
Appeal Decision

Site visit made on 14 March 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 March 2022

Appeal Ref: APP/Z0116/W/21/3282484

Portview Road, Avonmouth, Bristol BS11 9GQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Bristol City Council.
 - The application Ref 21/03276/Y, dated 6 June 2021, was refused by notice dated 6 August 2021.
 - The development proposed is a 20.0m 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 20.0m Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works at land at Portview Road, Avonmouth, Bristol BS11 9GQ in accordance with the terms of the application Ref 21/03276/Y, dated 6 June 2021, and the plans submitted with it.

Procedural Matters

2. Notwithstanding the inclusion of a wraparound cabinet and ancillary works within the application description, the appellant states that they should not be subject of consideration as they do not require prior approval. The Council however clearly took a different view in assessing the scheme, and I shall determine the appeal on the basis of its decision.

Main Issue

3. Insofar as the GPDO limits consideration of the proposed development to the matters of siting and appearance, and insofar as the Council has raised no objection on grounds of appearance, the main issue is whether the siting of the development would have an unacceptable effect on pedestrian safety.

Reasons

4. The mast and cabinets would be located along the back edge of a reasonably short stretch of pavement near to an existing cabinet. The pavement runs along one side of a block of green space just to the west of Portway, a busy dual carriageway. Light industrial development lies opposite and a mix of both

this and residential development continues further towards the west and northwest. Other residential development located on the east side of Portway is reached via a pedestrian crossing located toward the south, which is directly accessed from the pavement on the opposite side of Portview Road.

5. The pavement in question is of variable width, narrowing with proximity to the junction of Portview Road with Portway. The pavement is at its widest in the site location, which is one of the few points that appears to achieve the ideal footway width of 2 metres set out in Manual for Streets. The reasons for such variations in width are unclear, but it may be partly due to encroachment by adjacent vegetation. Whether or not this is likely to be remedied is again unclear, as too are the true dimensions of the pavement. As matters stand however, even following installation of the proposed equipment, the remaining pavement width would fall within the scope of existing variation. It is therefore unlikely that the minor additional narrowing would result in any significant change either in the way the pavement was used, or the overall safety of its use.
6. The pavement has been described as serving a key walking route to school. The route has not been precisely defined nor its level of use, but insofar as a school is located towards the northwest, the potential exists for parents and children who live on the opposite side of Portway to pass by the site. This however assumes that they do not make use of the footbridge which crosses Portway just to the north of the school, or the footpath along the west side of Portway to the pedestrian crossing. Even then, given that the pedestrian crossing is otherwise served by the pavement on the opposite side of Portview Road, this appears to be the more likely alternative route. Whilst the pavement in question is not therefore an essential or unavoidable component of a key walking route to school, even if it does see some use in this context, my findings above indicate that the development would not have an unacceptable effect.
7. The Council considers that contrary to the National Planning Policy Framework (the Framework) insufficient evidence has been provided that the appellant considered alternative locations including buildings. Nonetheless, my findings above indicate that siting within the location proposed would be acceptable.
8. For the reasons outlined above I conclude that the siting of the development would not have an unacceptable effect on pedestrian safety. There is no requirement in this case to determine the appeal against policies within the development plan, and indeed, in this particular case none have been cited within the decision notice.

Other Matters

9. The Framework also states that evidence of consultation with relevant organisations should be provided, including where a mast is to be installed near to a school. The Framework does not specify the distance. Thus, whilst the parties disagree over whether or not the school further to the west was consulted in relation to the proposal, and no specific evidence for this has been provided, the extent to which the school can be considered 'near' is doubtful. Indeed, it lies some distance away, with 2 streets of residential development between. This matter does not otherwise alter my findings above.

10. Interested parties have raised concerns about potential effects on health. The appellant has however provided a certificate confirming 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.
11. Interested parties have also raised concern in relation to the effect of the development on the character and appearance of the area, which, as outlined above, is not a concern shared by the Council. Indeed, given that the immediate setting is dominated by a combination of light industrial development and major roads, including a substantially elevated section of the M5 motorway forming part of its bridge over the River Avon, it would not appear obtrusive in context.

Conditions

12. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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.

Conclusion

13. For the reasons set out above I conclude that the appeal should be allowed, and prior approval should be granted.

Benjamin Webb

INSPECTOR