



Appeal Decision

Site visit made on 18 October 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2023

Appeal Ref: APP/D1780/W/22/3300129

The Avenue, Banister Park, Southampton SO17 1TX

- 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 Southampton City Council.
 - The application Ref 21/01702/TCC, dated 9 November 2021, was refused by notice dated 10 January 2022.
 - The development proposed is a 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.

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 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. 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;
 - the setting of St Andrew's United Reformed Church;
 - public safety; 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 comprises part of the footway on The Avenue in Banister Park, Southampton, which is shared between pedestrians and cyclists. A grass verge and the private amenity areas of Avenue Court, a 5-storey block of flats, are immediately to the east of the site. The site is slightly off-set from the part of Avenue Court which is set forward closest to The Avenue. The extremities of a large public park, Southampton Common, lie opposite the site, in what is an otherwise broadly residential area.
6. Due to the extra traffic lanes on The Avenue, which provide vehicular access to Northlands Road and Westwood Road, The Avenue is a particularly wide road in the vicinity of the site. Considering this, and the predominantly linear nature of The Avenue near the site, and the site's location near the corner of Westwood Road, the site occupies an especially prominent position in the street scene.
7. In this context, the proposed telecommunications monopole would be visible from some distance along The Avenue, in both directions. It would also be visible from near the entrance to Southampton Common on Northlands Road. Whilst the trees (which are of a similar height to the proposed monopole) and soft landscaping present around Avenue Court would soften its appearance from some viewpoints, given its height and robust utilitarian appearance, the proposed monopole would appear as a dominant and visually obtrusive feature to pedestrians and cyclists approaching the site along the footway from either direction.
8. The nearby trees on The Avenue would provide some screening during the summer, but their contribution in this respect would be significantly reduced during the winter. Moreover, because of its overall height and the incorporation of a bulky antenna several metres above-ground, the presence of the nearby slimline streetlights would do little to mitigate the harmful visual effects that would be caused by the siting of the proposed monopole in this location.
9. The proposed monopole would be off-set from direct views from the windows of habitable rooms of Avenue Court which face towards The Avenue. As it would be viewed from oblique angles it would not appear as an especially prominent feature from those viewpoints. Nevertheless, I observed that clear views of the site are available from the open roof terrace of 13 Avenue Court. From this elevated viewpoint, I observed that the trees and the soft landscaping to the front of Avenue Court would provide little meaningful screening of the proposed monopole in its proposed location. Consequently, due to its height and appearance, the proposed monopole would appear as a stark and incongruous feature in the street scene from the roof terrace of 13 Avenue Court.
10. The appellant has suggested that the colour scheme of the proposal could be specified via details required by a planning condition. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions found within Class A of Part 16. On this basis, it would not be reasonable to impose conditions relating to this matter. In any event, given the height and appearance of the proposed monopole, painting it to assist in its assimilation into the street scene and the surrounding vegetation would not adequately off-set the harm caused to the character and appearance of the area, identified above.

11. I therefore find that the siting and appearance of the proposed installation would have an unacceptable and harmful effect on the character and appearance of the area. Whilst not determinative, I have had regard to Policy CS 13 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) (Core Strategy), Policies SDP 1, SDP 7, SDP 9 and TI 5 of the City of Southampton Local Plan Review (as amended 2015) (Local Plan), and chapter 12 of the Framework. To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with their collective aims that, amongst other things, development should respond positively and integrate with its local surroundings.

Setting of St Andrew's United Reformed Church

12. The site is situated a short walk from St Andrew's United Reformed Church, which is Grade II listed building. Hence, the site is within its setting. I observed that the significance of the listed building derives in part from its aesthetic interest arising from the use of red brick with a prominent rectangular tower with buttresses, and the presence of 3 large windows on the gable end facing The Avenue. The setting, including the appeal site, contributes to the significance of the listed building by providing a mostly uncluttered space which allows the visual qualities of the listed building to be better experienced.
13. As mentioned on the first main issue (above), the proposed telecommunications monopole would be situated in a particularly prominent position on The Avenue. Due to its proximity to the church, the proposed monopole would be seen in conjunction with the church from several viewpoints, including when travelling south towards the church.
14. The trees (which are of a similar height to the proposed monopole) and the soft landscaping present within Avenue Court would soften the appearance of the proposed monopole from some viewpoints, as would the wooded area within Southampton Common, but given its height, overall size, and utilitarian appearance which would include a bulky antenna, the proposed monopole would still unduly detract from the church's aesthetic interest. The nearby trees on The Avenue would likely not provide any meaningful screening effect during the winter months and the design and size of the proposed monopole would mean that it would stand out in the street scene, despite the presence of the nearby slimline streetlights.
15. Consequently, the visual experience of the church when viewed within its setting would be compromised by the proposal, meaning that the contribution that the setting makes to the significance of the listed building would be unduly reduced. Whilst the harm to the setting of the listed building would be less than substantial, this harm is of considerable importance and weight. This harm must be weighed against the public benefits of the proposal.
16. In this regard, the proposal would facilitate improved digital wireless coverage and capacity within the local area, with associated internet access via 5G, including for mobile devices (whether used outside or inside by residents and businesses or by transient users). This is in the context of what the appellant has described as acute capacity issues in the area. The proposal would also potentially provide a site for future technologies, thereby removing the need for new installations in the area.

17. The proposal would potentially offer a number of economic, social and environmental benefits, stemming from faster and more reliable 5G connectivity, smart devices and services enabled by 5G, the enabling of 'Internet of Things' (IoT) solutions, and smarter infrastructure and public services. In turn, the proposal would contribute to consumer value, productivity, provide consumer and business benefits driven by innovation in new technologies, and contribute to more efficient and secure service delivery, potentially resulting in environmental benefits such as the smart use of energy grids.
18. These benefits would align with the Government's aspirations as set out in the Future Telecoms Infrastructure Review, and the theme of 'levelling up' digital connectivity, including by way of providing benefits to the wider economy and fostering digital inclusion. In these respects, the Letter to Chief Planning Officers: Planning for Growth (31 March 2011) highlights the need to support enterprise and facilitate economic and other forms of sustainable development.
19. Similarly, chapter 10 of the Framework aims to support high quality communications and in particular paragraph 114 of the Framework provides that, amongst other things, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G), as recognised in appeal decision Ref APP/G4240/W/20/3263529.
20. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. The proposed monopole is intended to be part of a wider network and in this respect it would serve to reduce a gap in coverage. Nevertheless, based on the evidence before me, the proposal's individual and specific contribution to all the above-mentioned policy objectives would in all likelihood be modest, particularly considering that much of the space to the north-west of the site comprises parts of Southampton Common rather than residential properties or business premises.
21. I have therefore given the collective public benefits of the proposal moderate weight. Considering this, I find that all these benefits do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the listed building.
22. I therefore find that the siting and appearance of the proposed installation would have an unacceptable and harmful effect on the setting of St Andrew's United Reformed Church. Whilst not determinative, I have had regard to Policies CS 13 and CS 14 of the Core Strategy, Policies HE 3 and TI 5 of the Local Plan, and chapter 16 of the Framework. To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with their collective aims that, amongst other things, the Council will safeguard from inappropriate development and, where appropriate, enhance important historical assets and their settings, including listed buildings.

Public safety

23. The proposed telecommunications monopole would be situated at the edge of the footpath, which is a dual cycleway / footpath. A continuous footway crossing feature extends across Westwood Road, in close proximity to the site. The route offers a direct path into and out of the city, and is near to Avenue

Campus of the University of Southampton. I observed that 2 electric scooter docking stations are located close to the site on The Avenue.

24. I observed that during the early morning on a weekday in October the footpath area in and around the appeal site was incredibly busy, including usage by pedestrians, cyclists, and electric scooter riders. Although a 'snapshot' in time, there is nothing before me to suggest my observations were untypical. Indeed, local residents have referred to the footpath being regularly and heavily used by pedestrians (including those with pushchairs), children, the elderly, wheelchair and mobility scooter users, cyclists, and electric scooter riders. I have had regard to the safety concerns relating to the footway, submitted on behalf of the residents and staff of Kerrigan Court, Harefield Lodge, and Greensleeves Residential Care Home.
25. The appellant has calculated that the proposal would result in a minimum retaining pavement width of approximately 4 metres and has referred to an Inclusive Mobility document (Department for Transport) (2021) which states that a width of 2000mm is the minimum that should be provided, as this allows enough space for 2 wheelchair users to pass. Thus, the proposal would retain approximately double the width of the footway when compared to this 2000mm guideline.
26. However, the proposed telecommunications monopole would be situated in close proximity to, and directly in front of, the dual cycleway / footpath which extends across Westwood Road. Given the high amount of footfall in this location, the potentially high speeds of cyclists and electric scooter riders, and the known usage by vulnerable groups, I consider that the proposal would create unacceptable risks with respect to pedestrians needing to detour around the monopole, potentially into the path of cyclists or electric scooter riders. Cyclists and electric scooter riders, potentially travelling at speed, would also need to swerve to avoid the proposed monopole, thereby creating a risk of conflict with pedestrians, including vulnerable users of the footpath.
27. I have had regard to the extracts referred to from appeal decision Ref APP/A5840/W/20/3254830. However, as no plans have been provided it has not been possible to make a meaningful comparison with the appeal proposal. Consequently, that appeal decision does not change my findings.
28. I therefore find that the siting of the proposed installation would have an unacceptable and harmful effect on public safety. Whilst not determinative, I have had regard to Policy CS 13 of the Core Strategy, and Policies SDP 1 and SDP 11 of the Local Plan. To the extent that they are relevant considerations within the terms of the GPDO, the proposal would conflict with their collective aims that, amongst other things, development should improve accessibility throughout the city by ensuring that developments, including streets, are accessible to all users including senior citizens and disabled people.

Alternative sites

29. Paragraph 117 of the Framework provides that, amongst other things, applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development, and that this should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.

30. The appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. It is noted that, as with all 5G cells, the relevant cell search area is extremely constrained, and that the designated search area is intended to cover a densely-packed residential area.
31. Option 2 has been discounted from a radio perspective. However, few details have been provided to demonstrate the exact form of the concerns in this respect. Therefore, the discounting of this option has not been adequately justified.
32. Alternative locations D2 and D8 were both discounted due to their proximity to a listed building. However, as mentioned above, the site is also close to a listed building. Given this, it is unclear why these sites have been discounted for this reason alone, whereas the appeal site has not been. Additionally, as few details have been provided to illustrate the potential effect of the siting and appearance of the proposed installation on the setting of the relevant listed building, clear and persuasive reasons have not been provided for why those alternative locations were rejected.
33. On this basis, the evidence does not demonstrate that all potentially available alternative options have been adequately explored. Consequently, on the evidence before me, I find that it has not been proven that less harmful alternative sites are not available.

Balance

34. Whilst reference has been made to various social and economic benefits, aside from in relation to the setting of the listed building (covered in the second main issue above), these have not been taken into account, as the prior approval considerations are limited only to matters of siting and appearance. Notwithstanding this, paragraph 114 of the Framework provides that, amongst other things, planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). In light of this, and considering the extremely constrained nature of the cell search area, the need for a mast within the designated search area has been demonstrated.
35. However, the proposal would have an unacceptable and harmful effect on the character and appearance of the area, the setting of St Andrew's United Reformed Church, and on public safety. It has also not been proven that less harmful alternative sites are not available.
36. Accordingly, I find that these harms are not outweighed by the need for the installation to be sited as proposed or by the technical requirements of the installation (noting that the proposal represents the optimum design solution for deploying 5G technologies and that the height proposed is the very lowest that works effectively for the Operator), taking into account my reasoning above with respect to alternative sites.

Conclusion

37. For the reasons given above, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR