



Appeal Decision

Site visit made on 15 August 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/Q3060/W/23/3315810

Sneinton Road Street Works, Nottingham, NG2 4QL

- 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 Mr Cameron Wilson of CK Hutchison Networks (UK) Limited against the decision of Nottingham City Council.
 - The application Ref 22/01986/PAT, dated 6 October 2022, was refused by notice dated 30 November 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.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policy 10 of the Aligned Core Strategies Part 1 Local Plan (September 2014, the LP) and Policies DE1, DE2, HE1 and IN1 of the Land and Planning Policies Development Plan Document Local Plan Part 2 (January 2020, the DPD) are material considerations as they relate to issues of siting and appearance. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and includes a section on supporting high quality communications.

Main Issues

5. The main issues are:
 - The effect of the siting and appearance of the proposal on the character and appearance of the surrounding area, with particular regard to whether it would preserve or enhance the character or appearance of the Old Sneinton Conservation Area and,

- Whether any harm caused would be outweighed by any benefits of the proposal, including the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

Character and Appearance

6. The appeal site is located on a large area of pavement at the junction between Sneinton Road and Windmill Lane. Street furniture is not uncommon in the area with streetlamps, Belisha beacons and road signs on and around the junction. Around the junction, buildings are largely set back behind brick walls with mature vegetation and trees providing a spacious and verdant character. Two mature trees separate the appeal site from the building to the rear of the site.
7. The appeal site is near the edge of, but within, the Old Sneinton Conservation Area (the OSCA). This is a relatively small conservation area that covers a largely residential area with a mixture of terraced properties and larger detached and semi-detached dwellings, including the Grade II listed Sneinton Vicarage. The main exceptions to this are the Church of St Stephen, the William Booth Memorial Social Centre, both Grade II listed buildings, and the nearby windmill. The significance of this area stems from the presence of historic buildings, including those listed buildings noted above, the extent to which these buildings and their historic relationship are intact and readily visible, and the verdant, spacious nature of the main road through the OSCA.
8. The proposal includes the erection of a 20m tall mast with three associated cabinets of varied sizes. They would be sited in a row fairly centrally within the pavement and at an angle to both Sneinton Road and Windmill Lane. The proposed mast and its associated cabinets would therefore be in a prominent position close to, and readily visible from, the adjoining roads for some distance. Furthermore, the proposal would create a sense of clutter on the pavement at this junction to the detriment of the general spaciousness characteristic of this area.
9. Although there are tall features, such as trees, street lights and signage, within the adjoining street scenes, these are not similar to the proposal and would not relate well with it. In particular, the trees around the site are a softer and organic feature whilst the street furniture is much shorter and more finely proportioned than the proposal. These features are not, therefore, visually intrusive. In contrast, and whilst I recognise that the mast is narrower than some mast types, the height and bulk of the proposed mast, especially with regard to the antenna would be a dominant and intrusive feature that would project over the tree line and height of the nearby buildings.
10. Moreover, the functional and utilitarian design of the mast, antenna and cabinets would be incongruous with the decorative aesthetics of the buildings within the conservation area and its listed buildings. Although the green paint finish may go some way to soften its appearance, it would not be sufficient to mitigate the harm outlined above.
11. Overall, the proposal would harm the appreciation of the OSCA by way of being an incongruous and intrusive feature within a prominent location. It would cause further harm through its relationship to the listed church and vicarage

where it would dominate views and the appreciation of the setting of these buildings. Given the siting of the William Booth Memorial Social Centre within a complex of large modern buildings, it would be screened from the proposal and other than some glimpses the two would not be seen together. I find that no harm would therefore occur to the setting of this building.

12. The siting and appearance of the mast and its associated cabinets would therefore harm the character and appearance of the surrounding area and would not preserve or enhance the character of the OSCA and the settings of nearby listed buildings. Consequently, the proposal would fail to meet the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also been mindful of, and the proposal would conflict with LP Policy 10 and DPD Policies DE1, DE2, HE1 and IN1 and Chapters 10, 12 and 16 of the NPPF which are a material consideration as outlined above.

Whether any harm is outweighed by other considerations

13. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of the heritage asset or from development within its setting and that this should have clear and convincing justification.
14. Due to the scale of the proposal and its effects, I find that it would cause less than substantial harm to the significance of the OSCA and the setting of the listed buildings. Under such circumstances, paragraph 202 of the Framework sets out that any harm should be weighed against the public benefits of the proposal.
15. The proposal is required to provide 5G coverage within this area. The appellant states that a sequential approach has been followed in the selection of the site and I note alternative locations considered within the Site Specific Supplementary Information submitted by the appellant. The appellant considers the site to be the best available option with regard to the needs of the appellant and the effect of the proposal's siting and appearance.
16. I am mindful of the high priority the Government puts on the provision of high-quality communications and its importance in relation to the UK's economic growth, as set out under Paragraph 114 of the Framework. The appellant has raised a number of ways in which the improved 5G connection could lead to economic and social benefits both locally within the cell area and nationally. In light of the above, these public benefits attract substantial weight in favour of the proposal.
17. Although I recognise the support the Government has for the growth of new telecommunications systems and infrastructure, I am also mindful of the great weight it places on the protection of heritage assets. In particular Paragraph 189 of the Framework sets out how assets are an irreplaceable resource that should be conserved, in a manner appropriate to their significance, to be enjoyed by existing and future generations.
18. Although I understand the search area has a radius of approximately 100 metres, the discounted options appear to extend further than this and are

only restricted to Sneinton Road. The lack of consideration for locations elsewhere within the search area has not been justified.

19. Likewise, although the appellant has stated that they have carried out the sequential assessment under Paragraph 117(c) of the Framework, it has not been demonstrated how the result was reached. In particular, during my site visit it was clear that there were a number of taller buildings, close to the nominal point, which may have been suitable for attaching the antenna to.
20. Whilst I consider that the discounting of options D1 to D5 is acceptable, I am not satisfied that the submissions before me adequately or conclusively demonstrate that a less harmful alternative site, providing the same public benefits, would not be achievable.
21. In light of the above, the considerable importance and weight I attach to the harm outlined above would not be outweighed by the substantial weight I afford the benefits of the proposal and the need for it to be sited at this location. No clear and convincing justification for the harm to the designated heritage assets has therefore been provided and the proposal would fail to comply with Section 72(1) of the Act. I have also been mindful of, and the proposal would conflict with DPD Policies DE2, HE1 and IN1, and Paragraphs 117, 189, 197, 199 and 200 of the Framework.

Conclusion

22. For the reasons given above, the appeal is dismissed.

Samuel Watson

INSPECTOR