
Appeal Decision

Site visit made on 18 October 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Appeal Ref: APP/Z0116/W/22/3296456

**WESTBURY COURT ROAD, WESTBURY ON TRYM, BRISTOL, BS9 3BT,
357054, 177389**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Bristol City Council.
 - The application Ref 21/06356/Y, dated 22 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is Proposed 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. In accordance with the provisions of Schedule 2, Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. This requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
3. The relevant provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to these policies and related supplementary guidance only insofar as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal 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

5. The appeal site is a grassed area located on highway land adjacent to the pavement on Westbury Court Road. A low level brick wall forms the boundary between the site and the adjacent hard surfaced car park which is used in

- connection with Westbury-on-Trym Town Centre. The area is broadly characterised by two storey properties and has a strong sense of openness. The grass verges on either side of the road help to soften the surrounding built form and contribute positively to the character and appearance of the area.
6. The boundary of the Westbury-on-Trym Conservation Area (CA) is approximately 20m from the proposed installation site. Furthermore, the area includes a number of buildings which are of significance; these include the adjacent post office and sorting office which is considered a locally listed building of value, Grade II listed Sir Giles Gilbert Scott designed 'K6' telephone boxes and the Grade I listed building, Holy Trinity Church. The Church is the focal point of the view along Westbury Court Road.
 7. The proposal is for the installation of a 15.0m Phase 8 Monopole with wraparound cabinet at base and associated ancillary works. The proposal would require the removal of a section of the grass verge. The installation of the cabinet and monopole and subsequent loss of this area of verge would be detrimental to the open and green character and appearance of the area. Due to its height and size, the proposed 15m high monopole would rise above nearby trees and buildings and would also be of greater height than nearby lighting columns and other street furniture and paraphernalia nearby. Accordingly, it would appear as a prominent and obtrusive feature in the street scene. Furthermore, the utilitarian appearance of the monopole would fail to complement the existing character and appearance of the area and would appear as a visually jarring feature within its context adding visual clutter which would detract from the open, clean, character of the area.
 8. Though I note that other street furniture is present nearby, these are of a much smaller scale and are spaced along the street thus ensuring that they do not appear unduly prominent. Moreover, the Council's aim to improve the surrounding area by reducing the heights of, and providing more in keeping, street furniture is clear. Whilst I recognise that the proposed location is near to a commercial area, it is not sited within the High Street itself and is rather seen in the context of the rear car park and nearby residential buildings.
 9. The Westbury-on-Trym Conservation Area (CA) is described within the Westbury-on-Trym Conservation Area Character Appraisal, July 2015 (The Appraisal) as having a unique rural village character with buildings which are predominantly residential in scale and character. The Commercial Core area is said to have a strong townscape with a number of listed buildings and key unlisted buildings of merit. The Appraisal considers that this area benefits from traditional street furniture, lamp standards and street signs. Building heights within this area remain low at 2-3 storeys.
 10. The significance of Holy Trinity Church as a heritage asset lies predominantly in its historic and architectural value. The Church, set in an elevated position and with a tower of some height, was designed to be seen and as such the building also derives some of its significance from its setting. The views towards the Church Tower from Westbury Court Road are highlighted within the Appraisal and, due to the topography, the Church is prominent in many views across the CA and forms a landmark within the village. The proposed mast would appear as a dominant feature in this vista and, the stark, utilitarian appearance of the mast would fail to assimilate well. Moreover, due to its size and height, the proposed monopole would visually compete with the Church Tower

interrupting this key view and causing harm to the setting of this Grade I listed building and therefore to its significance as a heritage asset.

11. The proposal would also be prominent in views out of the Conservation Area and within the context of the Post Office (unlisted building of merit) and the Grade II listed phone boxes. Within that context the mast would be a dominant and distracting modern feature and as such would cause, albeit limited, harm to the setting of these buildings and to their historic significance.
12. For the reasons set out above I consider that the siting and appearance of the proposal would be detrimental to the character and appearance of the area and would cause harm to the significance of the settings of the CA, the unlisted building of merit, the Grade II listed telephone boxes and, most notably, the Grade I listed building, Holy Trinity Church. Due to the nature of the proposal and the distance from the heritage assets I consider that this harm would be less than substantial.

Other Matters

13. I have taken into account other representations; including those from interested parties. A number raise concerns over potential health risks. However, 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 National Planning Policy Framework (The Framework) advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
14. Concerns raised that property values would be adversely affected have not been substantiated with detailed evidence. Moreover, planning is concerned with land use in the public interest rather than the protection of private interests.
15. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.
16. The appellant states that the development is necessary to improve coverage, capacity and connectivity within the area, most notably in relation to 5G services, as the existing infrastructure cannot meet demand. The economic and social advantages, including the ability to advance 5G technological innovations, of the scheme would undoubtedly be a benefit.
17. The appellant is clear that the cell search area is extremely constrained. I also note that the site has been selected in order to ensure that there would be no impact on pedestrian flow or safety and that the design of the proposed equipment is considered to be the least visually intrusive option. The Framework states that supporting evidence for a new mast or base station should include 'evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure'.
18. The appellant has provided some information with regards to other potential sites. However, the evidence in this regard is fairly general and does not go

into specific detail. I note that a number of other sites have been discounted, including two shortlisted options, however, information regarding the reasons for discounting these options is limited. The Council have also suggested other options, including roofs such as that on the David Lloyd Gym, which it would appear, on the basis of the information before me, the appellant has not considered. In my view, the evidence before me is not sufficient to satisfy me that the appellant has carried out a suitably thorough consideration of the potential alternatives.

Planning Balance

19. I have identified that the proposal would cause harm to the character and appearance of the area. I have also concluded that the proposal would cause less than substantial harm to the significance of the setting of nearby heritage assets. In accordance with the requirements of the Framework, and given the national importance of the Grade I listed building, that harm carries substantial weight.
20. I have also found that there would be benefits associated with improved communications infrastructure within the area. However, I consider that the search for and assessment of alternative sites is not sufficiently robust and I cannot be certain that there are no other sites available where the harm would be less severe.
21. I have given careful regard to all of the above considerations. Consequently, in my view, and with regard to the specific circumstances which are present in this case, the public benefits of the scheme would not be sufficient to outweigh the harm which would be caused to the character and appearance of the area and would not outweigh the harm I have identified to the setting of the heritage assets.

Conclusion

22. For the reasons given above I conclude that the appeal should fail.

L J O'Brien

INSPECTOR