



Appeal Decision

Site visit made on 19 June 2023

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 July 2023

Appeal Ref: APP/G3110/W/22/3310978

Headington Road Streetworks, Headington Road, Headington Hill, Oxford OX3 0ED

- 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 Oxford City Council.
 - The application Ref 22/02100/T56, dated 20 August 2022, was refused by notice dated 18 October 2022.
 - The development proposed is "15m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies DH1, DH3, G7 and V9 of the Oxford Local Plan (2020), and Policies CIP1, CIP2, CIP4 and GSP4 of the Headington Neighbourhood Plan (2017-2032) are material considerations as they relate to issues of siting and appearance. In particular, they seek to promote high quality design and minimise visual intrusion while conserving heritage assets and significant views. Similarly, the National Planning Policy Framework (the Framework) is a material consideration, and this includes a section on supporting high quality communications.
4. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) does not apply in prior approval appeals. This is because a prior approval application is not an application for planning permission or permission in principle to which S66(1) does apply. This statutory duty should therefore not be referred to when considering development affecting a listed building or its setting. I have taken account of the listed buildings in terms of their contribution to the character and appearance of the area.

5. However, if the appeal site is within a conservation area, then the duty in Section 72 of the 1990 Act does apply. Therefore, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
6. The Council indicates that the developer failed to comply with paragraph A.3(2) of the GPDO 2015 as the notice served on the Highways Authority, as the landowner, did not state the application was available for public inspection and did not provide the address for any representations. While not explicit, the 'owner's notice' invites comment to the planning section of Oxford City Council. Moreover, the owner's notice referred to the enclosed 'developer's notice', which contained the necessary details. The recipient would be in no doubt that the application was available for inspection and comments should be made to the City Council planning department. I am satisfied that A.3(2) has been met, therefore.
7. There is a dispute about whether pre-application advice was sought in accordance with best practice. Early engagement has significant potential to improve the efficiency and effectiveness of the planning system. However, the failure, or otherwise, to seek advice is not relevant to the matters before me.

Main Issues

8. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the significance of designated heritage assets 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

9. The proposed development comprises a 15 metre monopole with base cabinets at street level. The appellant explains the apparatus is required to upgrade coverage for the mobile communication network leading to improved connectivity for businesses, industry and other sectors, ensuring continuous coverage and facilitating the delivery of 5G. The monopole design was selected to achieve the required coverage of the target area while attempting to minimise the visual intrusion that may arise from a 5G structure.
10. The development would be sited on an area of grass verge that runs alongside the A420 Headington Road, adjacent to South Park. There is further parkland, Headington Hill Park, to the north. The immediate vicinity is relatively undeveloped aside from streetlamps and park railings. The site is within the Headington Hill Conservation Area, and close to the St Clements and Iffley Road Conservation Area and the Central Conservation Area. The site lies approximately 115 metres to the north-east of the grade II listed South Park commemoration stone, beyond which are the grade II listed townhouses of London Place.
11. The appellant explains that the site was selected as suitable for providing essential coverage for the target area while maintaining a reasonable distance from residential properties and having regard to heritage assets. The design is the minimum height required to enable local provision and meet necessary guidelines.

12. Headington Hill Conservation Area lies to the east of the city, forming a green backdrop and enabling views towards the historic centre. The southern part of the Conservation Area is characterised by parkland, which includes trees and landscaped areas used for recreational purposes. The Council's says its Conservation Area Appraisal refers to South Park as providing evidence of the growth of the conservation movement in Oxford and the desire to protect the city's green setting from overdevelopment. This reflects the importance attributed to the management of views to the city centre from its hinterland. The Conservation Area's significance, insofar as is relevant, can therefore be attributed to the landscaped parkland, and its elevation and aspect which enable views towards the city.
13. The St Clements and Iffley Road Conservation Area follows the historic routes into Oxford from London. Its significance is associated with the medieval connections and its historic buildings, which illustrate its evolution and development. The appeal site forms part of the setting to the St Clements area and its relative openness enables views towards the historic buildings. The Central Conservation Area is bounded to the east by the River Cherwell. While it is not adjacent to the appeal site, it contains a plethora of historic buildings, many of which contribute to the skyline and can be seen from the site due to its elevation.
14. The monopole would be situated on highways land and against to a backdrop of relatively tall trees. However, I disagree that the area is urban in character as the appellant describes. The site is surrounded by parkland and has a predominantly open appearance that is relatively free from visual clutter. The existing street furniture is limited to lighting columns spaced at regular intervals along the side of the main road. The monopole would be sited within the same plane, but it would not blend in, as suggested, due to its height, its profile and the associated cabinets. The deciduous trees would provide some screening in the summer months, in views from South Park, but would not mitigate the impact of the monopole in views from Headington Road and would have little effect in the winter. In my judgement, the monopole would be an incongruous feature in an otherwise uncluttered streetscape. Moreover, the monopole would affect views towards Oxford, which the Council seeks to protect. These views are an important part of the city's historic identity and any development that affects those views would require appropriate justification.
15. I consider, therefore, that the development would be an obtrusive and uncharacteristic feature within the Headington Hill Conservation Area. It would not respect the landscaped parkland and would encroach on important views towards the city. In addition, the development would adversely affect the setting of the St Clements and Iffley Road Conservation Area and the Central Conservation Area due to its siting within an elevated and relatively open area. Given the above, I find the proposal would fail to preserve the significance of the Conservation Areas. Consequently, I give this harm considerable importance and weight.
16. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have

- a clear and convincing justification. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
17. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant is of the opinion that the proposal would be beneficial because the apparatus is key to delivering the Government's growth strategy for the UK and, crucially, the adoption of 5G mobile technology needs to be implemented.
 18. I am fully aware of the need to support the expansion of electronic communications networks and I appreciate that siting opportunities are limited due to the need to upgrade the existing coverage and the topographical constraints. I accept that the installation must be sited somewhere within the target area and the appellant has submitted an analysis of alternative sites, and the reasons why other options are not suitable. The appeal site has benefits due to its elevated nature, and its distance from residential properties. However, the proposal will adversely affect the significance of heritage assets. Paragraph 117 of the Framework expects evidence to be submitted to justify all applications. For a new mast or base station this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
 19. The appellant explains that due to technological constraints and other siting issues this is the only option available. Nonetheless, the possibilities for siting on an existing building, or elsewhere, to achieve the same coverage have not been fully explored, and this weighs against the proposal. Overall, I afford the public benefits advanced moderate weight.
 20. Given the above, and in the absence of any significant public benefit, I conclude that, on balance, the proposal would fail to preserve the character or appearance of the Headington Hill Conservation Area and would adversely affect the settings of the St Clements and Iffley Road Conservation Area and the Central Area Conservation Area. This would fail to satisfy the requirements of the 1990 Act and paragraph 197 of the Framework.
 21. I conclude that the proposed monopole would cause harm to the character and appearance of designated heritage assets due to its siting and design. Having regard to the site-specific circumstances and all other matters raised, I consider the harm resulting from the proposal would be unacceptable. This would not be outweighed by the need for the installation to be sited as proposed taking into account possible alternatives.

Conclusion

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

D Moore

Inspector