



Appeal Decision

Site visit made on 23 March 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal Ref: APP/Z0116/W/21/3287725

Oasis Academy Connaught, Melvin Square, Bristol BS4 1AT

- 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) (hereafter the 'GPDO').
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Bristol City Council.
 - The application Ref 21/04695/Y, dated 22 August 2021, was refused by notice dated 19 October 2021.
 - The development proposed is 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Main Issue

2. Schedule 2, Part 16, Class A of the GPDO makes provision for the installation, of electronic communications equipment, subject to the prior approval process set out in paragraph A.3. This says the developer must apply to the Council for a determination of whether the prior approval of the authority will be required as to the siting and appearance of the development.
3. Consequently, and from the reasons given on the Council's decision notice, the main issue is the effect of the siting and appearance of the development on the character and appearance of the area 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.

Policy

4. By virtue of Part 16 of the GPDO the proposal is, in principle, permitted development. As such, there is no requirement to have regard to the development plan as there would be for a proposal requiring planning permission.
5. Nevertheless, policy BCS21 of the Core Strategy and policies DM26 and DM36 of the Site Allocations and Development Management Policies (SADMP) document are material considerations in so far as they relate to issues of siting and appearance. In particular, they seek to ensure development contributes positively to, and does not harm, local character. Similarly, the National Planning Policy Framework (the 'Framework') is also a material consideration as this includes a chapter on supporting high quality communications.

Reasons

6. The mast would be sited at the back edge of the pavement adjacent to Oasis Academy Connaught which is a primary school. At the front of the school there is a grassed area with a number of mature trees around 12 metres in height. Behind that is the school car park, school buildings and playground.
7. Opposite the site, Melvin Square is a grassed area which also contains some trees. It also acts as a roundabout with the road circling it and four roads leading from it. Nearby street furniture largely consists of street lamp columns and other low level items such as cycle stands, safety railings, bollards and waste bins.
8. The monopole would be taller than the street lamps and taller than the trees behind it at the school. It would also, necessarily, be taller than the nearby buildings so that the antennae at the top of the pole can provide the intended coverage.
9. It would be clearly visible from the south and west sides of Melvin Square. It would also be visually prominent from positions along Leinster Avenue to the southwest, and for a significant distance along this road too. Although the trees behind it would act as a backdrop, the mast would be markedly taller than these trees and the widest part of the mast, at its top, would most likely be above the trees. From these positions the mast would be very conspicuous.
10. However, from other directions it would not be as prominent. There is a tree in the centre of Melvin Square which is broadly similar in height to the proposal and would screen it from several positions on the north side of Melvin Square and from Daventry Road to the northeast. The view from Ilminster Avenue, which runs southeast from Melvin Square, would be limited by the trees within the school and views from Galway Road, to the northwest, would be limited by the three-storey building at Carpenters Place.
11. The shape and colour of the pole would be simplistic and comparable to the street lamp columns, albeit of a wider girth, and the cabinets would be modest in scale and not dissimilar to other equipment boxes, such as that to the west of the entrance to the school.
12. Overall, although the pole would contrast harmfully with its immediate surroundings in terms of its height which would make it particularly prominent from some viewpoints, in all other aspects of its appearance it would not be incongruous in its context. Consequently, I consider the harm from the development's siting and appearance to the character and appearance of the area would be no greater than moderate.
13. Balanced against that harm is the need to boost the capacity of the 5G network in this area. Chapter 10 of the Framework identifies that high quality communication infrastructure is essential for economic growth and social well-being. The appellant has provided information showing the poor level of coverage of their networks in the immediate locality compared to the wider area, and I am satisfied that a need in the vicinity has been demonstrated. This carries moderate weight.
14. Evidence to demonstrate that alternative options within the search area have been considered but discounted has also been provided. Figure 6 in the appellant's statement shows the site and other nearby discounted locations.

However, option 3 which is stated to be the proposed location, is not shown as being at the appeal site, and instead relates to a location further along Leinster Avenue to the southwest. Indeed, the appeal site appears to be shown as Option 2 which is identified as being discounted from a radio perspective.

15. Indeed, there are a number of other errors in the appellant's statement which undermines its reliability including references to Leeds City Council being the local authority; the site being at Vale Road, Worcester Park; the land being owned by Chalk Hills Academy; and reference to existing nearby 3UK sites RAB034 and CDN006 but which are not shown as being nearby on the map. It also states in paragraph 3.12 that "*approving this scheme will avoid telecoms proliferation and will negate the need for a new additional ground based mast or street works monopole*", which is not what is proposed.
16. Notwithstanding the errors in the evidence, many of the options that were discounted were done so because of their proximity to residential properties. However it is not known how close to dwellings they were and whether they were closer than the flats at Carpenters Place are to the appeal site, which the Council reasonably estimate as being only 17m. Furthermore, a site in the middle of Melvin Square, for example, would be further from residential properties than the appeal site, and yet this does not appear to have been considered.
17. Also the appellants state there is no opportunity for sharing existing sites locally, but little evidence has been provided to support that. In addition, it has not been shown that the possibility of installing on buildings, such as the three-storey Carpenters Place, is not possible. Paragraph 117 of the Framework suggests that site sharing and installations on buildings are both explored to justify a new mast or base station.
18. Paragraph 117 of the Framework also says that that evidence necessary to justify the proposal should include the outcome of consultation with relevant organisations with an interest in the proposed development, in particular when the site is near a school. Although the appellant states that consultation was carried out with the adjacent school, no evidence has been provided to demonstrate that.
19. Overall, it has not been satisfactorily demonstrated that other more suitable sites are unlikely to be available.

Conclusion

20. The siting and appearance of the development would cause harm to the character and appearance of the area. Although there is clearly a need for the 5G network in this area to be boosted, and there would be economic and social benefits of that, this does not outweigh the harm as it has not been demonstrated satisfactorily that there are most likely no other less harmful sites available.
21. Consequently, for the reasons given above, I conclude that the appeal is dismissed.

Andrew Owen

INSPECTOR