impact upon LSA's instrument flight procedures, no specific information has been provided to clearly demonstrate that, and only generic information provided in relation to radar clearance. Although the proposal may comply with all existing standards required under the terms of their operating license, the objection from LSA still stands and therefore the proposal would conflict with Schedule 2, Part 16, Class A, Paragraph A.3(7)(b) of the GPDO 2015 as detailed above.

11. Whilst the siting and appearance of the proposed installation would not harm the character and appearance of the area, without sufficient evidence to suggest otherwise, its siting would conflict with safeguarding criteria, with an objection received from the operators of the civil safeguarding area, LSA. Therefore, in accordance with Schedule 2, Part 16, Class A, Paragraph A.3(7)(b) of the GPDO 2015, prior approval must not be granted.

Other Matters

12. The appellant has stated that there is a requirement for a new electronic communications base station to provide additional 4G and new 5G network services in the area and that the proposal is the minimum necessary to provide this requirement and the minimum height to clear radio clutter. Evidence has been provided detailing that there are no existing installations which could be shared and there are no suitable or available rooftops or structures where such apparatus could be located instead. As well as the appeal site, alternative sites have been considered to accommodate the proposed development. However, these were discounted for various reasons and I can see that there is clear 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. However, as it has been found that the proposal would conflict with the requirements of the GPDO 2015, as outlined above, even afforded significant weight, this requirement would not outweigh the identified conflict.
13. The appellant has identified a number of appeal decisions where it has been found that the need for the development would outweigh the harm found. However, these appeal decisions relate to different matters from the appeal before me and none have been identified as conflicting with safeguarding criteria. Therefore, they do not set a precedent for the appeal proposal.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR