



Appeal Decision

Site visit made on 1 November 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/D1590/W/22/3299728

**Progress Road, Progress Road Industrial Estate, Southend-on-Sea, Essex
SS9 5JL**

- 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 CK Hutchison Networks (UK) Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/02446/TEL, dated 9 December 2021, was refused by notice dated 21 January 2022.
 - The development proposed is a 5G telecoms installation: H3G Phase 8 15m high street pole c/w wrap-around cabinet and 3 further additional equipment cabinets.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to a development by or on behalf of an electronic communications code operator for the purpose of the operator's Electronic Communications Network, in accordance with the code as specified under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
3. The main parties dispute whether prior approval for the siting and appearance of the development should be refused, rather than if it is required. Therefore, my decision reflects that context. I am satisfied the reasons for refusal relate to siting and appearance matters as defined in the Order.
4. Additionally, the Council has referred to a number of development plan policies in its decision notice. However, the principle of development is established by the provisions of Schedule 2, Part 16, Class A 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 Issues

5. The main issue is the effect of the siting and appearance of the proposed development having regard to the character and appearance of the area and the safeguarding criteria at London Southend Airport.

Reasons

Character and Appearance

6. The appeal site is an area of public footpath located between Progress Road and a large commercial building, opposite a supermarket and associated car park. It is located at the edge of an industrial estate, made up of a number of large commercial buildings, and is in close proximity to a busy signal controlled junction. The area has a built up industrial character.
7. Due to its location, the proposed installation would be highly visible within the public realm. This would be exacerbated by its significant height which would be considerably taller than the surrounding street furniture, trees and neighbouring buildings.
8. Although significant in height, due to the location of the proposed mast within an industrial setting surrounded by a number of large buildings, the proposed mast would not appear overly prominent in the streetscene. It's simple and slimline design would ensure that it is not overly dominant and its colouring would be in keeping with other street furniture, such as the street lighting.
9. Moreover, the proposed cabinets would be modest in size and typical in design. Whilst they would result in additional street furniture on the footpath, the cabinets would not appear overly obtrusive and would not be significantly detrimental to the overall character and appearance of the area, particularly given the industrial surroundings.
10. Overall, whilst the proposed installation would be substantial in height and would result in additional paraphernalia within the streetscene, it would not be an overly dominant addition to this industrial area and would not significantly harm the character and appearance of the area.

Safeguarding Criteria

11. The proposed mast would be located within 3km of London Southend Airport (LSA). LSA have stated that the proposal would conflict with safeguarding criteria and have objected unless a condition, requiring third party OLS and IFP assessments, is applied. However, the GPDO 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.
12. 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 proposed siting would conflict with important safeguarding criteria designed to ensure adequate levels of public safety are maintained. There is nothing convincing demonstrating that public safety would not be eroded.
13. Accordingly, I find that prior approval should not be granted because of the potential harm arising to public safety directly linked to the siting of the development.

Other Considerations

14. The appellant has stated that the proposal would provide much needed 5G coverage to a densely populated area. A desktop study has concluded that

there are no mast/site sharing opportunities within the target area or existing buildings or structures which could be used. As well as the appeal site, several alternative sites have been considered to accommodate the proposed development. However, these were discounted for various reasons, including narrow pavements, the location within a residential area and the impact upon visibility splays, and I can see that there is clear evidence for discounting these alternative sites.

15. I accept it is unlikely that a more suitable site is demonstrated as being available to fulfil the identified operational needs of the appellant, which are supported by Chapter 10 of the National Planning Policy Framework. The need for improving the telecommunication network is given significant weight in my overall decision.

Planning Balance and Conclusion

16. However overall, I do not find that the absence of visual harm or the advantages of allowing the appeal scheme would outweigh the potential harm to public safety arising from the siting of the development.
17. For the reasons given above, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR