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# Appeal Decision

Site visit made on 24 May 2022

**by M. P. Howell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> June 2022**

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**Appeal Ref: APP/G3110/W/21/3289202**

**Warneford Lane, Headington Hill, East Oxford OX4 1LS**

- 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 Oxford City Council.
  - The application Ref 21/02624/T56, dated 18 September 2021, was refused by notice dated 23 November 2021.
  - The development proposed is a 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 Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the local planning authority and therefore the Secretary of State 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 has referred to several development plan policies<sup>1</sup>. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) but only in so far as they are a material consideration that are relevant to matters of siting and appearance
4. The Council also refer to Section 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in its Decision Notice. However, as the appeal is an application for prior approval and not planning permission, or permission in principle, then Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply. Also, as the proposal is adjacent to but not within the Headington Hill Conservation Area, the duty set out within 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply. However, in coming to my decision I have had regard to the relevant

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<sup>1</sup> Policies DH1, DH3 and DH7 of the Oxford Local Plan 2020, and Policies CIP1, CIP2, CIP4 and GSP4 of the Headington Neighbourhood Plan 2017-2032

paragraphs and policies set out within the Framework on conserving and enhancing the historic environment.

5. There is some dispute over whether the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site without prior approval. Notwithstanding the positions set out, this is not for me to determine as part of the appeal. I have assessed the scheme based on the description of the development and the plans submitted, which for clarity, includes the proposed monopole, wrap around cabinets and ancillary equipment indicated on the proposed plans reference 002, 210, 260, 303 and 305.

## **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposed installation on:
  - The character and appearance of the area, including the setting of designated heritage assets, trees and the setting of a non-designated heritage asset;- and
  - If any harm is identified whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

## **Reasons**

### *Character and appearance*

#### Street scene

7. The appeal site is located at the western end of the central reservation on Warneford Lane. Warneford Lane is a busy highway through Oxford, and the central reservation is wide and separates two lanes of single traffic. The central reservation comprises grassland and predominately mature deciduous trees, with some modern street lighting columns and low-level highway signs. The area is relatively open with the surrounding built form being generally 2 storey, low rise buildings.
8. The proposal would be within an area of the public realm that would be highly visible along Warneford Lane and the edges of the adjacent roundabout. While the monopole, antenna and dishes have a slim design, the height would nevertheless contrast with the openness of the area and the low level of the surrounding built form. The proposed development would be appreciably higher and wider than any of the structures with a vertical emphasis, such as the highway signs and street lighting.
9. The proposed development would be near to tall trees, but the coverage of the canopies in this location would not be significant enough to provide adequate screening. The Scots Pine has a high canopy with limited spread and the nearest Pedunculate Oak tree has an asymmetrical canopy that has less coverage towards the top and extends away from the proposal. The prominence of the proposed development would also be exacerbated when the two nearest trees are not in leaf. As a result, the monopole and cabinets would not be appreciably screened by existing landscaping or be readily assimilated into the local context.
10. A condition to control the colour of the mast and its cabinets would not mitigate this effect. Although finishing the monopole and cabinets in a colour such as grey could provide some softening, it would not alter the fundamental issue of its scale,

height and siting. Set within the open area with low lying built form and against the greenery of the park and trees, the grey finish would fail to integrate the development into the area.

#### Effect on Heritage Assets

11. Warneford Lane is adjacent to South Park, situated to the north, which denotes the southern boundary of Headington Hill Conservation Area (Conservation Area). The high stone walls, open green spaces and large mature, deciduous trees of the Conservation Area provide historical evidence of both the 19th century country estates and the remnants of earlier agricultural landscape in Oxford. The historical enclosures, trees and open green spaces reflect the rural beginnings and the verdant character and appearance of this part of the Conservation Area and contribute to its significance.
12. Warneford Lane is also adjacent to the Grade II listed Warneford Hospital. The Warneford Hospital, originally known as the Radcliffe Lunatic Asylum, opened in 1826 and was the first of a number of hospitals to move to the more rural setting of Headington. South Park also includes the Grade II Listed Cheney Farm Barn<sup>2</sup> to the north east. The former Cheney Farm complex, including the listed threshing barn and its immediate surroundings, also helps to illustrate the areas agricultural past.
13. The boundary wall together with the gable elevation of the chapel, south western elevations of the hospital, the roof of the asylum mortuary and South Park are prominent features in this area. Although not as prominent in this location, Cheney Farm Barn is visible in the distance from the southern side of the Warneford Lane. The mature trees as well as the open setting of the central reservation adds value to the understanding of the rural beginnings of the hospital, Cheney Farm Barn and the Conservation Area. The open setting and verdant character on the central reservation are, therefore, a positive aspect of the setting and adds to the significance of each of these heritage assets.
14. The proposal would be sited in a prominent and open location immediately adjacent to Warneford Hospital. On Warneford Lane, close to Divinity Road, the siting and scale of the proposed development would interrupt views of South Park, and in the distance, Cheney Farm Barn. It would also intrude into significant views of the stone boundary wall, the gable elevation of the chapel, and the roof of the asylum mortuary from the roundabout access to Morrell Avenue. Furthermore, it would be a prominent addition to views from inside the grounds of the hospital looking towards Warneford Lane. Currently, the height of the wall affords views of the mature trees on the central reservation but limits views of the modern road, footways and street paraphernalia. This maintains and contributes to the understanding the rural beginnings of the hospital.
15. Although efforts have been made to reduce its scale and height, the proposed development would still appear as a tall and utilitarian structure, constructed from powder coated metal and finished in grey. Despite the presence of the road and associated street paraphernalia, the proposal would introduce a form of development that does not currently exist in the immediate setting of Warneford Hospital, or the wider setting of the Conservation Area and Cheney Farm Barn. The modern design and utilitarian appearance, coupled with its siting and height would contrast with the open and green setting, resulting in an unduly prominent

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<sup>2</sup> Also Identified as the Oxford Artisan Distillery

and visually jarring addition that would cause harm to the setting of these heritage assets and the value it adds to their significance.

16. Paragraph 199 of the Framework sets out that great weight should be given to the conservation of heritage assets. Due to the scale of the proposal and its location within the setting of the heritage assets, the harm would be significant but 'less than substantial' to the Conservation Area and Warneford Hospital. Due to the distance of the structure from Cheney Farm Barn the harm would be moderate but 'less than substantial'. Paragraph 202 of the Framework is applicable in these instances and indicates that less than substantial harm to heritage assets should be weighed against the public benefits of the proposal.
17. Approval of this application will allow for the construction of infrastructure which will enhance network speeds and connectivity within the surrounding Headington Hill area. As a result, the proposal would increase consumer value and productivity, as well as contribute to the use of smarter infrastructure, CCTV as well as communication services and emergency services. I also note that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. Although I consider that the public benefits would be moderate in this case, they would not be sufficient to outweigh the 'less than substantial' harm to the significance of the heritage assets that I have identified.
18. For these reasons, the siting and appearance of the development would harm the setting of the Conservation Area, and the Grade II listing buildings of Cheney Farm Barn and Warneford Hospital.

### Trees

19. The application was supported by an Arboricultural Impact Assessment (AIA). The AIA, which categorises trees based on guidance in British Standards<sup>3</sup>, identifies that the affected trees on site are considered to be Category B trees. These are trees that are of moderate quality or value capable of making a significant contribution to the area for 20 years or more. The AIA states that the proposal would be within the Root Protection Area (RPA) of Category B<sup>4</sup> trees T1, T2 and T3 (most notably T2).
20. These trees are of significance in visual amenity terms, not least due to their position, size, and prominence within the locality. Furthermore, as a group they have an amenity value that is significant along the central reservation. In this regard, the trees contribute to both the character and appearance of the area as well as to the setting of the designated heritage assets, as I have set out above.
21. The AIA states the existing condition of the trees, and the limited proportion of the RPAs affected, mean that the trees should be resilient to the works being proposed. The report also states that protective measures would be employed during construction, including an Arboricultural Watching Brief, with hand tools being used for the first 700mm depth. Where minor roots less than 25mm are encountered, they would be severed neatly.
22. The AIA does not provide sufficient detail, including the extent to which the RPAs would be affected, for me to be satisfied that the trees would not be harmed in the long term. Moreover, due to their proximity and potential growth, I cannot be

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<sup>3</sup> BS 5837: 2012 Trees in relation to design, demolition and construction – Recommendations

<sup>4</sup> T1- Scots Pine and T2 and T3- Pedunculate Oaks

certain that the proposal would be outside the spread of the trees in the future. This may lead to considerable pressure to thin or remove the trees in the future. Any loss of a tree in this group would be harmful to the character and appearance of the area and the setting of the designated heritage assets.

#### Effect on Non-Heritage Asset

23. To the west of the appeal site are two residential roads, Divinity Road and Morrell Avenue, the latter being locally listed as a non-designated heritage asset. Morrell Avenue has a locally listed status for the historical connection to the Morrell family, as well as the architectural merit of the residential dwellings.
24. The proposal would not directly or indirectly affect any of the special features of the residential dwellings or the historical layout of Morrell Avenue. Furthermore, the proposed development would be distant from the dwellings, and due to the topography of the land, would not be highly prominent from the locally listed dwellings on Morrell Avenue. With this in mind, the proposed development would not directly or indirectly effect the significance of the non-designated heritage asset or its setting.

#### Overall findings on siting and appearance

25. Accordingly, having regard to its scale, height, prominent position and lack of adequate screening, the proposed development would be an incongruous feature, which would adversely affect the character and appearance of the street scene and wider area, including the open and verdant setting to the Conservation Area and Listed Buildings. I also find that the proposal fails to demonstrate that it would not have an unacceptable impact on trees. The loss of any of the nearest mature trees would have a significant effect on the character and appearance of the site, as well as the contribution they make to the setting of the Conservation Area and Listed Buildings. The public benefit of the scheme would not outweigh the harm to the heritage assets.
26. I have found that the proposal would not harm the setting of the non-designated heritage asset. This is however a neutral factor.
27. Insofar as they are a material consideration, the proposal would also be contrary to the aims of Policies DH1, DH3 and DH7 of the Oxford Local Plan 2020 (LP), and Policies CIP1, CIP4 and GSP4 of the Headington Neighbourhood Plan 2017-2032 (NP). Amongst other things, these policies seek to ensure development, including servicing features, are high quality in design, and protect the character and distinctiveness of heritage assets and the locality.
28. The Council also cite Policy CIP2 of the Headington NP. It is included in the reason for refusal and refers to the protection of important views within Headington, identified on a 'Viewpoint Map'. From consideration of the map, and from what I observed on site, the topography of the land and the distance from the proposed development would limit any impact upon these important views. I do not agree that the proposed development would be contrary to this policy and affect any of the important views identified.

#### *Alternative sites*

29. There is no dispute that the proposal is needed to improve 5G connectivity in the area. I have no reason to disagree with this. However, the parties dispute that

other potential sites has been considered and the adequacy of pre-application discussions on alternative sites.

30. I recognise that the 5G cell search area is constrained and that the location has been selected to be set away from residential properties. I note that the appellant has provided a map detailing discounted options. However, all of the discounted options appear to be locations at street level, and there is limited evidence before me that indicates existing buildings within the locality have been investigated and the reasons for this. Although I appreciate that a large proportion of the buildings within the cell search area are low lying residential buildings, taller buildings, such as the Oxford College buildings, exist within the locality.
31. Consequently, the need for this installation weighs in favour of the appeal, but I am not satisfied that potentially less harmful alternatives on existing buildings have been adequately explored, contrary to the policy objectives set out in section 10 of the Framework.

### **Other Matter**

32. The parties dispute whether nearby schools or colleges should have been consulted. However, this is a procedural matter and does not alter my findings in respect of the acceptability of the proposal.

### **Conclusion**

33. For the above reasons, I conclude that the appeal is dismissed.

*M. P. Howell*

INSPECTOR