



Appeal Decision

Site visit made on 29 August 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2023

Appeal Ref: APP/C3105/W/23/3314930

The Hale, Chesterton, Cherwell OX26 1UJ

- 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 CK Hutchison Networks (UK) Ltd against the decision of Cherwell District Council.
 - The application Ref 22/02832/TEL56, dated 12 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is described as 'proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works'.
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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, Paragraph A.3(4) require the local planning authority to assess the proposed development based solely on its siting and appearance, considering any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. However, in determining this appeal, I have had regard to Policies ESD 15 of the Cherwell Local Plan 2011-2031 (Local Plan) and saved Policies C28 and C39 of the Cherwell Local Plan 1996 together with the National Planning Policy Framework (the Framework) in so far as they are relevant to the matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed development on the character and appearance of the area, including the effect on the setting of the Chesterton Conservation Area.

Reasons

5. The appeal site occupies a prominent roadside location and comprises an area of grassed highway verge which lies on the edge of Chesterton – a designated Conservation Area (CA). The significance of the CA is derived, in part, from its minimal street pattern, sparse building density and traditional buildings. The CA is characterised by linear development which is located predominantly on the eastern

side of Alchester Road and centred on the historic core formed by the Church, Manor and The Old Vicarage. The abundance of greenery and tree cover on the edge of the village together with the areas of open, undeveloped space provide a spacious and verdant setting which positively contributes to the significance of the CA.

6. The proposed monopole and associated cabinets would be located to the rear edge of the existing verge, near to a road junction. As indicated on the proposed plans, the monopole would sit forward of a band of trees, the height, and canopies of which vary in this area. I observed at my site visit that there is existing street furniture including road signs and lighting columns located within the vicinity of the appeal site. Whilst these features provide a degree of verticality, by virtue of their height and scale, they are not overly prominent in the street scene which is open and verdant.
7. It has been put to me by the appellant that the height of the proposed monopole and number of cabinets is the absolute minimum required to bring the benefits of 5G coverage and limit clutter. However, at a height of 15 metres it would exceed the height of the existing street furniture and those trees located immediately behind the proposed monopole by a significant margin. Thus, in this context it would be conspicuously tall. Therefore, although I recognise that the equipment has been designed to utilise the existing natural screening, it would nevertheless read as a highly obtrusive, utilitarian addition to the street scene, particularly in the winter months when the tree canopies are reduced.
8. Further, despite being described as slimline by the appellant, the monopole would be substantially wider than the other vertical structures in the immediate area. The overall installation would therefore result in a bulky and unduly dominant development. In addition, the associated ground-based cabinets would extend further along the grassed verge. Whilst the appellant contends that these would be permitted development, they are identified on the submitted plans, and in combination with the proposed monopole, their provision would result in the undesirable accumulation of unsightly clutter on a generally verdant, open area of verge. The prominent roadside location would contribute to the visual dominance of the proposal as perceived by passers-by.
9. Accordingly, I find that the proposed development, by virtue of its siting and appearance would be an unsympathetic and incongruous addition to the street scene and would erode the verdant and spacious setting of the CA. As such, the appeal development would harm the character and appearance of the area, and would result in less than substantial harm to the setting of the CA.

Other Matters

10. The evidence indicates that there are no mast/site sharing opportunities in the area. The appellant submits that the cell area is one constrained by residential uses, which combined with technological constraints, means that the proposed location is the only option available. Further, I am advised that reducing the height of the monopole would have coverage implications and undermine the efficiency of the installation. Although I have no reason to doubt this aspect, there is no substantive evidence before me to sufficiently demonstrate why the option of moving the equipment along the road as set out in the Council's delegated report would not be possible. Therefore, based on the available evidence and notwithstanding the limited radius of 5G cells, I am not persuaded that the proposed location would be the least harmful in the locality.

11. Despite early engagement with the Council, I understand that the appellant received no feedback prior to submission of the proposal. Although this was unfortunate, the lack of pre-application advice has no bearing on my considerations of the planning merits of the proposal. Furthermore, I note that the height of the monopole has been reduced following refusal of an earlier application. Nevertheless, for the reasons set out above, it is my view that the proposal at 15 metres would still be a visual intrusion of built form.
12. In coming to this view, I acknowledge that the proposal has been sited so that it would not impact the free flow of pedestrians and would be positioned further away from sensitive receptors. Furthermore, I accept that there were no objections from consultees and that the proposal would not harm the setting of any listed buildings or the living conditions of neighbouring residents. These however are neutral factors and do not weigh in favour of the proposal. In addition, whilst it has been put to me by the appellant that the external finish of the monopole and cabinets could be secured by condition, the GPDO does not provide any specific authority for imposing additional conditions beyond those set out by Class A. Therefore, I cannot impose such a condition.

Heritage Balance and Conclusion

13. I have found that the proposal would erode the verdant and spacious setting of the CA. Consequently, the appeal proposal would have a negative effect on the significance of a designated heritage asset. 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 explain that significance can be harmed or lost through the alteration or destruction of the assets, or from development within their setting. Any harm will require clear and convincing justification.
14. Given the scale of the development, I find the harm to be less than substantial. In these circumstances, the Framework advises that the harm identified should be weighed against the public benefits of the proposal. In this regard, the proposal would enhance telecommunications infrastructure and contribute to the delivery of high-speed, reliable communication in an area where there is reduced coverage. The social and economic benefits of improved connectivity weigh in favour of the proposal and I attribute these benefits moderate weight.
15. Whilst these benefits carry moderate weight, they would not outweigh the less than substantial harm that the proposal would cause to the setting of the CA, to which I attach great weight. Consequently, the appeal proposal would fail to satisfy the requirements of paragraph 197 of the Framework. In addition, the proposal would conflict with Local Plan Policies ESD 15 and saved Policies C28 and C39 of the Cherwell Local Plan 1996 in so far as they are a material consideration. Collectively, these policies seek to ensure that development conserves the historic environment and complements and enhances the character of its context through sensitive siting, layout and high-quality design. It would also be inconsistent with the Framework where it seeks to conserve and enhance the historic environment.
16. Therefore, for the reasons given above, the appeal is dismissed.

H Wilkinson

INSPECTOR