



Appeal Decision

Site visit made on 14 June 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/D1590/W/22/3309817

Prince Avenue Street Works, Southend-On-Sea SS0 0NW

Ordnance Survey Grid Reference 586604:187917

- 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) Limited against the decision of Southend-on-Sea Borough Council.
 - The application Ref 22/01728/TEL, dated 1 September 2022, was refused by notice dated 14 October 2022.
 - The development proposed is described as 'Proposed 5G 15m telecoms installation: H3G street pole and additional equipment cabinets'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the site address and Ordnance Survey grid reference given on the application form. The Council's decision notice referred to the site as Land outside 200 Prince Avenue, Westcliff-On-Sea, Essex. The site is located on a highway verge along Prince Avenue and the plans are clear as to the proposed location.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. I have therefore had regard to the policies of the Southend-On-Sea Core Strategy 2007, Development Management Document 2015 (DMD) and Design and Townscape Guide Supplementary Planning Document 2009 (DTG) only insofar as they are relevant to matters of siting and appearance.

Main Issues

5. The single reason for refusal alleged harm to the character and appearance of the surrounding area. In addition, safeguarding concerns were raised in representations on behalf of nearby London Southend Airport, both at

application stage and in response to this appeal. Since airport safeguarding did not form part of the Council's reason for refusal, both parties have been given the opportunity to comment further on the matters raised in these representations and I have had regard to their responses.

6. Against that background, the main issues are:

- the effect of the siting and appearance of the proposal on the character and appearance of the area, and
- the effect of its siting on safeguarding requirements relating to nearby London Southend Airport.

Reasons

Character and Appearance

7. The appeal site is located within a grass verge separating the main, dual carriageway Prince Avenue (A127) and a parallel residential street. The surrounding area is largely residential, although there are local services and some larger commercial sites nearby. The buildings around the site are mostly bungalows and two storey houses. Along the south side of Prince Avenue, these are set back behind the landscaped verge where the proposed mast would be sited. There are street trees within the verge and to either side of the road, of varying height but including some of a comparable height to the proposed mast.
8. Prince Avenue is a busy main road through an urban area. Existing street furniture includes tall, slender streetlights, closely spaced along the central reservation, together with a variety of other items such as telegraph poles and road signs. There is also an elevated footbridge nearby, which is a relatively prominent feature in the street scene.
9. Although the LPA says there is good existing telecommunications coverage in this location, the appellant's evidence identifies required improvements. These are focussed within what is described as a densely populated target area along Prince Avenue.
10. The appellant's evidence confirms that alternative options utilising existing masts, buildings or structures have been considered, although little detailed explanation is provided. Given the generally low-rise form of the surrounding buildings, there are no obvious opportunities for a rooftop installation within the identified target area. The LPA's evidence highlights flat-roofed commercial buildings some 400-500m away, but these are well outside the approximately 100m radius target area described in the appellant's evidence. The buildings to the east also coincide with an established site shown on the coverage map, indicating that existing rooftop masts on those buildings are part of the current network which requires improvement.
11. The Framework makes clear that decision-makers should support the expansion of electronic communications networks, including 5G, as a matter of principle. Given the above, there is no convincing evidence of a realistic alternative to a new base station within the target area.
12. With a height of 15m, the proposed mast would significantly exceed the height of the existing buildings and street furniture. It would also be of bulkier

proportions than the slender streetlights. As such, the installation would introduce a taller and more substantial vertical element into the streetscape. It would also be exposed to widespread public view, given the busy nature of this main road.

13. However, the site is within an urban area which is not subject to any heritage, landscape or similar constraints. While the grass verge provides a buffer between the main dual carriageway and the adjacent residential side road, it relates visually to both. There is already relatively extensive street furniture within the public realm, including the streetlights and footbridge. The street trees provide a softer element and are well placed to screen and filter views of the mast in views along Prince Avenue. The presence of communications infrastructure is somewhat to be expected within what is a busy, urban roadside environment, notwithstanding the surrounding residential areas, and the overall quality of the public realm would be maintained.
14. The proposed siting also avoids intruding into the direct outlook of the closest residential properties, by virtue of its position alongside the side boundary of a corner property.
15. The proposed pale grey colour would be similar to that of the streetlights and other existing street furniture. The proposed equipment cabinets would not be an intrusive feature alongside this busy road, where roadside cabinets are not an unexpected or alien feature. As such, use of a dark green colour, as recommended in the DTG, would be of no clear visual advantage in this particular location. The proposal would be consistent with other aspects of the DTG, such not hindering sight lines or pedestrian movement, and taking advantage of the existing landscaping for screening, thereby minimising environmental impact without prejudicing the progress of the telecommunications industry.
16. Having had regard to all the above, I conclude that the proposed siting and appearance would not be harmful to the character and appearance of the area. The proposal would not conflict with Core Strategy Policies KP1, KP2 and CP4 or DMD Policy DM1, to the extent that these policies are applicable to the siting and appearance of telecommunications equipment defined as permitted development under the GPDO. It would comply with the Framework's policies supporting high quality communications.

Airport Safeguarding Requirements

17. GPDO Schedule 2, Part 16, Class A, Paragraph A.3(6)(ab) requires that applications for prior approval relating to telecommunications development are subject to consultation with the relevant operator of any civil safeguarding area. Paragraph A.3(7) furthermore requires that prior approval is not granted contrary to the advice of any person so consulted.
18. London Southend Airport (LSA) is nearby to the north. Representations on behalf of LSA state that the proposal would conflict with safeguarding criteria unless any planning permission granted is subject to conditions requiring either that the proposal is no taller than surrounding existing structures / trees etc or that a third party instrument flight procedure assessment is undertaken at the cost of the developer.

19. 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 conditions to address LSA's concerns.
20. The proposed mast would be significantly taller than the surrounding buildings. Although some of the street trees are of a comparable height, I have not been presented with any evidence demonstrating that the relationship between the mast and existing structures / trees etc would be satisfactory from a safeguarding point of view.
21. Following submission of the appeal, in response to the representations from LSA, the appellant has confirmed that an instrument flight procedure assessment has been commissioned. However, this is not available for my consideration, nor has the LSA had the opportunity to advise on its efficacy. Furthermore, in the absence of any provision for imposing conditions, there is no effective mechanism by which I can ensure that this outstanding matter is satisfactorily resolved.
22. For the above reasons, based on the evidence before me, the proposed siting of the mast would conflict with safeguarding requirements relating to London Southend Airport. Accordingly, insofar as they are a material consideration, the proposal would conflict with relevant requirements in Core Strategy Policies KP2 and CP4 and DMD Policy DM1 and with relevant paragraphs of the Framework. These policies, amongst other things, require that proposed development is consistent with creation of a safe environment.

Conclusion

23. I have found that the siting and appearance of the proposal would not harm the character and appearance of the area. However, on the basis of the evidence before me, its proposed siting would conflict with safeguarding criteria designed to ensure public safety is maintained. The GPDO requires that prior approval is not granted contrary to consultee advice on airport safeguarding matters. 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.

Jane Smith

INSPECTOR