



Appeal Decision

Site visit made on 26 July 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2022

Appeal Ref: APP/Z0116/W/22/3295489

Bath Road Paintworks, Brislington BS4 3LE

- 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 & 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 21/05062/Y, dated 12 September 2021, was refused by notice dated 10 November 2021.
 - The development proposed is an 18m phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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.
3. The Council has referred to development plan policies in its decision. However, the principle of development is established by the GPDO 2015 and Part 16, Class A does 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 considerations relevant to matters of siting and appearance.
4. Revised drawings (ref BRC19493_M002 Rev B) reducing the height of the monopole from 18m to 16m have been submitted with the appeal. These were submitted during the processing of the application, but the Council did not consider them and the application was refused on the basis of an 18m monopole as shown in drawings ref BRC19493_M002 Rev A. The appeal process should not be used to evolve a scheme and it is important that what is considered at appeal is essentially what was considered by the Council and on which interested people's views were sought¹. Therefore, I have determined the appeal on the basis of the scheme that was considered by the Council. However, even if I did accept the amended plans reducing the height of the

¹ In accordance with annex M.2.1 of the Procedural Guide: Planning Appeals – England.

monopole, the reasons set out below in relation to the 18m monopole would similarly apply and the appeal would still have been dismissed.

5. On several occasions the appellant documents refer to the appeal being in relation to a planning application. For the avoidance of doubt, I have determined the appeal on the basis that it relates to the refusal of prior approval and not to a planning application.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on i) the character and appearance of the area, and ii) pedestrian safety, and, if any harm would occur, whether it is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

7. The site is part of the back edge of a footway, located on a busy main road, in close proximity to a bus shelter. It is a predominantly residential area, but there is a large retail site to the rear, a large public house to one side and a veterinary hospital nearby. The site is part of a semi-circular traffic island and adjoins a grassed area which contains a number of mature trees. There are numerous streetlights in the immediate area, along with a range of road signs and multiple traffic lights. There is an existing cabinet and a bin to either side of the bus shelter.
8. The streetlights are existing vertical features, but the monopole would be substantially wider and taller. The trees would form the backdrop to the monopole when viewed from the dwellings opposite and to some extent when travelling along the road. However, due to their location relative to the monopole the trees would not provide any significant screening or mitigation, other than from the retail site to the rear where views of the monopole would be less prominent anyway. The monopole would be substantially taller than the trees and the widest section containing the antenna would be above the tree line and hence it would be a bulky and intrusive element against the skyline. Taking the above factors together, the monopole would be a dominant feature in the area, visible from most directions. Regardless of whether or not the additional cabinets would be permitted development, when combined with the monopole, they would contribute to further street clutter with the existing street furniture.
9. The appellant states that the proposal is the least visually obtrusive option available to serve its function but have provided no substantive evidence to support this. They suggest painting it, but this would provide only minimal mitigation of its appearance.
10. Concerns have been raised about potential adverse effects on the nearby street trees, which I note make an importance contribution to the character and appearance of the area. Consequently, tree loss would result in further harm to the character and appearance of the area and it would also reduce any landscape screening benefits to the proposal. While I accept that the appellant considers the distance is sufficient that impacts would be avoided, no supporting arboricultural assessment has been provided.

11. As a consequence of the factors set out above, and despite the lack of any statutory area designation, the siting and appearance of the proposal would result in significant harm to the character and appearance of the area.

Pedestrian safety

12. The appeal relates to a busy and well used section of footway, located between 2 junctions. The proximity of the bus shelter to the lamp post already constricts the footway and the grass verge in front of the site reduces the footway width. The nearby bus shelter and pedestrian crossing are likely to result in pedestrians waiting in the area rather than just passing through, resulting in further obstruction to the footway.
13. The parties disagree about the extent that the proposal would affect the footway. Irrespective, it would reduce the width of the usable footway and when combined with the existing configuration, constrictions, clutter and obstructions it would lead to a more confused and constrained pedestrian route through the area. This would be likely to lead to pedestrians stepping off the footway to pass each other and result in safety issues both for pedestrians and other highway users. Consequently, the siting of the proposal would result in harm to pedestrian safety.
14. The site is within a Major Capital Works programme area, which includes improvements to public realm spaces, walking and cycling access. In the absence of substantive evidence that the proposal would prejudice the delivery of this, this matter carries minimal weight. My attention has also been drawn to an appeal decision². While full details are not before me, it is in a different context and it does not appear directly comparable to the proposal.

Suitable alternative sites

15. The appellant has set out the need for the proposal to fill a gap in coverage in the area. The Government's support for such proposals is clear with paragraph 114 of the Framework establishing that decisions should support the expansion of electronic communications networks including next generation mobile technology such as 5G. These matters weigh heavily in favour of the proposal.
16. However, the conditions set out under A.2(1)(b) of Part 16, Class A of the GPDO require that the visual impact of the proposal on the area is minimised, so far as practicable. In addition, paragraph 115 of the Framework states that new equipment should be sympathetically designed and camouflaged where appropriate, with paragraph 117 requiring the possibility of erecting new equipment on buildings and other masts and structures to be explored.
17. The need to consider suitable alternative sites is also set out in Policy DM36 of Bristol City Council's Site Allocations and Development Management Policies Local Plan Adopted July 2014. Therefore, taking into account my conclusions on the main issues above, I need to consider the availability of other suitable and potentially less harmful siting options.
18. The appellant has provided a map³ of the cell search area, which I have no reason to question and, given the requirements of 5G, I accept that the area is constrained. They also provide a map which identifies a number of potential

² Ref APP/A5840/W/20/3254830

³ Provided as Figure 5 in the appeal statement and Figure 4 in the site specific supplementary information.

alternative sites⁴ which have been discounted. While a brief explanation for why each was discounted has been provided, there are a number of differences between the list in the appeal statement and the list in the site specific supplementary information. These include variations in the sites and options and the same sites having different reasons for being discounted.

19. In addition to this discrepancy between the 2 lists, several sites seem to have been discounted because of their proximity to residential properties and insufficient pavement width. However, no information has been provided on the distance to dwellings, or the pavement width, so I am unable to consider if the discounted options would have been more or less harmful than the proposal. Finally, whilst I acknowledge the requirements of 5G, there is little evidence that sharing existing sites or locating the apparatus on a building was explored and discounted.
20. While I note that the Council has not suggested alternative sites, the issues identified above place considerable doubt over whether the appellant has fully and properly considered alternative site options. Therefore, I do not have clear and persuasive evidence that, in all likelihood, there are no sites available which are more suitable.

Other Matters

21. Concerns have been raised about potential effects on health and these have been taken into account in the context of the Framework. However, the appellant has provided a certificate to confirm 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 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.
22. While I acknowledge that there would be various social and economic benefits, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. Therefore, the potential wider benefits have not been taken into account.

Conclusion

23. The need for an installation to provide coverage in this area weighs in favour of the appeal. However, I am in no doubt that the proposed siting and appearance would be harmful to the character and appearance of the area, and to pedestrian safety. It has not been demonstrated that less harmful alternatives have been fully explored. Consequently, the need for the installation in this location does not outweigh the harms identified. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR

⁴ Figure 5 in the site specific supplementary information.