



Appeal Decision

Site visit made on 16 September 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2022

Appeal Ref: APP/K0425/W/22/3295986

Queen Alexandra Road, High Wycombe HP11 1BG

- 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) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Buckinghamshire Council.
 - The application Ref 21/08036/PNP16A, dated 2 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is 18.0m Phase 8 Monopole C/W wrapround 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), under Article 3(1) and Paragraph A.3(4) of Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, considering any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan or the National Planning Policy Framework (the Framework). I have only had regard to policies in the development plan and the Framework insofar as they are material considerations relevant to making a planning judgement on matters of siting and appearance.
4. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply in prior approval applications. This is because a prior approval application is not an application for planning permission or permission in principle to which Section 66(1) does apply. Neither does it come within the ambit of Section 66(2). The relevant statutory duty is not therefore engaged. Similarly, the statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, because the site is not within a conservation area.

5. The relevant policies within the development plan and the Framework regarding conserving and enhancing the historic environment are nevertheless applicable to any development that would affect the significance of any heritage asset including its setting. These policies have therefore been taken into account as material considerations in making a planning judgement on matters of siting and appearance.
6. There is no evidence in front of me, by way of lawful development certificate or otherwise, demonstrating that the cabinets proposed benefit from separate permitted development rights. They have been assessed as part of the prior approval proposal accordingly.

Main Issue

7. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and designated heritage assets. Furthermore, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed considering any suitable alternatives and public benefits.

Reasons

8. The site is located on highways land adjacent to Queen Alexandra Road. It is an open area of grass verge in front of a very large building of contemporary design. It is adjacent to an extensive gyratory system, with significant street furniture, including lampposts and other vertical features of a utilitarian nature. There are a significant number of mature trees directly adjacent to the site and within the central area of the gyratory. The immediate area exhibits a leafy and green character and appearance, which serves to soften the prevailing built form and utilitarian nature of the street furniture and gyratory system.
9. It is not disputed that the site is within the setting of a number of designated heritage assets, including Wycombe Abbey Conservation Area, Registered Park and Gardens at Wycombe Abbey, its Grade II listed buildings and High Wycombe Conservation Area. These heritage assets derive some of their significance from the leafy and green character and appearance provided by mature trees and green spaces identifiable within their boundaries and throughout their setting. As such, whilst the site's area of grass verge is not extensive, it is still a component of broader local green infrastructure that makes an appreciable contribution to the character and appearance of the area and the setting of nearby designated heritage assets.
10. The proposal would introduce an 18.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works at the site. Whilst it is acknowledged that the proposal has been designed to be discreet within the limits of what technology allows, it is clear from the plans submitted with the proposal that the monopole would be very significant in height. Indeed, it would breach the ridge line of the adjacent building, the upper canopies of nearby mature trees and other street furniture surrounding the gyratory.

11. As such, even if sightlines were obscured by intervening features to the extent argued by the appellant, it would be prominent in the skyline and any screening provided by intervening mature trees would be very limited due to its height. This would mean that elements of the leafy and green character and appearance of the area, setting and significance of nearby heritage assets would be eroded by additional prominent utilitarian infrastructure.
12. I acknowledge the cabinets are more significant in area. However, they are limited in height to the extent that they would be heavily screened by mature trees and more readily assimilate with the utilitarian street furniture. Altogether, the cabinets and ancillary development associated with the monopole would not be significant or harmful.
13. Overall, notwithstanding my findings on the cabinets, the monopole and therefore the proposal as a whole would harm the character and appearance of the area, setting and significance of designated heritage assets including Wycombe Abbey Conservation Area, Registered Park and Gardens at Wycombe Abbey, its Grade II listed buildings and High Wycombe Conservation Area.

Other Matters

14. Whilst I acknowledge that the appellant may have attempted to engage in comprehensive pre application discussions with the Council, this process would not predetermine the application outcome and the appeal has been considered on its own merits.
15. The Council refused the application for prior approval on the basis of the green space, gas main and flood risk designations, and the appellant disputes whether these designations and concerns are substantive.
16. There is very little evidence substantiating that the site lies within these designations. For example, the proposals map extract provided by the Council is missing the map key and I cannot reach a definitive view without it. Likewise, the appellant has not provided any substantive countervailing evidence.
17. Generally speaking, both parties have provided very little evidence on these designations, which seem peripheral to the main contentious issue of character and appearance and designated heritage assets. Given my findings on character and appearance and designated heritage assets, these other matters have not been central to my determination of the appeal, and I have not needed to probe their substance further.
18. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Consequently, the potential to control the colour of the proposal by planning condition, and whether this would be a mitigating factor, has not been determinative in my assessment.

Planning Balance

19. The extent of harm identified under the main issue would be limited to a small proportion of the heritage assets' setting. Consequently, the setting and significance of these heritage assets would not be eroded to any great extent and the proposal would result in less than substantial harm.

20. Paragraph 199 of the Framework is clear that great weight should be given to a designated heritage asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
21. Paragraph 202 of the Framework sets out that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
22. Social and economic benefits would arise from the proposal, including benefits to the wider economy derived from improved connectivity for businesses, industry, and other sectors, use by the emergency services, ensuring continuous coverage or facilitating the delivery of 5G. In essence, these benefits have been recognised by the grant of permission under Article 3(1) of the GPDO.
23. Furthermore, Paragraph 114 of the Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
24. For the purposes of undertaking the planning balance, I have accepted the appellant's best case scenario¹, that there is a lack of other available sites in the area without suitable alternatives. As such, given the acceptance of telecommunications equipment within the GPDO and associated public benefits this needs to be a strong factor weighing in favour of the proposal and I attach great weight to it in the planning balance.
25. However, even after taking the appellant's best case scenario and apportioning the maximum benefit in favour of the proposal and accepting that there are no suitable alternatives, the cumulative great weight derived from harm to several heritage assets, in conjunction with the harm derived from character and appearance more generally, would generate overriding weight that tips the overall balance against the proposal.

Conclusion

26. For the reasons given above, the planning balance tips against the proposal and the appeal is therefore dismissed.

Liam Page

INSPECTOR

¹ weighing the appellant's purported benefits and lack of alternative sites against the identified harm, notwithstanding that it is unclear whether they have fully discounted options for accommodating the infrastructure on an existing building instead.