



Appeal Decision

Site Visit made on 12 October 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2021

Appeal Ref: APP/V1260/W/21/3277693

Southbourne Grove, Pokesdown, Bournemouth BH6 3QQ

- 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 Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2021-18550-NJ, dated 11 April 2021, was refused by notice dated 9 June 2021.
 - The development proposed is a 15m Phase 8 Monopole C/W wrapround 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 wrapround cabinet at base and associated ancillary works at Southbourne Grove, Pokesdown, Bournemouth BH6 3QQ in accordance with the terms of the application, Ref 7-2021-18550-NJ, dated 11 April 2021, and the plans submitted with it, including BOU14591_M002 (002) Rev B; BOU14591_M002 (100) Rev B; BOU14591_M002 (150) Rev B; BOU14591_M002 (210) Rev B; BOU14591_M002 (260) Rev B; BOU14591_M002 (303) Rev B; and BOU14591_M002 (305) Rev B.

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's reason for refusal refers to paragraphs 193, 194, 196 and 200 of the National Planning Policy Framework (2019). During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). In the revised version the paragraphs are renumbered 199, 200, 202 and 206 but otherwise remain 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 to 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 setting of the Southbourne Grove Conservation Area, and on the living conditions of residents, with regard to noise.

Reasons

Character and appearance

6. The appeal site lies within a mixed residential and commercial area comprising of two and three-storey buildings of varying designs. The site itself is on the back edge of a wide pavement, in front of a roughly triangular area of public open space (POS) that lies between the convergence of Southbourne Grove and Southbourne Road. The POS is grassed and accommodates a range of mature trees, which merge to provide an extensive canopy. The site lies at the eastern end of Southbourne Grove, which is a thriving commercial area, with shops and businesses occupying most of the ground floor space on both sides of the road. To the north and east of the site, in Southbourne Road, residential uses are more prevalent.
7. The site lies just outside the Southbourne Grove Conservation Area (the CA), which encompasses the frontage buildings on the opposite side of the road, and widens to cover both sides of Southbourne Grove further to the west. I have not been provided with a copy of a Conservation Area Appraisal, but from my observations, the significance of the heritage asset lies in the formal layout of period buildings that follow the curve of the road, their uniformity of design, and the abundance of surviving historical architectural features, particularly above ground floor level. Although outside the CA, the POS plays an important role in its setting, as it helps to frame views of the sweep of buildings on the southern side of the road, whilst at the same time screening the less notable buildings on the opposite side.
8. As the appeal does not relate to an application for planning permission, and the site lies outside the CA, the legal duty imposed by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does 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.
9. Although the site is located near a road junction, and close to a commercial centre, the area is not characterised by a profusion of street furniture. There are about five ten-metre high streetlights around the junction, which are slim in profile. There is also a telegraph pole in Southbourne Road and traffic lights and low-level street signs in Southbourne Grove. The 15-metre monopole

- would be taller and wider in diameter than any of these features and would, consequently, be the most dominant piece of street furniture in the locality. It would also be higher than any of the surrounding buildings and the tree canopy on the POS. It would, therefore, be a notable element in the street scene.
10. It would be visible from as far away as the Carbery Avenue junction when approaching along Southbourne Road from the southeast. However, in these views it would always be seen against the backdrop of mature trees, with only a relatively small length projecting above the canopy to be silhouetted against the sky. Consequently, the visual impact in longer distance views would be limited.
 11. In closer views, from just to the east of the Southbourne Grove/Road junction the scale of the structure would be more apparent. From here, it would also affect views into the CA, although it would not be seen directly in front of the sweep of buildings, and would not, therefore, obscure their architectural details. The bottom part of the mast would also be seen against the trees, so the impact on the significance of the CA would be limited. Nevertheless, the top part of the monopole would extend above the tree line, and would draw the eye to some extent, so would be something of a visual distraction when experiencing this view into the CA.
 12. From the west, in distant views from the south side of Southbourne Grove, the mast would be viewed within and against the backdrop of the trees on the POS. The curvature of the road means that it would not be readily visible from the northern side of the road from any point within the CA. Consequently, it would not be a prominent feature in views out of the CA from the western part of the heritage asset. It would, however, be very evident in views out of the CA from the eastern end of Southbourne Grove. Whilst it would not obscure any of the buildings within the CA, its presence would distract from their visual dominance in the street scene. The proposal would, therefore, have a harmful impact on views out of the eastern extremity of the CA.
 13. The mast would also be a prominent feature when viewed from the seating area directly opposite the site at the junction of Southbourne Grove and Pine Avenue. From this particular viewpoint, which is outside the CA, there is a gap in the trees on the POS, which would mean that a significant proportion of the mast would be silhouetted against the sky above the buildings beyond.
 14. In summary, the siting and appearance of the development would have a harmful impact on the character and appearance of a relatively small area close to the structure. In longer distance views, the harm would be limited by the backdrop of trees. Nevertheless, this harm does put the proposal in conflict with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (the Core Strategy), which states that development which would be detrimental to the built environment, amenity, or character of any part of the Borough will not be permitted.
 15. The development would also be a distracting presence within the setting of the CA, and would have a harmful impact on some views into and out of the heritage asset. This would place the proposal in conflict with Policy CS39 of the Core Strategy, which seeks to protect designated heritage assets from proposals that would adversely affect their significance. The impact on the significance of the heritage asset would be less than substantial within the meaning of paragraph 202 of the Framework. In these circumstances, the

Framework advises that the harm should be balanced against the public benefits of the proposal, which I will return to.

16. Policy 5.11 of the Bournemouth District Wide Local Plan (February 2002) (the Local Plan) supports the provision of telecommunications equipment, provided it is sited and designed to minimise its visual impact, whilst respecting operational efficiency. This is also a matter that I will return to.

Living conditions

17. The proposed cabinets would be approximately 16 metres from the nearest building, which is on the opposite side of a busy road. The Council's Environmental Health Officer has calculated that noise from the installation would be approximately 28dB at the closest property, which should not create a nuisance. The Council has, however, taken a precautionary approach in concluding that a noise impact assessment should be submitted to demonstrate the lack of harm in this regard.
18. The Planning Practice Guidance (the PPG) identifies that prior approval is a light-touch process which applies where the principle of the development has already been established¹. It goes on to say that it is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system. The Council's requirement for a noise impact assessment would be contrary to the light touch approach advocated by the PPG. As there is no evidence to indicate that there would be any harm to the living conditions of the occupants of nearby properties due to the siting and appearance of the equipment, the proposal would accord with Policies CS38 and CS41 of the Core Strategy, which seek to prevent harm to residential amenity and to minimise potential pollution by way of noise.

Alternative sites

19. Paragraph 115 of the Framework advises that the number of telecommunications masts should be kept to a minimum, consistent with the needs of consumers, the efficient operation of the network, and providing reasonable capacity for future expansion. It also encourages the use of existing masts, buildings, and other structures. However, it does recognise that new sites may be required for new 5G networks. Paragraph 117 of the Framework advises that, where a new mast is proposed, evidence should be submitted to demonstrate that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
20. The new mast is proposed to fill a coverage "hole" in a densely populated area that suffers from poor access to digital services. The evidence indicates that the sequential approach to site selection 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. The evidence also shows that the optimal site for a new installation was discounted because it lay within a residential area. Options within the search area are limited by the objective of locating the mast outside the CA or residential locations. A range of sites fulfilling this objective have been discounted, and no other alternative sites have been suggested by the Council.

¹ Paragraph: 028 Reference ID: 13-028-20140306

21. Consequently, on the evidence before me, I am satisfied that there are no suitable and available alternative sites that would have a less harmful impact on the character and appearance of the area, or on the living conditions of occupants of residential properties. This factor therefore weighs heavily in favour of the proposal.

Public benefits

22. Paragraph 114 of the Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Consequently, it advises that planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
23. The proposed mast would provide a reliable 5G service to an area that is densely populated by residential and commercial uses, but currently has poor connectivity. Faster and more reliable connectivity to digital services would provide economic benefits to the commercial uses in the locality, as well as economic and social benefits to residential occupants. These would be wide-ranging, including greater efficiency in information sharing, leading to improved productivity; enabling smart devices for entertainment and healthcare benefits; remote monitoring to reduce unnecessary travel; and smarter public services.
24. As no suitable alternative sites have been identified to provide the improved coverage, I give substantial weight to the public benefits that would ensue from the proposal. These public benefits are sufficient to outweigh the less than substantial harm that I have identified to the CA as a result of the development within its setting. They are also a material consideration that indicates that the conflict with Policies CS39 and CS41 should not be determinative.
25. It has been demonstrated that the appeal site has been chosen because, out of all the available options, it is the one that would have the least impact on the character and appearance of the area. The proposal would, therefore, accord with Policy 5.11 of the Local Plan, which supports the provision of telecommunications equipment, provided it is sited and designed to minimise its visual impact, whilst respecting operational efficiency.

Other Matters

26. Although not raised by the Council, representations have questioned the need for the installation. However, the Framework advises that, in determining applications, decision-makers should not question the need for an electronic communications system.
27. 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.

28. The mast and cabinets would be located on the public footpath and some representations have suggested that they would cause an obstruction. However, I saw that the footpath is wide at this point and, even with the equipment in place, there would be approximately three metres of clear space for pedestrians.
29. It has also been suggested that the proposal would result in the loss of trees on the POS. However, the Council Tree Officer's consultation reply notes that the trees in the POS are set well back from the pathway edge where the installation would take place, so no tree harm would occur.

Conditions

30. 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.
31. The Council has suggested the imposition of conditions relating to the colour of the equipment, landscaping, and soundproofing. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. I have found that the public benefits of the proposal, as submitted, outweigh the harm to the character and appearance of the area. I have also concluded that there would be no harm to the living conditions of nearby residents because of noise from the equipment. Consequently, I have not imposed the conditions.

Conclusion

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

Nick Davies

INSPECTOR