



Appeal Decision

Site visit made on 14 March 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/Z0116/W/21/3287256

Saint Johns Lane, Bedminster, Bristol, BS3 5BG

- 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 Hutchinson Networks (UK) Ltd. against the decision of Bristol City Council.
 - The application Ref 21/04584/Y, dated 15 August 2021, was refused by notice dated 14 October 2021.
 - The development proposed is Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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 the appeal has been made on the same basis.
3. The Council refers to development plan policies in its refusal reason. The principle of 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 National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. A second list of alternative sites was submitted with the appeal. The appellant has clarified that it is the second list of alternative sites which should be taken into account. With regard to the case of *Phillips v FSS, Havant BC and Hutchinson 3G (UK) Limited* [2003] EWHC 2415 (Admin) to avoid procedural unfairness it was necessary for the Council to reconsult interested parties during the appeal process, to invite any additional comments, limited to the matter of the second list of alternative sites included within the appellant's appeal statement. I have taken into account any additional comments received in my determination of the appeal.

Main Issue

5. The effect of the siting and appearance of the proposal 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.

Reasons

6. The appeal site is located in an urban area, alongside a road junction. Buildings close to the site are mainly residential. There are some industrial and commercial uses nearby, and some areas of open space, including the land immediately behind the site, which features a number of mature trees and separates it from the residential buildings to the south.
7. The pole would stand amongst other vertical structures including street lamps, a telegraph pole and substantial trees to either side. The trees were not in leaf at the time of my visit; however I could see that their tracery would still mitigate the visual impact of the proposed pole to a certain extent, particularly when viewed from the east or west. I am therefore satisfied that the pole would not appear isolated.
8. However, even if I take into account the positive mitigating impacts of the existing features of the site, the proposed pole would still rise well above the height of these existing features and be of a disproportionate scale, in terms of both its height and width. This would cause some visual harm.
9. The appellant sets out the need for the proposal, and the Government's support for such proposals is clear. Paragraph 114 of the Framework establishes that decisions should support the expansion of electronic communications networks including next generation mobile technology. These matters weigh heavily in favour of the proposal.
10. Paragraph 117 c) of the Framework expects evidence to be submitted to justify all applications. Policy DM36 of the Bristol Local Plan Site Allocations and Development Management Policies states that proposals for new installations will be permitted provided that, amongst other things, there are no suitable alternative sites for telecommunications development available in the locality. As I have found that the siting and appearance of the proposal would cause harm to the character and appearance of the area, I need to consider whether there are suitable alternative sites that would be less harmful.
11. The document titled Site Specific Supplementary Information includes a list of alternative site options. The appellant's appeal statement includes a different list. In this document seven sites are detailed briefly and plotted on a map. No explanation is given as to why these alternative sites are different to those considered in the earlier report that was submitted to the Council or why the second list should be considered instead of the first.
12. This discrepancy is significant. It places considerable doubt over whether the appellant has considered alternative site options properly. I cannot therefore be sure that the evidence before me is sufficiently robust to justify the proposed siting, or that more suitable sites, that would not harm the character and appearance of the area to the same degree, are not available within the search area.

13. In summary, I am unable to conclude that the proposal is the most suitable site to satisfy the identified need, sufficient to outweigh the harm arising from the siting and appearance of the proposal upon the character and appearance of the area. The appeal must therefore fail.

Conclusion

14. For the reasons above, the appeal should be dismissed.

A Tucker

INSPECTOR