



Appeal Decision

Site visit made on 13 December 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2023

Appeal Ref: APP/V1260/W/22/3298731

Boundary Road street works, Boundary Road, Bournemouth BH10 4HJ.

Easting: 408020. Northing: 94271

- 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 Three, CK Hutchison Networks (UK) Ltd against the decision of BCP Council.
 - The application Ref 7-2021-18550-OA, dated 30 November 2021, was refused by notice dated 20 January 2022.
 - The telecommunications installation proposed is described as "*18m high Phase 8 3HG street pole and associated 3no. equipment cabinets (colour GREY-7035)*".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The *National Planning Policy Framework 2021* (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), and subject to any relevant exception, limitation or condition specified therein, development by, or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network, is permitted development. Therefore, matters such as the need for, or benefits of, the development are not at issue in this appeal.
3. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) and (7) 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.
4. The provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. I have had regard to the policies of the development plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.
5. The appellant has advised that the cabinets do not require prior approval due to their size and function. This is not a matter for me to determine in the

context of an appeal made under section 78 of the Town and Country Planning Act 1990. I have determined the appeal on the basis of the scheme before me, which was the subject of the Prior Approval application and includes a wrap-around cabinet at the base of the pole and 3 adjacent freestanding cabinets.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area and highway safety, and whether any harm caused would be outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

Reasons

Character and appearance

7. The appeal site is located within a public footpath which runs along the west side of the A347 Boundary Road. It lies within an established residential area in the Ensbury Park area of Bournemouth.
8. It is located close to the road junction with Glenmoor Close, a residential cul-de-sac of bungalows, and to Glenmoor and Winton Academies secondary school.
9. The proposed installation would be sited next to a grass verge and railings which separate the footpath from the vehicular highway. It would also be within close proximity of the garden of 1 Glenmoor Close, which abuts the opposite side of the footpath, and to a pedestrian access to the school.
10. Boundary Road is a busy District Distributor Road, which functions as a bypass for the Winton shopping district. There are residential properties along both sides, either directly fronting the road, including north of the appeal site, or within roads directly leading off from it, including Glenmoor Close, and Gorsecliff Road on its west side, and Eldon Road and Pickford Road to the east side.
11. Building heights are typically of a residential scale, predominantly comprising single or two storey dwellings. These are interspersed with some functional educational and sports related buildings and playing fields/soft landscaped open space.
12. There are a number of lighting columns alongside the road, including a 10m high street-lamp within the adjacent grass verge. These comprise thinly-profiled and well-spaced structures with a slim, lightweight appearance. There are also various traffic road signs, such as are commonly found within a roadside environment, which are of a height and design appropriate for their function. As such, these structures sit comfortably within the townscape and do not appear incongruous, nor unduly visually prominent within their roadside setting or in comparison with the height of the surrounding built development.
13. The proposal would install a 18m high monopole mast, together with associated ground level cabinets, in a visually prominent location within this townscape, adjacent to the public footpath and roadside verge of a busy road, and near a number of residential properties.

14. Although exhibiting a vertical monopole design, which would be slimmer than some alternative designs for telecommunications equipment, the proposal would have a notably more visually dominant presence in views from the public realm than the existing street lighting and signs. This is due to a combination of its significantly greater height, almost twice that of the closest street light, and pole width than the existing roadside lighting columns. Moreover, the head frame and antennas at the top of the supporting pole would add a distinctly bulky element to the top of the structure which would further draw the eye towards it.
15. There are no existing telecommunications installations within the immediate vicinity of the appeal site. Accordingly, the proposal would introduce a discordant form of development into this area as a result of its commercial nature and its visually intrusive design.
16. Moreover, it would be highly visible to drivers travelling in both directions along the busy Boundary Road, and to other road users, including passing pedestrians and cyclists, and users of a nearby footbridge which provides a key crossing point over the A347. It would also appear visually overdominant in views from the gardens of the closest neighbouring dwellings, particularly those in Glenmoor Close and Boundary Road to the north of the site.
17. Whilst a degree of low height screening of the mast would be provided by nearby buildings, and edge-of-highway and school grounds boundary trees, this would be insufficient to effectively screen the proposal, which would be considerably higher than the surrounding footbridge, trees and buildings, including the adjacent bungalows in Glenmoor Close, in comparison with which it would notably project above in height. The perceived visual dominance of the proposal would be exacerbated by its stand-alone nature, where it would be distinctly separate from the nearby buildings, footbridge and roadside trees.
18. In addition, the adjacent wrap-around and free-standing cabinets would be open to public views at street level and in close proximity to passing users of the public highway, and, in conjunction with the proposed mast and existing street lamp and railings, they would result in a cluttered public realm in this footpath location.
19. As a consequence, the spacious setting of this part of the highway edge and nearby residential development would be detrimentally eroded by the proposed installation of a collection of structures which would appear out of context with the prevailing street scene.
20. Whilst the colour of the installation might be secured by a suitably worded condition, given the siting and appearance of the scheme, this would not overcome the harm identified.
21. For the above reasons, the proposal would appear as a dissonant and over-dominant feature within the townscape. The mast and antennae would appear unduly visually prominent within the skyline, particularly in relation to nearby built development of a lower height. It would draw the attention of a large number of passing drivers, pedestrians and cyclists due to its position close to a busy road, a side street junction, and a well-used footbridge, having regard to its position close to the adjacent school entrance.

22. I acknowledge that there are technical constraints in respect of the design of the apparatus, and that the appellant has sought to minimise its visual impact through certain aspects of its design. However, this does not justify the harm that would result from its siting in the location proposed.
23. For the above reasons, I therefore conclude that the siting and appearance of the proposal would significantly harm the character and appearance of the area. In so far as they provide advice and are a material consideration in respect of siting and appearance, the development would conflict with Policy 5.11 of the *Bournemouth District Wide Local Plan* (2002) (the Local Plan) and Policy CS41 of the *Bournemouth Local Plan: Core Strategy* (2012) (the Core Strategy). These policies, amongst other things, seek to ensure that new development, through its scale, layout, siting, character and appearance, respects the site and its surroundings and contributes positively to the appearance of the public realm, and that telecommunications equipment proposals, whilst respecting operational efficiency, are designed to minimise the impact on visual amenity in terms of siting and external appearance.
24. For similar reasons, the proposal would also be contrary to policies of the Framework which seek to achieve well-designed places, as set out in Chapter 12, and support high quality communications, subject to electronic communication equipment on new sites being sympathetically designed and camouflaged where appropriate, as set out in Chapter 10.

Highway safety

25. The evidence before me is that the location of the public footway upon which the proposal would be sited, being close to the main Boundary Road pedestrian entrance to a large secondary school, and close to and directly aligned with a well-used footbridge in association with the footway, is such that it experiences periods of concentrated heavy pedestrian use, particularly during school arrival and departure times and during peak use times of the nearby Slades Farm area of open space. This is not disputed by the appellant.
26. The proposed siting of the installation would result in a reduction in footpath width to around 2m over the length of the development in this potentially busy section of the public footpath. Moreover, this would effectively reduce to a 1m width, having regard to boundary hedging on one side and guard railing along the other creating 0.5m comfort offset spaces to both sides.
27. This reduction in available pavement would impact on the ability of pedestrians and cyclists to conveniently walk along this part of the public footpath. This has the potential to significantly impact on highway safety during times of concentrated use, particularly by school children during the intense activity associated with school access and exit times, noting that school children often walk in groups and may be distracted by conversation. It is not unreasonable to expect that existing funnelling of footpath users in this location due to the barrier effects of the guard rails and boundary hedging and the alignment of the path with the footbridge, would be exacerbated to the extent that there could be a realistic possibility of crushing, pedestrian and cycle conflicts, or risk of collusion with cars at the nearby Glenmoor Close junction due to queuing pedestrians waiting within the vicinity of the junction.
28. Moreover, the Council has confirmed that the proposal would impact on its ability to deliver a proposed new two-way protected cycle lane along the

western side of Boundary Road, which forms part of an approved nationally funded *Transforming Travel* programme of improving means of transport other than by the car.

29. As such, the proposed arrangement of cabinets and monopole would potentially significantly impede the safe movement of pavement users, and would not be conducive to a safe public realm.
30. For the above reasons, I therefore conclude that the siting and appearance of the proposal has a realistic potential of significantly harming highway safety. In so far as it provides advice, and is a material consideration in respect of siting and appearance, the development would conflict with Core Strategy Policy CS41. This policy, amongst other things, seeks to ensure that new development contributes positively to the safety of the public realm, through its siting.
31. For similar reasons, the proposal would also be contrary to paragraph 130 of the Framework which seeks to ensure that new development creates places that are safe and accessible.

Other Matters

32. The appellant states that no response from the Council was received in respect of a request for advice prior to the submission of the Prior Approval application. This procedural matter is not an issue for me to consider as part of this appeal. Moreover, whilst the Framework encourages pre-application discussion, I would not be bound by the advice given by the Council prior to the submission of the application.
33. Third party concerns have been raised about potential effects on health. 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 a matter that the decision-maker should determine.
34. I have been referred to an allowed appeal¹ in respect of a telecommunications installation on a different site. From the limited evidence before me, I find that that the appeal scheme and the site circumstances of that proposal appear to be notably different from those of the current appeal, including the location of the site within a part of London where tall blocks of flats formed part of the site surroundings. As such, I am not persuaded, on the basis of the evidence before me, that the decision provides justification for allowing the current appeal, which, in any case, I must determine on the circumstances of the appeal site and the merits of the appeal scheme before me.

Planning Balance and Conclusion

35. There would be economic and social benefits arising from proposed improvements to the existing telecommunications infrastructure to cater for the roll out of 5G technology and improved site coverage. As such, the appeal scheme would be consistent with the Framework's recognition of the importance of high-quality communications to economic growth and social well-being.

¹ Ref APP/A5840/W/20/3254830

36. I have no reason to doubt that the scheme would deliver tangible improvements to communication networks in the area identified by the appellant, which includes densely populated residential areas. Moreover, the Framework indicates that the need for electronic communication systems should not be questioned when determining development schemes.
37. I also accept that the position of the newly proposed equipment would need to complement the existing network so as to promote continuous network cover. As a result, the search area that was identified for the purposes of site selection was necessarily constrained in size.
38. The appellant states that a sequential approach was taken to site selection, and that, following a physical search of the area, there is no other viable or available alternative location for the proposal, including existing masts, structures or rooftops that could accommodate the development, having regard to the identified local demand and the existing gap in existing network coverage. I have been provided with information in respect of alternative sites that were considered and discounted as part of the appellant's site selection process.
39. However, having regard to the limited geographical extent of the search, the low number of alternative sites considered, their proximity to residential properties, and the brief level of detail as to why each of these sites have been discounted, I find that detailed supporting information to fully corroborate that an exhaustive search of all possible sites was undertaken, and that potential alternatives were discounted on reasonable grounds, is not before me. For example, possible alternative locations in the vicinity of the appeal site further south along Boundary Road where the townscape is less built up and the built environment is less residential, would appear not to have been comprehensively assessed.
40. I acknowledge that efforts have been taken to position the monopole away from potentially sensitive receptors and where it could be partially screened by existing structures. However, it has not been clearly substantiated that it would be impractical to follow a similar approach elsewhere within (or near to) the designated search area whilst avoiding, or substantially reducing, the specific significant adverse effects that I have identified.
41. There would be benefits arising from the development outlined above. However, the siting and appearance of the monopole would result in significant harm to the character and appearance of the area and highway safety, with consequent conflict with the development plan and the Framework, which attracts significant weight against the scheme. While options for siting the development are limited by technical and operational constraints, and the appellant states that alternative locations have been fully assessed, having regard to the evidence before me in respect of other sites, it is not demonstrated that other more suitable and less harmful sites for the development do not exist, and this weighs against the proposal.
42. Consequently, based upon the evidence before me in this case, the harm from its siting and appearance would not be outweighed by the benefits of this development.
43. For the reasons set out above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR