



Appeal Decision

Site Visit made on 25 May 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2021

Appeal Ref: APP/Z0116/W/21/3269313

Lake Shore Drive, Bishopsworth, Bristol BS13 7BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Hutchison 3G UK Ltd against the decision of Bristol City Council.
 - The application Ref 20/04591/Y, dated 26 September 2020, was refused by notice dated 26 November 2020.
 - The development proposed is described as: proposed telecommunications installation: Proposed 20m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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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 (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3 (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 appeal site is within the setting of a listed building, therefore S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) applies in this instance. Accordingly, my assessment has given special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the surrounding area including the setting of a listed building, an area of Important Open Space (IOS) and trees at the site.

Reasons

Setting of listed building

5. The appeal site comprises part of the wooded edge of the landscaped grounds that surround the Grade II listed former offices of the Wills Tobacco Factory. The surrounding area comprises residential dwellings, a retail park and the

- associated road network, including the busy Hanworth Way flyover to the south.
6. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which it is experienced. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. In the local context, Policy DM31 of the Local Plan¹ requires, amongst other things, that development in the vicinity of listed buildings, will be expected to have no adverse impact on those elements which contribute to their special architectural or historic interest, including their settings.
 7. The listed former offices formed part of a large American style office development, that has since been converted to flats. The listing description refers to the ruthless attention to detail in the building's design that was not found in British contemporary work. The listed building is surrounded by over 20Ha of landscaped grounds that were incorporated into the development's design. This included the planting of over 1000 trees and the damming of a stream to create a lake from which the former office building rises. Consequently, the significance/special interest of the listed building, in so far as it relates to this appeal, includes the evidential, aesthetic and high-quality design of the building and the careful arrangement of the planting and attractive spaces that surround it.
 8. The appeal site, according to the appellant, is located some 130m to the south of the listed building, and forms part of the southern edge of the extensively landscaped grounds. The dense coverage provided by the trees and vegetation at this location provide some relief from the surrounding built development as well as forming an intrinsic component of the former office building's original design. Consequently, these features contribute positively towards the setting of the listed building, from which it derives some of its significance.
 9. The appeal proposal seeks to erect a 20m high monopole with four associated ground level cabinets measuring between 1.2m and 1.7m in height. The installation intends to increase mobile coverage and capacity in the area, and to enable 5G technology. The proposal would require the removal of a small amount of scrub vegetation adjacent to an existing footway.
 10. At around 20m high the proposed monopole rises prominently above the surrounding tree canopy, while it would be about double the height of the more slender street lamps that run along the slip road to the south. Its thicker and bulkier proportions would also add to its prominence.
 11. The proposed monopole would be seen in context with the listed building from elevated vantage points that include Lakeshore Drive and Kenney Street to the north east and the Hengrove Way flyover to the south. It would also be viewed from within the listed building looking south. From these locations the appeal site's lower land level relative to the listed building can be appreciated. Despite this, the proposed monopole would nevertheless be appreciably taller than the scale of the surrounding trees, which reach a height of around 14m. From these locations the proposal's scale and position would have a jarring and abrupt presence along the verdant southern edge of the listed building's grounds, and as a consequence would harmfully detract from its setting.

¹ Bristol Local Plan – Site Allocations and Development Management Policies – Adopted July 2014

12. The appellant indicates that the height of the proposed monopole would be comparable to the streetlights on the elevated fly-over to the south. These slimmer structures are set further away from the edge of the listed building's grounds, in contrast to the more intensive monopole which abuts the southern boundary. Consequently, the monopole, given its scale and industrial appearance would have a more strident juxtaposition that would appear harsh and unsympathetic in close proximity to the listed building's verdant southern boundary.
13. The appellant has suggested a condition that requires the monopole to match the colour of the streetlights and the adjacent landscaping. However, this would have a limited effect given that the upper portion of the installation would rise considerably above the boundary trees and attention would be drawn to the exposed upper portion of the monopole which would have a conspicuous and top heavy appearance.
14. During my site visit, I noted that the monopole's visual impact would be diminished or screened from some locations by existing trees, topography and buildings. This would be the case from the slip road to the appeal site's west and from areas within the grounds of the listed building. Moreover, the prominent views from the flyover, to the south, would be fleeting given that cars would be travelling at speed along this highway. This does not eliminate the harm I have identified, given the proposal's prominence from other locations, yet amounts to "less than substantial" harm to the setting of the listed building, in the terms of Paragraph 196 of the Framework. The Framework requires this harm to be weighed against the public benefits of the proposal, an exercise which I carry out later in this decision.
15. The proposed associated equipment cabinets would be grouped closely together near the base of the monopole. They would be modest in height compared with the surrounding street furniture and buildings, while the appearance of the cabinets would be softened by the tall mature trees that would rise above them a short distance to the north. Furthermore, a condition could be used to ensure that their colour matches the adjacent vegetation, so that they assimilate better into their surroundings. Therefore, despite my concerns regarding the monopole, the proposed equipment cabinets would be acceptable in terms of their siting and appearance, while they would not harm the setting of the listed building.

Open Space

16. The listed building's extensively landscaped grounds, from part of the large Crox Bottom Green Space. This is designated as IOS by Policy DM17 of the Local Plan. The policy states that in urban landscapes, proposals which would harm important features such as areas of substantial tree cover would not be permitted.
17. The Crox Botton Green IOS comprises a linear wooded valley containing an attractive mix of tree species. Given the extent of the surrounding built environment, the designation provides significant visual amenity value in this urban setting.
18. The proposal would result in a very limited loss of vegetation adjacent to the IOS's southern boundary. The clearance required amounts to the removal of a very small area of low-level scrub that would be unlikely to damage any

significant trees in the adjacent IOS designation. Nevertheless, the proposal's physical proximity to the IOS and its excessive height relative to the much lower trees to the north would have an incongruous and visually intrusive effect that would harm the landscape character of the IOS. This would partially affect the perception of a small localised part of the designation and therefore I judge that the harm would be relatively minor.

Trees

19. The area allocated for development comprises a shallow section of ground, located adjacent to the footpath to the south. The proposal would require the removal of some low-level scrub vegetation, while the appellant confirms that the development area would not encroach into the IOS, such that it would necessitate the removal of trees.
20. Although the proposal has not been accompanied by an arboriculture report, my site visit confirmed that there were no obvious signs of trees on the site, whilst the site's depth would be unlikely to require the removal of anything other than low level shrubs and scrub. The Council's Ecologist raises no specific objection to the extent of the proposed site clearance subject to standard requirements relating to nesting birds. Therefore, the proposal would not result in unacceptable harm to trees at the site. In this respect it would accord with aspects of Policies BSC9 of the Core Strategy² and Policies DM17 and DM17 of the Local Plan where they require proposals to protect green infrastructure.

Conclusion on character and appearance

21. Although I have found that there would be no direct harm to the trees at the site, the proposal would nonetheless result in moderate harm to the setting and significance of the listed building and the scenic qualities of the adjacent IOS. Accordingly, the proposed monopole's siting and appearance would have an unacceptable effect on the character and appearance of the surrounding area.
22. Insofar as it relates to local and national planning policies, the proposed monopole would conflict with Policies BSC21 and BSC22 of the Core Strategy and Policies DM26, DM31 and DM36 of the Local Plan. These seek, amongst other things, for proposals to protect and conserve heritage assets and respond positively to the area's character, visual amenity and local distinctiveness.

Other Matters

23. The appellant has put forward a number of matters which it argues weigh significantly in the appeal proposal's favour and mean that approval should be granted.
24. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.
25. The appellant indicates that the proposed development, is required to provide new 5G coverage and capacity, in the Headley Park area. Coverage plot information submitted by the appellant shows a shortfall in these services for

² Bristol Development Framework Core Strategy, adopted June 2011

the network provider. I have no reason to doubt that there is restricted coverage and capacity in this part of the city, nor have I been presented with any compelling evidence to the contrary.

26. The current restricted coverage and capacity is at odds with the Framework's emphasis on extending and future-proofing digital connectivity in order to ensure that communities can benefit from economic growth and greater social inclusion. Moreover, the ongoing Coronavirus pandemic has highlighted the reliance of mobile connectivity and the need to make improvements where necessary and in light of growing demand. Therefore, from the evidence before me the appeal proposal would extend the reach of 5G coverage in the area. This is a public benefit and a matter to which I give significant weight. Moreover, the proposal would support economic and social objectives, and deliver benefits which may include improved support for home working, enabling smart devices and services as well as supporting future advances.
27. It is contended, by the appellant, that the improved mobile coverage would enhance the setting of the listed building. It is not clear how this would improve the way in which the listed building is experienced, whilst there would unlikely be any visual characteristics associated with that benefit. Accordingly, I have given this matter limited weight.
28. The appellant has provided information to support the height of the proposed monopole in order to avoid interference from topography and landscape, and also in order to clear International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines. I therefore have no reason to dispute the specification and the height of the proposed monopole and the requirement for supporting equipment cabinets.
29. The Framework advises (Paragraph 115) that for new telecommunication base stations such as the proposal, applicants should explore the possibility of erecting antennas on an existing building, mast or other structure. In this instance I have not been provided with details of the extent of the buildings, structures or existing masts that were discounted. Whilst the appellant dismisses those options as unviable, there is little information before me on those alternative sites, and I am not able to form my own view on the matter.
30. It is also noted that there are options (Options 2 and 3) annotated on Fig 5 of the appellant's site-specific supplementary information. Those sites are located within the cell search area, yet it is unclear why there is no detail or analysis why those options have been dismissed as unviable. Therefore, I consider that limited justification for discounting of other sites has been provided with little evidence submitted to support assertions that other options are unavailable or unsuitable.
31. I note the appellant's comments that the Council failed to provide any details of alternatives sites following a pre-application consultation. The Council, however, indicates that the appellant, did not use its formal pre-application charging service to obtain that information. Given that this is a procedural matter between the parties I have given it limited weight in my assessment of this appeal.

Planning Balance and Conclusion

32. The harm that would occur to the setting of the listed building would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. This is a matter of considerable importance and weight. Paragraph 196 of the Framework nevertheless requires such harm to be weighed against the public benefits of the proposal.
33. I have found that the proposal's public benefits including the economic and social benefits of upgrading electronic communication infrastructure to be significant, in addition to the support given by the Framework for such developments. The proposal would also present an opportunity for site sharing and reduce the need for new mast sites in the locality. I therefore afford some moderate weight to this benefit.
34. However, I also give considerable weight to the disbenefits which would arise from the proposed development, as a result of its harm to the setting of the listed building. I also give minor weight to the indirect harm upon the visual qualities of the IOS, as set out under the main issue. For reasons also set out above, I have some doubts as to whether or not the range of possible alternative locations has, indeed, been appropriately assessed. Therefore, in my opinion this uncertainty has to also carry some weight against this proposal.
35. Taking these factors into account the proposal's significant benefits do not outweigh the extent of harm I have identified. I have also found that these unacceptable impacts would give rise to clear conflicts with the development plan, for reasons given earlier, as well as the Framework and the Act.
36. I therefore conclude that this appeal should be dismissed.

RE Jones

INSPECTOR