



Appeal Decision

Site Visit made on 7 September 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2021

Appeal Ref: APP/Y1110/W/21/3276804

Cowick Street, St Thomas, Exeter EX4 1AA

- 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.
 - The appeal is made by Hutchison UK Ltd against the decision of Exeter City Council.
 - The application Ref 21/0599/TEL, dated 3 April 2021, was refused by notice dated 19 May 2021.
 - The development proposed is a 15m 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) for the siting and appearance of a 15m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at land at Cowick Street, St Thomas, Exeter EX4 1AA in accordance with the terms of the application Ref 21/0599/TEL, dated 3 April 2021, and the plans submitted with it, including EXE20634_M004/002D; EXE20634_M004/100D; EXE20634_M004/150D; EXE20634_M004/210D; EXE20634_M004/260D; EXE20634_M004/303D; and EXE20634_M004/305D.

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. During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). The Framework represents the Government's up-to-date planning policies for England and how they should be applied. The Council's reasons for refusal refer to paragraphs 127 and 192, which have been re-numbered 130 and 197 in the revised version, but are otherwise unaltered. The appeal timetable has allowed both parties the opportunity to make comments relating to the updated Framework.

Planning Policy

4. The principle of the development is established by the GPDO, and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be

had to the development plan. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the development on the character and appearance of the area, including the settings of designated heritage assets.

Reasons

6. The appeal site lies on the edge of a wide pavement/seating area adjacent to an out of centre retail park, which comprises of substantial two-storey buildings fronting an extensive surface carpark. It is also very close to a large roundabout that carries considerable levels of traffic. On the opposite side of Cowick Street there are two and three storey buildings that predominantly accommodate business uses on the ground floor, with residential above. In view of the commercial nature of the area, and the convergence of high volumes of traffic on the roundabout, it is characterised by a significant level of street furniture, including street lighting, carpark lighting, traffic lights, road signs, railings, and benches. Despite its urban location, there are also a substantial number of trees in the vicinity, both along the pavement, and within the roundabout and carpark.
7. The proposed 15 metre mast would, therefore, occupy an area that is already populated by a range of vertical installations, and close to large buildings, but where the urban environment is softened by judicious tree-planting. Within this context it would be a relatively unremarkable feature in the street scene. Although it would be taller, and wider, than the streetlights, and other fixtures, it would be viewed, from all angles, against large commercial buildings, trees, or rising land beyond. Consequently, the lower part of it would be visually integrated into the backdrop, with its plethora of other street furniture. Furthermore, the siting of the mast is such that it would only be seen in its entirety from a relatively small area of Cowick Street, east of the railway bridge, and from the western part of the roundabout.
8. The top part of the mast would be silhouetted against the sky from some viewpoints. However, the prevalence of trees, and two and three-storey buildings, means that these views would be limited. From all viewpoints it would be seen in the context of streetlights that also break the skyline, so it would not be experienced as an isolated feature rising above the backdrop of trees and buildings. The siting and appearance of the development would not, therefore, have a harmful impact on the overall character and appearance of the locality.
9. The Council's delegated report contends that insufficient information was available to determine the visual impact on nearby heritage assets and, consequently, it could not be concluded that any harm in this regard was outweighed by public benefits. I note, however, that the application submission included existing and proposed site and elevation plans, and therefore exceeded the minimum requirements set out in paragraph A3(5) of the GPDO. I have not been provided with evidence of what further information was sought.

10. The Cowick Street Conservation Area (the CA), and the Grade II listed St Thomas Railway Station, both lie approximately 70 metres to the west of the site. As the appeal does not relate to an application for planning permission, and the site lies outside the CA, the legal duties imposed by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 do not apply. However, the Framework seeks to conserve and enhance the historic environment, and advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and any harm should require clear and convincing justification.
11. The entrance to the CA from Cowick Street is marked by a substantial stone railway bridge, which has two archways carrying vehicular and pedestrian traffic. Consequently, there is limited visibility between the application site and the wider CA that lies to the west of the bridge. I have not been provided with a Character Appraisal describing the significance of the CA, but from my observations, I saw that it was linear, with the frontage buildings giving a sense of enclosure. This is reinforced by the railway line, which divides it from the city beyond, resulting in it having its own distinctive identity.
12. The lower part of the mast would be visible from within the CA through the archway. However, it would be distant, and seen against the backdrop of trees within the roundabout, so would not be a prominent feature. From further within the CA, the headframe may just be visible above the bridge, but it would be seen behind the lamp column and station sign on the bridge, so would not be in isolation. It would also be offset, and at a lower level than the cathedral, so would not impinge on views of it. The siting and appearance of the development would not, therefore, be harmful to views out of the CA.
13. The mast would only affect views into the CA from the very short stretch of Cowick Street to the east of the site. This view already includes traffic lights, streetlights, and railings. Inward views are limited by the dimensions of the archway, and are further compromised by traffic lights and a large road sign just beyond the bridge. In this context, a monopole would have no harmful impact on views into the CA.
14. St Thomas Railway Station is a mid-19th Century building designed by Brunel. In views down Cowick Street from the east, it is partially obscured by the large and relatively recent retail building, which dominates the foreground. From the north, in front of The Kings Arms Hotel, it is viewed in close association with the service yard and rear elevations of the buildings in the retail park. Its historical association with the railway bridge can still be experienced from both of these viewpoints, but the retail buildings are a dominant presence in its setting.
15. From most angles, the mast would be seen against the adjacent retail unit, rather than in front of the listed building, so would not have an impact on its setting. It would be seen in front of the listed building from a small area, on the same side of Cowick Street to the north east. From here, however, the building is already experienced with the retail unit in the foreground, partially obscured by street trees, and in association with a range of street furniture. In this context, the monopole would not have a harmful impact on the setting of the listed building.

16. I have not been directed to any particular viewpoints from which the development may have an effect on the setting of the cathedral. At my visit, I viewed the proposal from the elevated position of St Thomas railway station platform, which allowed commanding views of the cathedral and the appeal site. From here the cathedral is a dominant presence in the cityscape on the rising land to the north east. The mast would appear as an inconsequential addition to this vista. It would not sit in front of the cathedral, and virtually all of the structure would be set against the backdrop of the trees within the roundabout, and the rising land of the city beyond. It would not, therefore, have a harmful impact on the setting of the cathedral.
17. For these reasons, I conclude that the siting and appearance of the development would not have a harmful impact on the character and appearance of the area, including the settings of designated heritage assets. It would, therefore, accord with Policy CP17 of the Exeter City Council Core Strategy (adopted 2012) and Policies C1, C2, DG1 and EN7 of the Exeter Local Plan First Review 1995-2011 (adopted 2005). These policies seek, amongst other things, to ensure that development is of a high standard of design; is compatible with the urban structure of the city, at a height which is appropriate to the surrounding townscape; preserves heritage assets; and minimises the visual impact of telecommunications equipment. It would also accord with the advice in the Framework which supports high quality communications, encourages well-designed places, and seeks to conserve and enhance the historic environment.

Other Matters

18. Although not matters raised by the Council, representations have questioned the need for the installation, and whether an alternative location could be more suitable. However, the Framework advises that, in determining applications, decision-makers should not question the need for an electronic communications system. Furthermore, the evidence indicates that the installation is required to fill a large gap in 5G coverage over a densely populated area. It has been demonstrated that the sequential approach set out in paragraph 117 of the Framework has been followed, and that there are no opportunities for erecting antennas on existing buildings, masts, or other structures. Alternative sites for a new mast have been considered, but these are limited due to the generally residential nature of the area.
19. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conditions

20. Any planning permission granted under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried

out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.

21. The appellant has indicated that a condition relating to the colour finish of the monopole would be acceptable. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Consequently, and as the galvanised finish indicated on the drawings would be in keeping with nearby street furniture, I have not imposed such a condition.

Conclusion

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

Nick Davies

INSPECTOR