



Appeal Decision

Site visit made on 8 August 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2023

Appeal Ref: APP/K0235/W/22/3308663

Kimbolton Road Street Works, Bedford MK40 2PB

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Bedford Borough Council.
 - The application Ref 22/01751/TELPN, dated 28 July 2022, was refused by notice dated 20 September 2022.
 - The development proposed is 5G telecoms installation: H3G 15m street pole with 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 (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. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. In addition, as the appeal site is within a conservation area, the duty in S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) applies. The LBCA Act requires special attention be paid to the desirability of preserving or enhancing the character or appearance of that area.

Main Issues

5. The main issues in this appeal are the effects of the siting and appearance of the proposal on:
 - the character and appearance of the area, including the significance of the Bedford Conservation 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

Character and appearance

6. The appeal site is an area of pavement located on the eastern side of Kimbolton Road at its junction with Oaklands Road. The appeal site is within the Bedford Conservation Area (CA).
7. The Bedford Conservation Area Character Appraisal 2008 describes the significance of the CA, with its distinctiveness derived from its location at the heart of an historic market town with a rich legacy of historic structures, its relationship with the River Great Ouse, and the survival of a medieval street pattern.
8. The CA is a large and varied area. The appeal site is situated within The Saints sub-area. The CA appraisal indicates that the majority of this sub-area comprises part of the rapid residential expansion that occurred north-east of the town centre from the late 19th century and describes Kimbolton Road as a busy main road which remains primarily residential in character. The CA appraisal recognises the contribution of the Victorian and Edwardian buildings, notably their large scale, elaborate massing, vertical proportions, front facing gables and tall chimneys.
9. The appeal site is situated next to the garden wall of No 29. Along this eastern side of Kimbolton Road are period properties of two or three storeys in height, characteristic of those historic buildings described by the CA Appraisal. The area surrounding the appeal site therefore has a distinct and sensitive historic character.
10. Kimbolton Road is a wide route, with its carriageway flanked by parking bays, grass verges, and pedestrian footways. Streetlighting columns and mature trees along verges and in residential gardens contribute height to the street scene.
11. To the west of the appeal site are three storey apartment blocks of modern appearance. The area surrounding the site therefore has a residential character, comprised of buildings which are relatively large in scale and height.
12. The appellant has sought to site the installation in a location not directly in front of any residential properties. However, the rear elevation and garden of No 29, side elevation of No 27A, and front elevation of the opposite apartment block are oriented toward the site. Kimbolton Road forms a main route toward Bedford's town centre, and the site is close to the junction with Oaklands Road, a smaller residential street. A convenience store is located nearby at the junction with Pemberley Avenue, and bus stops are located along Kimbolton Road. At time of my site visit, the area appeared busy with high pedestrian footfall and frequent vehicular traffic. Therefore, the site is a visually prominent location.
13. Through siting the proposed installation in close proximity of existing streetlights and trees, the appellant has attempted to reduce the scheme's visual impact. However, the proposed pole would significantly exceed the

height of existing streetlights, trees, and surrounding dwellings, and therefore would appear dominant within the street scene.

14. The appellant has attempted to achieve a design solution which satisfies operational requirements and minimises visual impacts. Notably, the pole would be of lowest height to deliver service to the identified area and its design seeks to fit alongside street furniture including streetlighting columns. However, whilst the proposed installation would be coloured grey to match surrounding street furniture, the proposed pole would be significantly thicker than the existing streetlighting columns. In addition, the antennae add considerable bulk to the top of the proposed street pole. Therefore, the proposed installation would not adequately assimilate with other street furniture and would appear visually prominent.
15. Whilst the proposed installation is not expected to affect pedestrian movement significantly, the pole and cabinets would add considerable visual clutter at street level thus harming the appearance of the street scene.
16. As set out above, the proposal would be sited in a sensitive and prominent location within the CA which, due to its height and appearance would be visually dominant in the street scene and out of keeping with its surrounds, thus harming the character and appearance of the area.
17. Through this harm to the character and appearance described above, the proposal would detract from features which contribute to the CA's significance and would therefore fail to preserve or enhance its character.
18. Having regard to the development plan insofar that it is relevant to matters of siting and appearance, the proposal would fail to achieve a high quality design and would not have a positive relationship with the surrounding area, through promote local distinctiveness and integrating with and complementing the character of the area, as required by Policy 28S, Policy 29, and Policy 30 of the Bedford Borough Local Plan 2030 (LP).

Need for the installation to be sited as proposed and suitable alternatives

19. As set out above, the proposal would harm the character and appearance of the area and would harm the significance of the CA. LP Policy 96 supports the development of communications infrastructure within conservation areas only where there is no suitable alternative site outside such areas and the public benefits of the proposal have been demonstrated to outweigh harm to the heritage asset. However, as per the provisions of the GPDO 2015, the installation must be sited within the target area which has a radius of approximately 100 metres centred over the Kimbolton Road area of Bedford.
20. Paragraph 115 of the Framework indicates that the number of communications masts and sites should be kept to a minimum consistent with the needs of consumers and the efficient operation of the network, and the use of existing masts, buildings and other structures should be encouraged. The appellant's site selection process followed a sequential approach, as required by the Framework.
21. No opportunities for site sharing or suitable existing buildings or structures are available within the cell search area, and therefore a new site for a ground-based installation is necessary to provide the telecommunications service in the

target area. In addition to the appeal site, the appellant identified six alternative site options.

22. Site options D1 to D5 were discounted for reasons including insufficient or unsuitable pavements and visibility splay issues. From my site visit I found that sites D1 to D5 would result in the apparatus being sited on narrow sections of pedestrian footway close to highway junctions. Due to the potential harm to highway safety, the discounting of site options D1 to D5 appears reasonable in this regard.
23. However, site option D6 is a relatively wide section of grassed highway verge within a modern cul-de-sac housing estate outside the CA. The site was discounted for reasons of "unsuitable pavements or grass verges and the location is also in a residential area". Since site option D6 would not be located on the pedestrian footway it would not inhibit safe pedestrian movement. In addition, all site options are in residential areas. Therefore, it is unclear what specific harms would arise from siting the proposal in this residential area.
24. Reflecting the provisions of paragraph 194 of the Framework, LP Policy 41S requires proposals to describe the significance of affected heritage assets and the impacts of the proposal on this significance. However, no such heritage statement has been provided. The assessment of site options does not demonstrate that special attention has been paid to the desirability of preserving or enhancing the character or appearance of that area, as required by the LBCA Act, and does not provide sufficient justification why site options outside the CA were discounted in favour of the appeal site.
25. Paragraph 117 of the Framework requires proposals for electronic communications development be supported by the necessary evidence to justify the proposed development. The evidence before me does not adequately demonstrate that there are no other alternative sites within the locality for the proposed installation. Therefore, in the absence of compelling evidence, I attach limited weight to the need to site the development at the proposed location.

Heritage Balance

26. As set out above, the proposed installation would appear visually dominant to the detriment of the appearance of the street scene and would thus fail to preserve or enhance the character of the CA and would adversely impact its significance.
27. Noting that the character of the CA is derived from its historic street pattern and the contribution of the Victorian and Edwardian buildings, I consider that the proposed development would result in less than substantial harm to the CA. Paragraph 202 of the Framework states that such harm should be weighed against any public benefits of the proposal.
28. Paragraph 114 of the Framework recognises advanced, high quality and reliable communications infrastructure as essential for economic growth and social well-being. The proposal would provide new 5G network coverage, thereby facilitating increased robust, reliable and efficient digital communications within the target area.
29. However, these moderate benefits are not considered to outweigh the identified harm to the CA to which I must attach considerable importance and weight, as

required by Section 72(1) of the LCBA Act. The proposal would, therefore, fail to preserve or enhance the CA, and thereby the significance of, the designated heritage asset.

Conclusion

30. The proposal would harm the character and appearance of the area, including the significance of the CA. In the absence of compelling evidence that there are no suitable alternative sites in the target area, it has not been demonstrated that this harm is outweighed by the need for the installation to be sited as proposed. I therefore conclude that the appeal should be dismissed.

E Dade

INSPECTOR