



Appeal Decision

Site visit made on 28 March 2023

by **Andrew McCormack BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/C4235/W/22/3310258

Area of Footpath, Brinksway, Cheadle, Stockport, SK3 0AS

- 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 Stockport Metropolitan Borough Council.
 - The application Ref DC/086439, dated 6 September 2022, was refused by notice dated 24 October 2022.
 - The development proposed is a 5G 20m telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Given that the proposal in this case relates to an application for prior approval the provisions of the 2015 Order 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. Accordingly, this appeal will be determined on the same basis.
3. The siting and appearance of the proposed installation relates to a number of designated and non-designated heritage assets in the vicinity. As such, I have had regard to the relevant paragraphs of the National Planning Policy Framework (the Framework) concerning conserving and enhancing the historic environment in assessing what effect the proposal would have on the significance of any heritage asset, including its setting. Where harm to heritage assets has been identified, a balancing exercise of any such harm against the public benefits of the proposal has been undertaken.

Planning policy

4. 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 therefore had regard to the policies of the development plan, any related guidance and the Framework only in so far as they are a material consideration relevant to the matters of siting and appearance.

Main issues

5. The main issues are the effect of the proposed development in terms of its siting and appearance on:
 - the character and appearance of the surrounding area, including trees;
 - the setting and significance of designated and non-designated heritage assets;
 - highway and pedestrian safety; and

- whether any harm identified would be outweighed by the need to site the installation in the location proposed, having regard to alternative sites.

Reasons

6. The proposal relates to the installation of a 20-metre high 5G mobile telecommunications monopole mast and three associated equipment cabinets at the base of the pole. The proposed site is within the pavement on the north side of Chestergate in an area known as Town Centre West. It would be situated close to the junction of Brinksway, Chestergate, Chester Street and Albert Street. The pavement in this location is used both as a footway and cycleway and is of a width suitable to accommodate both uses. There is a grass verge and a large mature tree located to the rear of the pavement, adjacent to the proposed site. The surrounding area is predominantly in commercial use and is identified in the Development Plan as an Employment Area, the M60 Gateway area and also a Landscape Character Area. The Hollygate building, a locally listed non-designated heritage asset, is positioned opposite the proposed site on the south side of Chestergate. It is also noted that the proposed site is within the Stockport Mayoral Development Corporation area where a substantial regeneration programme is planned.

Character and appearance

7. The proposed installation would be significantly taller than the surrounding and adjacent deciduous trees and the majority of other buildings, structures and pieces of street furniture and street lighting within the immediate and wider area. Indeed, the proposed monopole would be at least double their height in many cases. I note the width of the monopole column and the headframe would be considerably greater than any existing street lighting columns, signs and other pole-mounted street furniture in the area. As a result, the monopole, together with its equipment cabinets would create visual clutter and have a negative impact on the character and appearance of the street scene which currently provides a broad, uncluttered and leafy streetscape on the north side of Chestergate.
8. In terms of appearance, as a result of its scale and design, the proposal would be highly visible within the streetscene and would represent an incongruous and dominant addition that would adversely affect the character and appearance of the area. The proposal would be highly visible within the wider area and in a range of short, medium and longer distance views. The associated equipment cabinets would add visual clutter to the detriment of the area due to their scale, appearance and siting and also create unacceptable levels of incongruous visual clutter to the detriment of the area. The cabinets would be freestanding within the pavement and would not be concealed or partially obscured by boundary walls or planting. Notwithstanding this, such a treatment would not likely be appropriate within a shared footway and cycleway corridor.
9. I also have concerns about the impact of the proposal on the future health and viability of the adjacent large tree. Given the height of the proposed monopole, which would be significantly greater than that of the adjacent tree, and its proximity to it, the proposal would penetrate through the canopy of the tree and adversely affect the aesthetic of not only the tree itself but also the wider tree lined street scape along Brinksway and Chestergate.
10. Furthermore, as I have seen presented in photographs submitted and through my observations on site, the canopy of that adjacent tree extends much further across the footway – cycleway than is shown on the submitted site plan. Given this, it is very likely that the roots of this large tree would also extend into the proposed installation siting area.
11. As such, I note that the proposal would be located within the root protection area of the tree and therefore it would likely result in some adverse impact on its root structure. I acknowledge the intention of the appellant to use the existing tree canopy cover to provide an element of visual screening of the proposed installation and minimise its impact within the local townscape. Nonetheless, development within the root protection area and

passing through the canopy of the tree has the clear potential to harm the form and long-term health and viability of it. The large tree forms part of a mature and well-established tree-lined landscape strip along the north side of Chestergate / Brinksway which provides townscape and environmental benefits.

12. The appellant has provided no substantive supporting evidence, such as an arboricultural method or impact statement, to demonstrate that undue harm to the tree would not arise. Indeed, the appellant's statement of case makes no reference at all to the potential impact of the proposal on this tree. Therefore, on the basis of the evidence, I find that the siting of the proposal would cause harm to the form and long term health and viability of the adjacent London Plane tree and that its siting and appearance would have an adverse visual, townscape and environmental impact on the locality.
13. Having taken account of the above, I consider the siting and appearance of the apparatus as proposed would have a detrimental visual impact on the character and appearance of the surrounding area. Therefore, I conclude that the proposal would be contrary to the relevant paragraphs of the Framework and Policies SIE-1, SIE-3, SIE-5, CS8 and T-3 of the Stockport Core Strategy DPD as well as government guidance contained in the LTN 1/20 'Cycle Infrastructure Design' Note and the National Design Guide.

Impact on heritage assets

14. A number of designated and non-designated heritage assets are located in the vicinity of the proposed site. These have been identified as The Hollygate and Kingston Mill, which are both locally listed buildings non-designated heritage assets and located near to the appeal site. In addition, Weir Mill, a Grade II listed cotton mill and the Grade II* listed Stockport Viaduct, both located to the north east of the appeal site have also been identified as being impacted by the proposed development in distant views.
15. These heritage assets are subject to legislation and special planning controls set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Framework to ensure the preservation or enhancement of the special significance of the buildings and their settings. In addition to this, I note the relevance of Policies CS8, SIE-1 and SIE-3 within the Stockport Core Strategy DPD in relation to the impact of development and infrastructure on the historic environment.
16. The appellant submitted a Justification Statement with their application for prior approval. However, that statement makes no substantive reference or justification relating to the potential harm that the proposal may have on the historic built environment and the setting and significance of heritage assets. Furthermore, from what is before me, the appellant has not provided any consideration of the proposal in the context of the correct policy position and whether it was in accordance with relevant guidance contained within the Code of Practice for Wireless Network Development in England.
17. Indeed, having considered the Council's evidence with regard to the Code of Practice, and in particular, references to paragraphs 34, 59 and 61, it is noted that the appellant has given an assessment of the proposal's visual impact in the existing streetscape. However, there is no specific recognition in the appellant's justification statement of the location of the proposal being within the immediate and wider setting of non-designated and designated heritage assets.
18. The proposed installation is considered to be insensitively sited in respect of its close proximity to The Hollygate building, a locally listed non-designated heritage asset on the opposite side of the road. The proposed 20-metre tall monopole would, in my estimation, be almost three times the height of the nearest building to the site and would be of a similar, if not greater, height than The Hollygate opposite. Furthermore, as a result of its height and scale, I find that the proposal would introduce an unattractive and visually dominant structure that would adversely affect the immediate setting of this locally listed

heritage asset. It would also have a harmful impact on the wider setting of other designated and non-designated heritage assets in medium and long-range views, such as towards Stockport Viaduct and Kingstone Mill, particularly when looking eastwards along the north side of Brinksway and Chestergate.

19. The Framework states that in considering potential impacts upon the significance of a designated heritage asset, including that caused by development within its setting, great weight should be given to the asset's conservation and that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in its determination. Furthermore, the Framework and Policy SIE-3 of the Stockport Core Strategy require clear and convincing justification for any harm to heritage assets, including harm caused by development within their setting. From what is before me, there is no substantive evidence that any such work has been undertaken by the appellant to understand the potential impact of the proposal upon the significance of the heritage assets and their setting.
20. Whilst I find that the proposal's impact on heritage assets amounts to less than substantial harm, the acknowledged public benefits identified, such as greater 5G network coverage and access, do not outweigh that harm. This is particularly so given the clear potential to site the equipment in less harmful locations nearby which I consider later, and also noting the proposed regeneration of the area by the Stockport Mayoral Development Corporation.
21. For the reasons set out above, I find that a monopole and associated cabinets, as described, at the location proposed would result in unacceptable harm to the heritage assets identified. Therefore, it would be contrary to Policies SIE-1, SIE-3 and SIE-5 of the Stockport Core Strategy DPD (2011). Amongst other things, these policies require that development contributes to the creation of quality places, preservation and enhancement of designated heritage assets and that for telecommunications development, proposals have no unacceptable effect on the character or appearance of the area and that the siting and external appearance of apparatus is such so as to minimise visual impact.

Impact on highway and pedestrian safety

22. The proposal is sited in a relatively central position on the shared footway and cycleway which forms part of the National Cycleway Network Route 62 – the Transpennine Trail – that runs through Stockport from Fleetwood to Selby. The shared use pavement is available for both pedestrians and cycle traffic and is sufficiently wide to provide for safe two-way passage. However, the submitted drawings show the proposed apparatus to be located offset about 1.1m metres from the rear edge of the pavement. As such, in my assessment, the apparatus would inhibit the overall width of the pavement corridor, effectively leaving a narrow 1.1m metre width towards the rear edge of the paved space and about 2.5 metres between the face of the apparatus and the kerb to the highway. In my view, the 1.1 metre width between the rear of the apparatus and the rear of the pavement would not be practical for safe movement for pedestrians and cyclists around and past the proposed installation.
23. The remaining 2.5 metre width of the shared use footway and cycleway between the front of the proposed development and the kerbside would also be significantly below the minimum width that is identified in nationally recognised design guidance. This has been identified as LTN 1/20 'Cycle Infrastructure Design' which states that a minimum width of 3.5 metres (3 metres plus a 0.5 metre buffer) is required to allow for safe movement of pedestrians and cyclists. Whilst the overall combined width of passage would be around 3.6 metres (1.1 metres and 2.5 metres), due to the central positioning of the proposed installation within the pavement, the proposed scheme would result in two spaces with a width of passage that is significantly below the recommended minimum.
24. The apparatus, sited as proposed, would narrow the overall corridor width to such an extent that pedestrians and cyclists could encounter greater conflict particularly due to

likely cycling speeds. The interaction between people moving at different speeds can be perceived to be unsafe and inaccessible, particularly by vulnerable pedestrians. Furthermore, it is my view that the pinch point that would be created would unacceptably increase the risk of conflict. It would also adversely affect the comfort and safety of all users of the footway and cycleway corridor at that point.

25. The locating of apparatus effectively in a central position within the shared use pavement will also likely cause particular and unnecessary difficulties for visually impaired people who would not reasonably expect to find their passage inhibited by such inappropriately located apparatus.
26. Consequently, I conclude that the proposed development, particularly in terms of its siting, would have a detrimental effect on highway and pedestrian safety. As such, it would be contrary to Policies SIE-5 and T-3 of the Stockport Core Strategy DPD, which relate to telecommunications infrastructure and safety and capacity on the highway network. It is also contrary to paragraph 112 of the Framework which states that development should create spaces that are safe, secure and attractive and that minimise the scope for conflicts between pedestrians, cyclists and vehicles. Furthermore, the proposal is not consistent with other government guidance contained within the Cycle Infrastructure Design Local Transport Note 1/20 and the National Design Guide.

Need – alternative sites

27. The Framework contains a clear expression that advanced, high quality communications infrastructure is essential for sustainable economic growth. In this regard, there is encouragement to local planning authorities to support the expansion of electronic communications networks, including telecommunications. The proposed mast would expand 5G coverage and provide a reliable service in a current network gap. It is noted that the Council does not dispute the need to improve network coverage in the area, nor is there any disagreement about the substantive benefits to mobile connectivity and the network. I have no reason to take a differing view on this.
28. The Framework also recommends at paragraph 115 that the use of existing masts, buildings and other structures should be encouraged, unless the need for a new site has been justified. The appellant has set out alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued. However, whilst it is acknowledged that consideration has been given to alternative sites for an additional mast serving the network, the appellant's assessment does not provide sufficient consideration to the suitability of existing masts, buildings or other structures nor to the construction of a new mast on a less sensitive site than has been proposed.
29. 'Site D1 – Chestergate' has been identified as a nominal alternative location in the appellant's site selection assessment. This site is around 50 metres to the east of the proposed site. The reasons for discounting this site are stated as being insufficient pavement space, visibility splay issues and that the area is very residential. However, in this instance, from my assessment on site, I note that the pavement is of a similar width to the proposed site and the surrounding area is currently not predominantly residential but mostly in commercial use.
30. In relation to 'Site D2 – Chestergate' it is clearly evident that the pavement is too narrow to accommodate the requisite equipment cabinets and mast for the proposed installation. However, immediately across the road to the west of this site is an area of pavement which could potentially be suitable and is of a similar width to the proposed site. This area is very close to Site D2 and within the area of search but does not appear to have had any assessment or consideration in the site selection process.
31. The analysis of 'Site D4 - Wood Street' in the appellant's site selection assessment identifies that the reasons for discounting it include visibility splay issues. However, from

what I have seen on site, currently the junction between Wood Street and Hardman Street adjacent to the site is closed to vehicles. As a result, it is difficult to understand how visibility splay issues in this instance constitute a justifiable reason for discounting this site. Furthermore, in my view, the term 'unsuitable pavements' is considered to be somewhat ambiguous in providing a clear reason for discounting particular alternative sites.

32. Whilst recognising the difficulties in identifying a suitable site, based on the evidence available to me, I find that a suitable alternative means of providing coverage in the specific search area has not been fully and reasonably explored. There remains a substantive possibility that the use of alternative, less harmful locations within the target coverage area at least merit further discussion. Furthermore, I find that the site selection process and assessment appears to be contrary to paragraph 117c of the Framework which requires that the possibility of erecting antennas on existing buildings, masts or other structures has been explored. As a result, I am not satisfied or convinced that there are no other potential and viable alternative suitable sites available within the target coverage area and this weighs against the proposed development.

Other matters

33. The proposal has attracted opposition from a nearby business with regard to the potential harmful impact of its siting on the daily operation of the manufacturing enterprise. Having had regard due to this matter, whilst I acknowledge these concerns and accept that such an impact may be the case, there is no substantive evidence before me to support this. Accordingly, I have given this matter limited weight in determining this appeal. Notwithstanding this, this other matter does not alter my findings in respect of overall harm.

Overall balance

34. There would be economic and social benefits related to the installation of the proposed monopole mast and associated equipment cabinets and the wider objective of improving the communications network. These aspects weigh in favour of the proposed development. However, I am in no doubt that the proposal would be harmful to the character and appearance of the locality and to the setting and significance of designated and non-designated heritage assets in terms of its siting and appearance. Whilst harm to the heritage assets would be less than substantial, such harmful effects would be significant and result in conflict with the development plan. Accordingly, I have given significant weight to the harm identified in my assessment and determination of this appeal.
35. Given its location, siting within a shared footway and cycleway, height, appearance, scale and the prominent location of the proposed monopole, the scheme would be an unattractive and incongruous addition to the locality that would have a harmful impact on the visual amenity of the area. The adverse impact of its siting and appearance on the quality of the setting of nearby heritage assets, the character and appearance of the area, pedestrian, cyclist and highway safety and the long term health and viability of an adjacent mature tree are all factors to which I give significant weight. Whilst the proposed installation would enhance the 5G coverage of the local area and provide associated social and economic benefits in terms of enhanced network coverage and capability, in my overall assessment, such moderate benefits would not outweigh the significant harms which I have identified. Overall therefore, I find that the significant harm arising from the proposal's siting and appearance are not outweighed by its benefits.

Conclusion

36. For the above reasons, and having regard to all other matters raised, I conclude that the siting and appearance of the proposed development would have a harmful effect on the character and appearance of the surrounding area, the setting and significance of nearby heritage assets and be harmful to highway and pedestrian safety. As such it is contrary to policies SIE-1, SIE-3, SIE5, CS8 and T-3 of the Stockport Core Strategy DPD 2011 and

the relevant advice within the National Planning Policy Framework and other relevant government guidance.

37. Consequently, taking all matters into consideration, including the Government objective to improve mobile connectivity and to deliver required network improvements, I conclude that the appeal should be dismissed.

A McCormack

INSPECTOR