



Appeal Decision

Site visit made on 4 October 2022

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2022

Appeal Ref: APP/Z0116/W/22/3297731

Bishport Avenue, Withywood, Bristol BS13 9LJ, 357725, 167570

- 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 Bristol City Council.
 - The application Ref 21/04954/Y, dated 5 September 2021, was refused by notice dated 3 November 2021.
 - The development proposed is a 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.

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 this appeal has been made on the same basis.
3. The Council has referenced development plan policies in its decision notice. 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 be had to the development plan. Nevertheless, 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.

Main Issues

4. The main issues are the effect of the siting and appearance of the proposed installation 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

Character and Appearance

5. The appeal site is on a pavement which fronts a small parade of shops, in a residential estate. This pavement is opposite a junction and along a straight stretch of road, with a layby adjacent for parking associated with the shops. It is surrounded by dwellings and there are apartments at the first and second floor above the nearby shops. Buildings in the area are generally limited to two or three-storeys in this distinctly suburban setting.
6. The section of pavement where the mast and the ancillary cabinets would be located is relatively uncluttered with few items of street furniture. Other than the streetlights, the few examples in the street, which include a post box and waste bin, are relatively small and are what would be expected near a parade of local shops. These appear unintrusive features for this reason and the area immediate to the appeal site therefore has a sense of openness.
7. The proposed mast would be free-standing on the pavement, bound only by low railings to the north. Its base and the ancillary cabinets would be set at a ground level above that of the parade of shops due to the slope of the hill. These structures would also be separated from the parade by the space which forms the shop frontages. As a result, the base of the monopole and the ancillary development would partially block views of the end shop unit in the parade when looking from the street. Moreover, the full extent of the tall mast would be visible from all sides in this part of the street scene.
8. The monopole would be substantially taller than any other structure or building currently in the area and this includes the streetlights. The pole width would also be significantly broader than these streetlights. At street level the base and the two sizeable cabinets would be considerably higher than the railings that they would be set against. They would also be significantly larger than the existing items of street furniture near the parade. As a consequence, all aspects of the scheme would appear discordant and prominent in this area, where development and the built form is generally confined to a residential and local centre scale and appearance.
9. I saw that the immediate vicinity of the appeal site was devoid of features that would be capable of meaningfully screening the structure. It would therefore appear startling and uncompromising to local residents when viewed from dwellings that immediately surround the appeal site and to customers of the local shops.
10. In the wider area, the occasional street tree would provide a degree of screening when the monopole and cabinets were observed from a distance. However, these trees are few in number and scattered so that this screening would be intermittent and limited. Even in the few areas of the street where the trees would provide partial screening, a substantial section of the mast and antenna would still protrude above the trees and buildings. Similarly, greenspaces in the wider residential area and fields to the south would not provide screening of the equipment or lessen its harmful effect in this predominantly residential street.
11. The proposed cabinets might well be allowed under permitted development rights. However, these sizeable structures form part of the scheme before me,

and it is unlikely that they would be constructed without the mast. It is therefore reasonable to consider the visual effect of the scheme taken as a whole. The monopole and cabinets could be painted in a colour that fits with other street furniture, but this would not minimise their size or their incongruous appearance. In any event, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. Consequently, there would be no means of ensuring this outcome.

12. For these reasons I find that the siting and appearance of the proposed installation would have a harmful effect on the character and appearance of the area. I have had regard to Policies BSC21 of the Bristol Development Framework Core Strategy, Policies DM26 and DM36 of the Bristol Local Plan Site Allocations and Development Management Policies, the National Planning Policy Framework (the Framework) and advice set out in the Code of Best Practice on Mobile Network Development in England in so far as they are material to this matter. These collectively require that such development would respect the character and appearance of the area and would not be harmful to visual amenity by reason of siting and design. These requirements would not be achieved in this case.

Alternatives Sites

13. Although limited evidence is provided, it has been explained why using existing masts is problematic. I also appreciate that new structures are required given the constraints associated with this new technology. Moreover, I see nothing that would lead me to question whether the proposed height of the mast is necessary. However, I find little information exploring the possibility of siting antennae on existing buildings or other structures, an approach that could help camouflage and diminish its towering presence in the residential area.
14. The cell search area is predominately residential, and I have not been made aware of other sites, beyond those presented by the appellant, being identified by the main parties in this case. I am also mindful that the alternative sites considered are not close to schools or colleges. However, having regard for all these factors, a substantial portion of the search area is not near educational establishments, and the alternative sites presented in this case are clustered along one street in the search area. Limited reasoning for this approach has been provided.
15. Of the seven alternative sites considered along Bishport Avenue, five were discounted either for their proximity to residential properties or, in the instance of D4, because the location is prominent. The appeal site is also surrounded by, and close to residential properties, and I have found its location to be prominent for the reasons outlined above. Minimal information was supplied in respect to sites D3 and D6, but they were discounted for different reasons. Even if I were to accept the justification for discounting those sites, the circumstances identified in respect to the five other sites and the justifications for discounting them, are not distinctly different from the circumstances identified for the site subject to this appeal. For this reason, I have insufficient information to conclude that the appeal site would be the least harmful of these locations in the search area.

16. In respect to the appeal site, the Council has not raised concerns about landscape. But this would unlikely be an issue for development at this site which is in a predominately built-up area. The proposal would not unacceptably impede pedestrians at this site. Nor has the Council cited in its reasons for refusal, harm in respect to highways safety or residents' living conditions. Although this should be expected with all development, these are issues of siting and appearance and therefore within the provisions of the GPDO. However, with the exception of site D3 discounted due to visibility splays, I am unable to conclude, based on the submitted information, that there would be harm in these respects at the remaining six alternative sites, and that the appeal site would be preferable for this reason.
17. In summary, the evidence submitted does not demonstrate that the proposal would be the only viable option, or that the appeal site would be the least harmful option for this visually harmful development, in this constrained search area.

Other Matters

18. As highlighted by the Dukinfield appeal decision¹, the Framework states that advanced, high quality and reliable communication is essential for economic growth and social well-being. While these matters, and similar benefits outlined in the Future Telecoms Infrastructure Review, are outside the provisions of the GPDO, this development would contribute to the expansion of the next generation of electronic communication network. The proposal would in small part help address the national and local need for this infrastructure. This would be a positive factor that weighs in favour of the proposal.
19. The proposal has been designed to facilitate multiple sharers. As this relates to siting, in so much as this could reduce the need for other masts elsewhere, I find that this is a positive factor. However, I note the challenges highlighted by the appellant in respect to shared 5G structures, so I find this benefit would be limited in this case.
20. This scheme seeks to address the Council's reasons for refusing a larger mast at this site, and I note the appellant's willingness to engage at the pre-application stage. However, I have found harm with regards to siting and appearance of this revised scheme, so these matters do not weigh in favour of this appeal.
21. My attention is drawn to another appeal decision² for a site in London. Similar to this case, pavement width with regards obstruction for pedestrians was not at issue in that appeal. But this in itself does not alter my findings in respect to the visual harm that would arise from this proposal.

Conclusion

22. The proposal would contribute to the new 5G network and could be used by multiple sharers. I find that the proposal would result in substantial harm to the character and appearance of the area. Accordingly, the lack of clear evidence demonstrating that there are no other suitable alternatives available is an important factor in this case. I therefore conclude that the limited benefits identified above would not outweigh the substantial harm in respect to

¹ Ref APP/G4240/W/20/3263529

² Ref APP/A5840/W/20/3254830

character and appearance, and the siting and appearance of the proposed installation would not be acceptable. Therefore, the appeal is dismissed.

A J Sutton

INSPECTOR