



Appeal Decision

Site visit made on 4 July 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/Z5060/W/23/3314718

SW at Bennett's Castle Lane, Becontree RM8 3XX

- 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 & 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 Barking and Dagenham.
- The application Ref 22/01579/PRICOM, dated 13 September 2022, was refused by notice dated 9 November 2022.
- The development proposed is telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Decision

1. The appeal is dismissed.

Preliminary 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 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.

Planning Policy

3. Part 16 of the GPDO 2015 establishes that the proposal is permitted development. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies D4 and SI6 of the London Plan, March 2021 (LP), Policy CP3 of the Planning for the future of Barking and Dagenham Local Development Framework Core Strategy, July 2010 and Policies BP8, BP11 and BC12 of the Planning for the future of Barking and Dagenham Local Development Framework Borough Wide Development Policies Development Plan Document, March 2011 are material considerations as they relate to issues of siting and appearance. Amongst other matters, these policies support the effective use of land to accommodate well-designed and suitably located mobile digital infrastructure, seek to minimise the provision of equipment and, seek to ensure good design which does not adversely affect the character or appearance of the area.
5. The Council's reason for refusal refers to Policy D1 of the LP. This policy principally focuses upon the undertaking of area assessments and preparation

of development plans for London boroughs and, consequently, I find that it is not particularly relevant to the siting and appearance of the proposed telecommunications installation.

6. The Council's reason for refusal also refers to Policies SP4, DM11 and DM30 of Barking and Dagenham's emerging Draft Local Plan Regulation 18 Consultation Version. The Council have stated that since they made their decision, this emerging plan has been an updated further to a Regulation 19 stage version and that the updated versions of the policies referenced within the refusal reason are SP2, DMD1 and DMSI9. These policies seek to ensure development is of high quality that makes a positive contribution to the character of the area and, in relation to telecommunications development, is of a siting, scale and height which is not disruptive to the character of the area. These policies also, therefore, relate to matters of siting and appearance and are a material consideration. However, given they do not form part of an adopted plan and, in any case, given in an appeal of this type there is no requirement to have regard to the development plan even when adopted, they are of limited weight in my decision.
7. The National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on supporting high quality communications and achieving well-designed places.

Main Issues

8. The main issues are the effect of the siting and appearance of the proposed telecommunications 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

9. The appeal site forms part of a pavement located beside a road junction. The local area has a mixed character. There are many residential properties but also a significant number of commercial premises including some within a parade adjacent to the appeal site. Properties in the area are generally 2 and 3 storeys in height. There is a variety of street furniture in the area. This includes lampposts, road signs, pole mounted CCTV, railings, bollards and bus shelters. Some of the lampposts sited nearby the appeal site have a distinctive curved design. There are also trees within the area, located both within gardens and the street. Existing telecommunication installations are located quite close by to the appeal site and I was able to familiarise myself with some of these during my visit.
10. Being 15 metres in height, the proposed mast would be substantially taller than the nearby street furniture, the adjacent buildings and many trees within the area. Although the particular mast proposed may be slimmer than some alternative design options, given its girth in comparison to nearby street furniture and the antenna toward the top, it would nevertheless appear bulky.
11. As a result, in approaches to the site, particularly at closer vantage points the height and bulk of the mast would be readily apparent and would appear striking, dominant and intrusive in the street scene. Although much lower in height than the mast itself, the accompanying equipment cabinets would,

nevertheless, by reason of their number, footprint and mass, create a bulky introduction to the street scene. I accept that, there are some views, including to the south on Bennett's Castle Lane, where there are trees large enough to provide some screening and softening of the development particularly in the times of year when the trees would be in leaf. However, there are other viewpoints whereby the proposed development would not benefit from such mitigating effects.

12. Given the amount of existing street furniture in the area, the street scene is already cluttered. In some instances, and at some sites, this may assist with the assimilation of further street furniture. However, not only is there a significant amount of existing street furniture but, it is also varied in form and appearance. In the proposal, a further feature would be introduced to the street scene which would be of a different form, scale and appearance to that which exists. It would harmfully contribute to the disparate nature of much of the street furniture that is in situ whilst, given its height and vertical apportionment, it would also contrast quite starkly with the gentle curvature of the distinctively designed and lower nearby lampposts.
13. Given this combination of factors, the proposed telecommunications installation would result in harmful effects upon the character and appearance of the area. The proposed installation would be constructed of robust and durable materials and, it may be that an appropriate colour finish would be applied. Even so, this would not sufficiently mitigate the harmful effects I have set out above.
14. In coming to this view, I acknowledge that operational and technical constraints limit the extent to which flexibility can be applied to the height of the proposed mast. I also accept that the proposed mast has already been reduced in height in comparison to an earlier application also refused by the Council. With some existing telecommunication installations already being within the local area, it would also be the case that the proposal would not be introducing a development which, in principle, would be atypical. Nevertheless, for the reasons given, this particular proposal within this location would be harmful.
15. The Framework sets out at paragraph 118 that the need for an electronic communications system should not be questioned. However, having regard to paragraph 117 of the Framework, the requirement for the development to be sited in the location and form proposed should be justified.
16. The appellant identifies a nominal location for the proposed installation which is a little to the south-east of the appeal site. It is put to me that the area surrounding the nominal is lacking in signal coverage. However, the submitted coverage map shows that most areas to the surrounds of both the nominal and the appeal site have adequate coverage as they are shaded green. The only area shown to be lacking in coverage is a relatively small area to the south-west of the nominal and the appeal site, in a location near to a temporary telecommunications installation which, the same coverage map also indicates is not the subject of deficiencies in its sector demand capacity. The submitted coverage map does not show the full extent of the red shaded area which is lacking coverage and, it is not clear to me from the submissions made why alternative locations more toward this area would be unsuitable.
17. I acknowledge that there are operational requirements and technical constraints that affect the siting of telecommunication installations and I also

accept that the target service areas for 5G technology can be particularly small. Despite this, for the reasons given above, I find that the evidence before me on the need for the installation to be sited in the proposed location is neither comprehensive nor compelling and, it has not been robustly demonstrated that other options are unsuitable or unavailable.

18. Therefore, the development would harm the character and appearance of the area. Given my findings in their regard, the need for the installation to be sited as proposed taking into account any suitable alternatives, does not outweigh this harm.

Other Matters

19. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.
20. The appellant submits that no statutory consultees have objected to the proposal and that public objection was received from only one resident. It is also submitted that the application followed a pre-application process, as advocated by the Framework, and this generated no comments. However, whilst the proposal may have received only limited objection this does not in itself render the scheme appropriate nor overcome my concerns.
21. The pavement that forms and, that is nearby the appeal site, is wide and the proposed equipment would be set back from the road itself. As a result, the proposal would not unacceptably impede the passage of pedestrians including the disabled and those with pushchairs, nor would it unacceptably impinge upon the sightlines of motorists or cyclists using the highway. Proposed to be sited on the pavement, the installation would not harm any green or blue infrastructure. The proposed installation would not harm the living conditions of local residents, would not cause significant disruption during its construction and, would meet the International Commission guidelines on non-ionising radiation protection. However, an absence of harm in relation to these matters weighs neither for nor against the appeal proposal.
22. The proposed equipment cabinets associated with the mast may be of dimensions so that they constitute permitted development without the requirement for prior approval in their own right. However, this does not alter that the installation, as a whole, would be harmful. Furthermore, as the mast is integral to the proposal it is unlikely that the erection of the cabinets would be pursued without it.
23. The appeal site may not have any particular land designation or designated sensitivity, nor may it be in close proximity to listed buildings. However, despite this, I have nevertheless identified harm in the main issues.

Conclusion

24. For the reasons given above, the appeal is dismissed.

H Jones

INSPECTOR