

Appeal Decision

Site visit made on 3 May 2023

by C Harding BA(Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/K0235/W/22/3296006

Great North Road, Wyboston, Bedford PE19 8EN

- 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 Bedford Borough Council.
 - The application Ref 21/02703/TELPN, dated 3 October 2021, was refused by notice dated 14 December 2021.
 - The development proposed is described as "Proposed 20.0m 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 provisions of the Town and County Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO 2015'), 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. In addition, the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to 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 insofar 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 upon the setting of 'The Crown Inn' Grade II listed building, and upon highway safety.

Reasons

Character and appearance

5. The appeal site comprises part of a wide area of grassed area situated between a quiet road serving the Grade II listed Crown Inn and a neighbouring hotel, and a modern dual carriageway link road between the A428 and the A1. A busy roundabout is also nearby. The character of the area is dominated by highway

- infrastructure with lighting columns, traffic lights and signposts associated with the road forming common features.
6. The significance of the Crown Inn is derived, in part, from its age and traditional architecture, form of construction and materials. It also has evidential value, as it has been identified by the Council, and not disputed by the appellant, that the listed building ('LB') is one of few remnants of a former rural settlement which has since been surrounded and partially consumed by modern road infrastructure and larger-scale commercial buildings.
 7. In this context, the grassed area which separates the dual carriageway from the road serving the Crown Inn forms a significant and valuable visual buffer between the modern and busy highway infrastructure and the LB, and in doing so, contributes positively to its setting.
 8. The proposed installation within this grassed area would serve to introduce a modern structure of significant proportions within this setting. At present, although there are vertical structures and roadside equipment within the grassed area, they are clearly associated with the adjacent dual carriageway and are accordingly located close to the road. Conversely, the proposed installation would be located towards the centre of the grassed area and would lead to the spread of modern roadside paraphernalia further towards the LB, resulting in the additional erosion of the character and evidential value of the setting of the LB which has already been significantly affected by surrounding modern development and infrastructure. This harm to the setting would harm the significance of the LB.
 9. Furthermore, the proposed installation would be of a greater height than existing lighting columns and the limited vegetation within the grassed area. Despite its design, the height and diameter of the apparatus would set it apart from the lamp columns, floodlights and telegraph poles. Against this background, and despite the presence of large electricity pylons some distance away, the proposed equipment would not be well-screened and would be clearly visible and particularly prominent in views of the LB from the dual carriageway when travelling northeast, having left the northbound A1.
 10. For these reasons, I conclude that the siting and appearance of the proposed apparatus would lead to less than substantial harm to the significance of the LB as a result of the effect of the proposed development upon its setting. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
 11. Paragraph 114 of the Framework highlights the importance of advanced, high quality and reliable communication infrastructure. There is no basis to question the appellant's contention that additional equipment is necessary to achieve the required standard of network coverage, that there is a restricted selection of alternative sites within the area, and that the scale of the proposed equipment is of the minimum required in order to provide adequate coverage.
 12. However, whilst I acknowledge the general technical limitations of 5G equipment, there is little evidence before me with regards to the discounting of potential alternative sites, including 'Option 2' which appears to have been discounted solely on account of its proximity to private land, or evidence relating to the detailed consideration of building-mounted options. Therefore, I am not convinced that all potential alternatives to the proposed installation have been fully explored.

13. Whilst the Framework advises that planning decisions should support the expansion of electronic communications networks, it also requires that great weight should be given to the conservation of heritage assets.
14. Therefore, it is my overall view that whilst there would be public benefits arising from the proposal including improvements to 5G service level, connectivity and coverage, these would not be sufficient to outweigh the less than substantial harm to the setting of the LB that I have identified would result from the siting and appearance of the proposed apparatus.

Highway safety

15. The proposed equipment would be located such that it would be set away from the edge of the carriageway and would not affect the movement of pedestrians. As I have identified above, it would be visible to traffic both on the adjacent dual carriageway, and the quieter access road to the front of the Crown Inn.
16. The Council, along with National Highways ('NH'), are concerned that the proposal has not been accompanied by a Stage 1 Road Safety Audit ('RSA'), and that as a result, that the effect of the proposal upon the safe operation of the Strategic Road Network ('SRN') cannot be properly assessed.
17. The GPDO 2015 is clear in setting out the requirements for the information required to accompany applications of the type before me, and this does not include the submission of an RSA. Annex A of DfT Circular 02/2013 ('the Circular') highlights that electronic communications equipment must not cause safety or environmental hazards to any road user, worker or third party, and that mobile network operators are required to obtain technical approval for such installations, and to provide a full road safety audit.
18. On the basis of the evidence before me, the absence of a RSA does not, in itself, indicate that the proposed equipment would lead to harm to highway safety, nor does it prevent the consideration of matters of highway safety in the context of the requirements of the GPDO 2015. Furthermore, the advice contained within the Circular indicates that separate technical approval would be required from NH prior to the installation of the equipment, and that the content of any RSA could be adequately considered at such a stage.
19. The location of the proposed equipment within the large-grassed area and amongst other street furniture in an urban environment, means that despite its size and prominent location it would not appear as an unexpected structure to road users, and as it would be set well back from the edge of the carriageway, nor would it obscure directional signs or traffic lights. Furthermore, there is no evidence before me which would indicate that it would prevent the carrying out of highway maintenance in a safe manner.
20. Accordingly, I conclude that the siting and appearance of the proposed apparatus would not lead to harm to highway safety.

Other matters

21. The appellant has indicated that the proposed apparatus could be colour treated. Whilst such a treatment could serve to reduce the effects of the proposed apparatus, no colour is specified on the provided plans, and the GPDO 2015 does not provide any specific authority for imposing additional conditions beyond those that it sets out. Accordingly, with no mechanism available to secure any colour treatment of the apparatus, and with no colour

being otherwise specified, I cannot afford weight to this in reaching my decision.

Balance and conclusion

22. Although I have found the proposal to be acceptable with regards to highway safety, it would lead to harm to less than substantial harm to the setting of a Grade II LB. This harm is not outweighed by the public benefits of the proposal.
23. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR