



Appeal Decision

Site visit made on 28 November 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/M3835/W/22/3297928

Chesswood Road, Broadwater, Worthing, BN11 2JW

- 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 Hutchinson Networks (UK) Ltd against the decision of Worthing Borough Council.
 - The application Ref AWD/1815/21, dated 26 September 2021, was refused by notice dated 4 November 2021.
 - The development proposed is 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.

Procedural Matters

2. The above Order permits the installation of the proposed mast, subject to the condition that, before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development. The decision notice does not explicitly state that prior approval is required but this is implicit in the Council's decision to refuse prior approval.
3. The decision notice refers to Policy 16 of the Worthing Core Strategy (WCS). I have taken account of this policy insofar as it is relevant to judgements concerning the siting and appearance of the proposed development. However, since there is no statutory requirement to determine applications for prior approval in accordance with the development plan, the primary basis for my assessment is the Order itself.
4. The site visit took place at the end of the school day. I was therefore able to witness pedestrian activity associated with the school pick-up for Chesswood Junior School.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the street scene of Chesswood Road and highway safety in the vicinity of Chesswood Junior School, and whether any identified harm is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The proposed development would be located on the pavement directly in front of Chesswood Junior School. There are some commercial uses nearby, including children's nurseries and a laser and skin clinic, but Chesswood Road is predominantly residential in character. It is mainly comprised of two-storey, detached houses set back from the road behind driveways and landscaped frontages. Street trees combine with trees in front gardens and those in Homefield Park to give the area a verdant character.
7. Although there are several trees adjacent to the site, they are not particularly well formed specimens and their canopies are less substantial relative to others in the road. This gives the school frontage a more open character which is further reinforced by the low level nature of the school buildings and their siting away from the road and behind a playground.
8. The proposed monopole would be a sizeable structure and at 15m in height it would be substantially taller than surrounding buildings, including the school which provides a visual backdrop. The pole would have a large girth, making it significantly bulkier than nearby street lighting columns which are shorter and more slender. Overall, the proposed monopole would stand out as a discordant feature in the street scene of Chesswood Road. The appellant contends that the site is screened in views from all directions, but in reality it is highly prominent at the back edge of the pavement – particularly when the trees are not in leaf. The siting and appearance of the mast would jar visually and it would cause material harm to the local street scene. I have considered the appellant's offer to amend the colour scheme, but this would not mitigate the harm.
9. The plans show a visibility splay to the east of the school entrance. This relates to a stopping sight distance for roads of 20mph, as set out in Manual for Streets. However, Chesswood Road is subject to a 30mph speed limit and therefore the evidence fails to demonstrate that visibility for drivers exiting the school would not be impeded by the mast and equipment cabinets.
10. Furthermore, the development would reduce the footway width to 1.94m. Whilst this is only slightly below the minimum 2m width stipulated within MfS, it would interfere with pedestrian flows when parents congregate on the pavement at school pickup and drop-off times. Given the volume of pedestrian traffic at peak time, and the likelihood that prams and pushchairs will be involved, there is potential for the development to harm the safety of footway users – some of whom will be children. This was not a matter of concern from the Highway Authority, but it has been raised in representations and is a material consideration to which I can have regard in relation to siting.
11. Paragraph 118 of the National Planning Policy Framework ('the Framework') states that local planning authorities, and by implication other decision makers, must determine applications on planning grounds only. They should not seek to prevent competition between different operators or question the need for an electronic communications system. Nevertheless, there is a requirement within Framework paragraph 117 for applications (including those for prior approval under the General Permitted Development Order) to be supported by the necessary evidence to justify the proposed development. It is thus reasonable to expect telecommunications operators to provide an explanation as to the purpose of the proposed installation and the rationale for site selection.

12. Figure 5 within the appellant's evidence seeks to demonstrate how the proposal would fit into the 5G network. The accompanying text explains that the areas shaded green have adequate coverage; this includes the vast majority of the area. The sole area shown without coverage is a tiny rectangle near Worthing Hospital, at the junction of Park Avenue and Homefield Road. This does not correlate with other statements within the appellant's evidence regarding the importance of the proposal in improving network coverage.
13. Turning now to alternative sites, the appellant considered a shortlist of five options. One was the appeal site. Three options near the junctions of Lyndhurst Road and Homefield Road/Farncombe Road were discounted for 'residential amenity issues' and another because the proximity to an existing mast would cause coverage/interference issues. I visited the shortlisted sites and was unclear as to why Options 1,3 and 4 had been rejected in favour of the appeal site. It is not for me, in the context of this s78 appeal, to suggest alternative locations for the proposed development as these would need to be considered by the Council through an application. Nonetheless, the reasons given for discounting the aforementioned sites are inadequate and further explanation is needed.
14. Accordingly, I conclude that there would be material harm to the street scene of Chesswood Road and pedestrian safety in the vicinity of Chesswood Junior School. There is no substantive evidence to demonstrate that this is the 'least worst' option relative to the alternatives identified by the appellant. Although not determinative, I find conflict with WCS Policy 16 insofar as it requires proposals to take account of local physical and environmental characteristics of the area.

Other Matters

15. Concern has been raised in representations about the potential effect of the proposal on human health by virtue of microwave radiation. Paragraph 118 of the Framework states that local planning authorities, and by implication other decision makers, should not seek to set health safeguards different from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure. The appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by ICNIRP. Having regard to national policy, the potential effect on health is not a determining issue in this case.
16. Within their evidence, the appellant states that the site maintains a reasonable distance from 'sensitive receptors'. This term is not defined but I agree with the Council that a school should be treated as being sensitive – not least due to the level of concern a proposed mast is likely to generate amongst parents and carers. Although the effect on health is not in and of itself a valid material consideration, I have noted the public fears about health. This makes it all the more important for alternative sites to have been properly and thoroughly considered in liaison with the local planning authority, and for a detailed record of that exercise to be provided as part of the application.
17. The parties disagree over whether there has been sufficient pre-consultation in accordance with the Code of Practice for wireless network development in England. Although the headteacher to Chesswood Junior School has made representations to the application, I have seen no evidence of the outcome of consultation with the relevant school body as required by paragraph 117 of the Framework. Moreover, I note that the Council received a pre-application enquiry on the same day as it received the application for prior approval, allowing no

time for its comments to be taken into account. None of this reflects well on the appellant, but it does not alter my consideration of the planning merits.

Planning Balance and Conclusion

18. The Framework supports the expansion of electronic communications networks, including next generation technology such as 5G. The benefits of mobile telecommunications to the economy and social well-being are widely recognised and the Council does not wish to discourage the provision of new facilities to improve digital connectivity. It is not easy for operators to find suitable sites in residential areas, due to the nature of the built form and the constraints of 5G technology. Nevertheless, an appropriate balance needs to be struck between the network requirements and other considerations such as visual amenity and highway safety.
19. Framework paragraph 115 states that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. The proposal does not meet these aims of government policy and would be materially harmful to the street scene of Chesswood Road and pedestrian safety. The evidence before me does not robustly demonstrate that such harm is justified by an absence of suitable alternative sites. I therefore conclude that the public benefits arising from 5G coverage would not outweigh the harm.
20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR