



Appeal Decision

Site visit made on 7 November 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/B5480/W/21/3288716

Hornchurch Road, London Borough of Havering, London RM11 1PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 the Council of the London Borough of Havering.
 - The application Ref M0017.21, dated 12 September 2021, was refused by notice dated 5 November 2021.
 - The development proposed is a 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated 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) (hereafter "the GPDO") for the siting and appearance of a 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works at Hornchurch Road, London Borough of Havering, London RM11 1PZ in accordance with the terms of the application Ref M0017.21, dated 12 September 2021, and the plans submitted with it.

Procedural Matters

2. The provisions of the GPDO, 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. The principle of development is established by the GPDO, the provisions of which do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework ("the Framework") only insofar as they are a material consideration relevant to matters of siting and appearance.
3. On 17 November 2021, shortly after the prior approval application was refused, the Council adopted the new Havering Local Plan ("the HLP"). At the same time the 2008 Core Strategy and Development Control Policies DPD, which had been referred to in the decision notice, was withdrawn. The Council's appeal statement referred to the policies of the new plan; as the appellant had (although did not take) the opportunity to respond at "final comments" stage it has not been necessary for me to seek further comments. Where necessary in my decision below I have referred only to the policies of the HLP.

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 safe movement of pedestrians along the footway 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

Character and appearance

5. The appeal site is part of the footway alongside Hornchurch Road at its junction with Franmil Road. The adjoining stretch of Hornchurch Road is a dual carriageway (although it narrows to a single carriageway a short distance either side of the appeal site) which, at the time of my site visit early on a weekday afternoon was moderately busy with traffic. The junction next to the site is controlled by traffic lights, and the signal control cabinet is within the appeal site. Franmil Road gives access to a drive-through fast food restaurant immediately adjacent to the appeal site, and to various retail outlets (including a large Tesco Extra supermarket and its service yard) beyond this.
6. There is already a considerable array of street furniture in the surrounding area; as well as the traffic signals and their control cabinet there are lighting columns, telephone poles, railings and litter bins. There is also a freestanding totem sign for the supermarket a short way west of the appeal site. The submitted drawings indicate that the lighting columns are, at around 10m high, the tallest of these existing features. At around 16m high, the proposed monopole would be somewhat taller than any of the existing street furniture, and indeed the nearest buildings. The telecommunications cabinets – as well as the wraparound cabinet at the base of the mast three others are shown on the submitted drawings – would be set at the back of the footway, alongside the traffic signal control cabinet and the unpainted steel railings bounding the drive-through restaurant site.
7. The area around the appeal site is essentially urban in character, and in my experience it is very common to find telecommunications installations similar to that proposed. The mast would necessarily be taller than “surrounding clutter” (as the appellant puts it) to ensure that the installation can communicate effectively with other cells and the wider network. Notwithstanding this, in the context of this part of London, neither the mast nor its associated cabinets would be likely to be widely perceived as incongruous, dominating or especially intrusive features.

Pedestrian movement and safety

8. The Council considers that “there is already [a] sense of the footway in this location feeling cramped due to a combination of the limited width and enclosure by metal fencing to the road and the boundary treatment/planting serving the adjacent commercial premises”. It is of the view that this would be exacerbated by the proposed siting of the mast and cabinets at the back of the pavement alongside the existing street furniture, and that installation would also impede the safe movement of pedestrians through the area.
9. I have no reason to dispute the Council’s assertion that the location sees heavy footfall at times, although for the short duration of my site visit pedestrian

flows past the site were negligible. I also acknowledge that the proposed development would result in there being a significant amount of cabinets and other street furniture within a short length of footway.

10. However, I saw on my site visit that the most significant constraint on the footway, and in my view the likely greatest contributor to any sense of cramping which may arise, is the metal fencing separating the footway from the carriageway. At its narrowest, to the south-east edge of the appeal site towards Hornchurch Road, the footway is limited to a width of around 1.8m at a "pinch point" between this barrier and the angled corner of the drive-through restaurant's low boundary wall and railing. As shown in the submitted drawings¹, the proposed cabinets would also narrow the footway to a minimum of around 1.8m, although as this would be at a single point very close to the existing minimum it seems extremely unlikely that this could have any significant detrimental effect on the safe and convenient movement of pedestrians beyond that which may already arise from the existing bottleneck.

Findings

11. Taking all the above points together, I conclude that the siting and appearance of the proposed installation would not cause unacceptable harm either to the character and appearance of the area or to the safe movement of pedestrians along the footway. Insofar as the policies of the development plan which seek to protect or enhance the character and appearance of the area, and to support the safe use of sustainable means of transport including walking, are relevant to matters of siting and appearance in this case, I find no conflict with Policies 23, 25 and 26 of the HLP, nor with Policies D1, D2, D4, D5, D8 and SI6 of the London Plan 2021. The proposal also complies with the requirements of the Framework, notably Chapter 9 which seeks to promote sustainable transport, Chapter 10 which seeks to support high quality communications, and Chapter 12 which seeks to achieve well-designed places.

Conditions

12. The GPDO 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

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

M Cryan

Inspector

¹ Drawing 210 – Proposed Site Plan