



Appeal Decision

Site visit made on 19 September 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2023

Appeal Ref: APP/D1590/W/22/3308389

Hamstel Road Street Works, Hamstel Road, Southend-on-Sea SS2 4LB

- 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 Mr Gallivan on behalf of CK Hutchison Networks (UK) Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 22/01430/TEL, dated 12 July 2022, was refused by notice dated 23 August 2022.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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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) (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. My determination of this appeal has been made on the same basis.
3. The Council has referenced development plan policies, the National Planning Policy Framework (the Framework) and the Council's Design and Townscape Guide Supplementary Planning Document (SPD) 2009 in its decision notice. However, the principle of the development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the development plan, the SPD and the Framework only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

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

Character and appearance

5. The proposal would be sited on a footway, which is located to the east of Hamstel Road and set back from the southbound carriageway behind a grass verge. The footway is adjacent to a parcel of land that extends up to the junction with Newington Avenue. The adjacent land is primarily grassed and thus has an open character, despite being bordered by residential properties on two of its sides. There is also a landscaped area between the carriageways, which adds to the open character of the locality.
6. The opposite side of the road contains a greater variety of uses including retail, commercial, residential and industrial. The surrounding built form is predominantly two storeys high. While there are cabinets to the south of the appeal site and other street furniture in the vicinity, including streetlights, a pole-mounted CCTV camera, telegraph poles and street signage, the appeal site and its immediate surrounds are generally free from visual clutter and its prevailing open character endures. Although the site is not subject to any landscape or heritage constraints, the openness and prevalence of landscaping in the area surrounding the footway make a positive contribution to the character and appearance of the area.
7. The proposed mast would be 15 metres high. I acknowledge that the mast would be the minimum height required to deliver an improved 5G service in the area. I have no reason to doubt that the mast must be higher than any adjacent built form. While masts and cabinets are not uncommon features in urban locations and adjacent to roads, the proposed mast would be significantly higher than the surrounding two storey built form and street furniture. Given the open nature of the area surrounding the appeal site, the proposed mast would appear highly prominent in views from the public realm. Moreover, the mast would be wider at the top, which would further accentuate its height and add to its visual prominence.
8. Although the proposed site elevation plan shows that the mast would be a similar height to existing trees, these trees are set back from the highway adjacent to the boundary of residential properties. Consequently, the existing trees would not offer any screening of the mast from the public realm. Likewise, there is no other street furniture adjacent to the appeal site that would provide any meaningful screening of the proposed development.
9. The proposed cabinets would be sited on the footway adjacent to the mast. Given the open character of this parcel of land, there would be little in the way of screening to minimise their visual impact. The proposed cabinets would be highly visible from the public realm, especially to pedestrians using the footway and road users. The existing cabinets are located at the edge of the parcel of land near a residential boundary wall. The siting of the proposed cabinets has a materially different impact on the character and appearance of the area than the existing cabinets to the south of the appeal site. In combination with the existing cabinets to the south of the site, the proposal would result in a harmful level of visual clutter in the proximity of this footway.
10. The proposed mast and cabinets would be light grey in colour. While the colour would not be dissimilar to existing streetlights and signage, it would contrast

starkly with the surrounding landscaping and would thus accentuate their visual prominence in the street scene.

11. For the reasons given above, I conclude that the siting and appearance of the proposed development would result in significant harm to the character and appearance of the area.

Need for proposed siting and alternative locations

12. The proposal is required to improve the efficiency and reliability of digital communications in the area. The expansion of electronic networks, including next generation mobile technology is a key government objective and supported by the Framework. The need for the electronic communications infrastructure is not disputed.
13. Given the harm that I have identified to the character and appearance of the area, alternative locations that might be available are an important consideration. The appellant undertook a sequential approach in respect to site selection, which involved completing a desktop survey and physical search of the intended target/search area. As part of the sequential approach, the appellant identified no mast/site sharing opportunities or existing buildings/structures that would be capable of accommodating the proposed telecommunication mast and equipment. The appellant considered alternative sites as part of their assessment and found the appeal site to be the most suitable.
14. The appellant's assessment of alternative sites is very brief. Five alternative locations were discounted due to their proximity to residential properties, a school or due to narrow pavements. To ensure adequate network coverage in this area, I appreciate that the search area is constrained. However, Figure 4 of the appellant's Site Specific Supplementary Information and Planning Justification Statement shows that the appeal site lies within an area of good network coverage and outside of the cell/target area. Based on the evidence before me, I am not convinced that the appellant has adequately explored whether there are any alternative sites that are less visually prominent and better related to the cell/target area.

Other Matters

15. The appellant refers to an appeal decision in Southwark within their submission. However, the Southwark scheme is located within a different area and also covered by a different local authority and development plan. The two schemes are therefore not directly comparable.
16. While I recognise that there are considerable social and economic benefits associated with the delivery of high quality communications infrastructure, the GPDO requires that I exercise my powers with regard to siting and appearance only. The proposed benefits therefore cannot be taken into account in my decision.

Conclusion

17. For the reasons given above, the proposal would cause significant harm to the character and appearance of the area. Furthermore, I find that alternative sites have not been adequately explored. As such, I find the siting and appearance

of the proposed development to be unacceptable. I therefore conclude that the appeal should be dismissed.

A James

INSPECTOR