



Appeal Decision

Site visit made on 12 September 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/E2734/W/23/3323338

Granby Park Street Works, Granby Park, Harrogate HG1 4AE

- 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 Mr Gallivan of CK Hutchison Networks (UK) Limited against the decision of Harrogate Borough Council.
 - The application Ref 22/04889/PNT56, dated 21 December 2022, was refused by notice dated 9 February 2023.
 - The development proposed is 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was refused by Harrogate Borough Council, which at the time was the Local Planning Authority (LPA) for the area. On the 1 April 2023 North Yorkshire Council was created and is now the LPA for the area previously covered by Harrogate Borough Council. In my decision I do not differentiate between the two Councils, given their respective functions as LPA. I have used Harrogate Borough Council in the banner heading above as this is the name of the LPA shown on the decision notice which is the subject of the appeal.

Procedural Matters

3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the Council 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.
4. The principle of development is established by the GPDO and there is no requirement to have regard to the development plan as there would be for a development requiring planning permission. Nevertheless, Policies HP2, HP3 and TI5 of the Harrogate District Local Plan 2014 - 2035 (2020) (HDLP) 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 this includes policies for conserving and enhancing the historic environment and a section on supporting high quality communications.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the significance of the Harrogate Conservation Area (HCA), 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

6. The appeal site is an area of footpath at the junction of Claro Road and Granby Park that connects with a network of tree lined paths across the adjacent open landscape of The Stray. Nearby to the site the area features a mixture of two and three storey properties and owing to the continuation of The Stray on the opposite side of Claro Road the area has an open character with verdant qualities. Vertical elements in the area include street furniture comprising street lights and road signs, as well as a number of mature trees within the grassed open space adjacent to and opposite the appeal site.
7. The site falls within the HCA. From my observations and the HCA Character Appraisal (2010) the significance of the conservation area, insofar as it relates to this appeal, is primarily derived from the relationship between buildings and open space that has historically remained open. Whilst an uninteresting area of hardstanding, the open character of the appeal site contributes positively to the significance of the HCA.
8. The proposed mast would be erected at the rear edge of the pavement on the perimeter of The Stray. While it would occupy only a very small proportion of any views within the HCA it would be of considerable height at 20m to the top of the tower and would be an intrusive feature in the surrounding area. There would be a noticeable projection above nearby buildings, and the proposed mast would appear significantly taller than existing street furniture and other vertical features nearby, including the trees.
9. While the proposal would be situated in an urban area and roadside location where monopoles may not be unusual and the equipment is designed to be installed on pavements, owing to its height and width the proposal would be a dominant, utilitarian structure, out of scale with its surroundings. Despite being coloured grey and the selected design aiming to strike a balance between operational requirements and visual impact, the appeal scheme would not assimilate with the street scene. The proposed development would stand very prominently within the open context of the surrounding area which would be especially apparent when viewed on approach from Devonshire Place.
10. The installation has been sited so as to not be in front of residential properties to protect amenity concerns. However, even if there would not be significant views from within residential properties, the mast and cabinets would be clearly visible in views along the adjacent highways as well as the footpaths. In these views, the proposal would appear jarring against the trees and vegetation which provide a soft backdrop. As such, it would be starkly incongruous and would contrast with the verdant qualities of the locality.
11. The appeal proposal's height would appear to be necessary to enable local provision and I note that it meets guidelines for non-ionising radiation

protection and would not affect the free flow of pedestrians. The mast would, nevertheless, be a substantial structure in an open area of pavement.

12. Having regard to my above findings that the proposal would not blend into the townscape and rather would be a conspicuous and intrusive feature in the surrounding area, it follows that I find that the proposal would fail to preserve or enhance the character or appearance of the HCA and would harm its significance as a whole. The harm that I have identified would be 'less than substantial' harm. The Framework indicates that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should require a clear and convincing justification. The Framework also requires such harm to be weighed against any public benefits.
13. Paragraph 114 of the Framework outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks. The scheme is required to facilitate increased, robust, reliable and efficient digital communications in Harrogate and the appellant has demonstrated that there is a particular need for the proposed telecommunications equipment in the area which is said to be lacking in coverage. I also acknowledge the numerous economic and social benefits arising from a 5G network. These are clear public benefits of the proposal.
14. In line with Paragraph 117 of the Framework, the appellant has set out the sequential approach in relation to suitable alternative sites for the proposed development. Siting of the scheme has been driven by coverage requirements and I acknowledge that masts for 5G need to be located where the service is used. Nearby buildings are not suitable for the appeal scheme and site sharing is said to have been investigated and exhausted. Alternative locations for the siting of the proposal have been identified within a cell search area that I acknowledge is constrained in size. The alternative sites have been discounted by the appellant for reasons including proximity to residential properties, insufficient pavement width and visibility splays.
15. The alternative sites are generally dispersed away from the nominal site where additional infrastructure is required. In the intervening areas, I observed several locations where there are wide footpaths and grass verges, where the character is less open than the appeal site and where there is suitable visibility. Moreover, there are locations within the search area where no evidence has been provided that alternative sites have been assessed.
16. As such, based on the evidence before me, I am not satisfied that a robust review of the availability of alternative sites for the appeal scheme has been properly explored, in line with the provisions of Section 10 of the Framework. Consequently, it has not been demonstrated that the appeal site represents the only viable option.
17. The Framework supports the expansion of electronic communications networks, including next generation mobile technology and as stated there would be important social and economic public benefits from the proposed development addressing an identified need for additional communications apparatus in the area which weigh in favour of the appeal scheme. However, I am not satisfied that alternative sites have been properly explored and, in any case, it is my overall view that the need for the proposed development does not outweigh the

harm to the character and appearance of the area, including the great weight to be given to the less than substantial harm to the HCA, arising from the siting and appearance of the proposed development.

18. To conclude, I find that the siting and appearance of the proposed installation would be harmful to the character and appearance of the area, including the significance of the HCA. Insofar as they are material considerations, the proposed installation would be in conflict with Policies HP2, HP3 and TI5 of the HDLP. Amongst other things, these policies require proposals affecting a conservation area to protect and where appropriate, enhance, those elements that have been identified as making a positive contribution to the area. Development is also required to enhance or reinforce those characteristics, qualities and features that contribute to local distinctiveness, and the location and design of proposals for the expansion of communications infrastructure is required to avoid harm to sensitive areas. The proposal would also be contrary to the heritage protection policies of the Framework, and it's overarching principles for development to achieve well-designed places for the long term.

Conclusion

19. For the reasons given above, and having regard to all relevant matters raised, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR