



Appeal Decision

Site visit made on 25 February 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/F0114/W/21/3287242

Wellsway, Odd Down, Bath BA2 5RL

- 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 CK Hutchison Networks (UK) Ltd against the decision of Bath and North East Somerset Council.
 - The application Ref 21/03944/TEL, dated 14 August 2021, was refused by notice dated 14 October 2021.
 - The development proposed is an 18.0m 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. Amended plans were submitted with the appeal showing a 15-metre monopole. However, the evidence indicates that these drawings were not submitted to the Council as a formal amendment to the application. The Council's delegated report and decision notice both refer to the plans for an 18-metre monopole that were submitted with the application, and the appellant has confirmed that the decision was based on this original proposal.
3. The revised proposal differs significantly from that submitted to the Council, and on which the views of interested parties were sought. The letters notifying interested parties of the appeal referred to the original description of the development. Consequently, my consideration of the amended scheme would deny those who should have been consulted through the planning application process the opportunity of such consultation. I have therefore considered the appeal on the basis of the original proposal that was submitted to, and determined by, the Council.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO 2015), 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.

Planning Policy

5. The principle of development is established by the GPDO 2015, and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. Nevertheless, Policies CP6 of the Bath and North East Somerset Core Strategy and Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan are material considerations, as they relate to issues of siting and appearance. In particular, they seek to conserve the historic environment and protect local character and distinctiveness. The National Planning Policy Framework (the Framework) is also a material consideration, and it includes a section on supporting high quality communications.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and on the Outstanding Universal Value of the City of Bath World Heritage Site, 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/World Heritage Site

7. The appeal site lies adjacent to the A367 road, which is one of the main routes into the city centre from the southwest. Although it carries significant levels of traffic it is, at this point, a single carriageway road with tree-lined pavements to either side, and an open playing field to the northwest. The buildings that are close to the road in the general vicinity are mainly two-storey residential properties set back behind the roadside trees. Consequently, although it is alongside a major thoroughfare, the site does not lie in a highly urbanised environment.
8. Tall street furniture along this stretch of the road is limited to slim streetlights, approximately 10 metres in height. They are well-spaced, dark-painted, and often camouflaged by tree branches. Consequently, they are not at all dominant in the street scene. The only other items of street furniture in the locality are low-level road signs, a bus shelter, bollards, and railings. This is not an environment where street clutter predominates.
9. The site lies within the City of Bath World Heritage Site (the WHS). The WHS is a designated heritage asset of the highest significance, but little evidence has been provided by the parties regarding its extent or its attributes of Outstanding Universal Value (OUV). From my observations, however, the significance of this heritage asset lies in its high proportion of characterful historic buildings and the green setting of the city in a hollow in the hills. Paragraph 189 of the Framework advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance.
10. The proposed 18-metre mast and cabinets would be located on the pavement adjacent to the A367. Due to the straight alignment of the road, and the generally low level of buildings near to it, the mast would be visible from long distance from both directions. In distant viewpoints from the northeast, the lower part of the structure would be hidden by the three-storey block of flats

opposite the junction with Midford Road. The upper part would be largely concealed by the roadside trees. However, the top of the mast would protrude some distance above the canopy, and would be visible against the sky. In these long-distance views, however, the visual impact on the character and appearance of the area would be very limited.

11. The mast would, similarly, be seen in long-distance views down the road from the southwest. Whilst not screened by a building from this direction, the lower part would be largely hidden behind trees, with more trees acting as a backdrop. Again, it would only be the top part of the mast protruding above the canopy that would be readily visible, resulting in very limited harm to the character and appearance of the area.
12. From closer viewpoints along the A367, and from its junction with Midford Road, the mast would be a much more obvious feature in the street scene. Although it is described as having a slimline design, it would, in fact, be far bulkier in profile than the streetlights in the vicinity. It would also be considerably higher. Although it would be sited against a backdrop of trees, it would rise well above the canopy, so would be the tallest feature in the street scene by some margin. The backdrop of trees is quite thin, particularly in winter, so from some angles the entirety of the mast would be visible in front of the open playing fields beyond. In a locality that is not characterised by significant levels of street furniture, it would be a dominant and incongruous feature.
13. The top of the mast would also be visible from Midford Road, where it would be seen over the roof of the veterinary practice, and rising above the tree canopy, to be silhouetted against the sky. In this suburban skyline, that is comprised of traditional pitched slate roofs interspersed with trees, it would be a visually discordant feature that would be harmful to the character and appearance of the area.
14. The mast would not be seen from any of the longer or shorter distance viewpoints in association with any historic buildings, or against the backdrop of the green hillside setting of the city. Consequently, there would be no harm to the OUV of the WHS. However, the siting and appearance of the proposed installation would result in moderate harm to the character and appearance of the area in shorter viewpoints from the A367 and from Midford Road.

Reason for installation and benefits

15. 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). Although paragraph 3.14 and figure 4 of the appellant's statement do not appear to apply to the appeal proposal, figure 5 demonstrates that there is a significant area of population around the appeal site that does not benefit from 5G coverage. Faster and more reliable connectivity to digital services, as a result of the installation, would provide wide-ranging social and economic benefits to the residents and businesses in the locality, including improved productivity; a reduction in the need to travel; and more efficient public services.

16. Nevertheless, 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 the provision of 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.

Alternative sites

17. The appellant's 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 Council's evidence does not suggest otherwise. Nine alternative sites for a new installation within the target coverage area have been considered. The reasons given for discounting them are brief, but I was able to view them for myself at the time of my visit.
18. Alternative locations along the A367, labelled D1, D2, D3 and D5 in the appellant's evidence, would all be similarly visible in views up and down the road, but would benefit from less tree cover, so would have a greater visual impact. The option at D6 would be in an area of two-storey buildings, with no tree cover at all. Those labelled Option 1, D4, D7 and D8 would also all be in areas where there is little tree cover to camouflage a mast. All the potential options would also be within the WHS, and the appellant's evidence indicates that an installation outside the area of search would not achieve the necessary coverage. The Council does not contend that any of the identified options would be preferable, and has not suggested any alternative locations that have not already been considered.
19. Based on the evidence, therefore, I am satisfied that there are no other more suitable sites within the search area where a new mast could be located to provide the necessary coverage.

Planning Balance

20. The proposal would contribute to the Framework's aim to support high quality communications. It would support the provision of a 5G network in an area where none currently exists, which in turn would contribute to improved economic productivity and social inclusion. These are significant benefits of the proposal.
21. However, the installation would result in moderate harm to the character and appearance of the area. Where a new site is required, paragraph 115 of the Framework says equipment should be sympathetically designed and camouflaged where appropriate. In this case, an 18-metre pole is proposed, even though the appellant's statement of case indicates that a height of 15 metres would work effectively for the operator.
22. Consequently, whilst I am satisfied that no visually preferable sites are available for the provision of a new installation, the appellant's own evidence demonstrates that the desired coverage could be achieved with a lower mast, which would be a less dominant feature in the street scene. For these reasons, and taking into account suitable alternatives, I conclude that the moderate harm to the character and appearance of the area, is not outweighed by the need for the installation as proposed.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR