



Appeal Decision

Site visit made on 28 September 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2023

Appeal Ref: APP/V1260/W/23/3321077

Grass verge off West Cliff Road, West Cliff Road, Bournemouth BH2 5LJ

- 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 Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2023-18550-PZ, dated 11 January 2023, was refused by notice dated 8 March 2023.
 - The development proposed is the installation of an 19m high slim-line monopole, supporting 6 no. antennas, 2 no. equipment cabinets, 1 no. electric meter cabinet and ancillary development thereto including 1 no. GPS module.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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. There is no statutory requirement to have regard to the development plan in the case of prior approvals. However, the development plan does contain material that is relevant to the planning judgements to be made in respect of the matter before me. My determination of this appeal has been made on this basis.

Main Issue

3. The main issue raised by this appeal is the effect on the character and appearance of the area, having particular regard to the setting of the West Overcliff Drive 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

4. The appeal site consists of a grass verge situated directly to the front of 40 West Cliff Road. Mature trees run along West Cliff Road and West Overcliff Drive, which runs to the south and west, which contribute positively to the verdant character and appearance of an otherwise built up residential area.
5. No 40 is situated within the West Overcliff Drive Conservation Area (CA) which extends to the south and east of the appeal site. Whilst the appeal site itself is

situated outside of the CA, the setting of the CA includes those areas in close proximity to it, which are part of the surroundings in which the heritage asset is experienced. The proposal would be prominent in the street scene along West Cliff Road, and it would be situated immediately adjacent to the CA.

6. As confirmed by my site visit, No 40 consists of a large Edwardian villa within large grounds, which are a common feature of the CA and are characteristic of the area's development through the Edwardian Period. These aspects of the CA contribute to its significance. Consequently, whilst the appeal site is itself outside of the CA and I acknowledge that No 40 is not identified as a 'locally listed building', the appeal site forms part of the softer setting of No 40 and the CA. It eases the transition from the CA to the wider built up areas beyond and thus, the appeal site contributes positively to the significance of the CA.
7. Whilst there are vertical elements in the streetscene, in the form of the streetlights and the existing mature trees against which it would be sited, the monopole would be significantly taller, bulkier and more prominent. As demonstrated by the proposed elevation, the 19 metre monopole would be higher than both the existing streetlights and trees. The streetlights and trees are markedly different in appearance and character to the proposed monopole. The proposal would consequently appear visually intrusive and incongruous in the streetscene, harming the character and appearance of the area.
8. I note the use of 'the lowest height possible', 'the slimmest design possible' and the use of green to colour the proposed equipment. However, given that the height of the monopole would be appreciably higher than the streetlights and trees, the slimline design would do little to limit the visual impact of the proposal. Furthermore, whilst a darker colour might assist in minimising the appearance of the equipment against the existing trees, any colouring would not minimise the impact of the proposal once the monopole extends above the height of the trees. Whilst the associated equipment and electric cabinets are not harmful in themselves, due to their modest scale and low height, given that they are only needed to be used alongside the proposed monopole, they would represent an unnecessary intrusion into this sensitive location.
9. Paragraph 206 of the National Planning Policy Framework 2023 (the Framework) states that local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
10. Due to its height, the trees would not 'provide a barrier to the heritage asset beyond' as the proposed 19m monopole would be visible from within the CA. By virtue of its utilitarian appearance, rather than the mature trees providing a 'screen' or a 'backdrop' to the monopole, the proposal would be a stark contrast with the mature trees. The incongruity of the monopole, and the harm to the character and appearance of the area that I have identified above, would consequently harm the surroundings in which the heritage asset is experienced and consequently its significance.
11. Therefore, in view of the above, the proposal would fail to preserve the setting of West Overcliff Drive CA. The harm to the significance of the CA would be less than substantial. The appellant considers that any harm would be at the lower end of a sliding scale of such harm. Nonetheless, paragraph 202 of the

Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.

12. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communications infrastructure is considered essential for economic growth and social well-being. I also note the content of the various documents that the appellant has drawn my attention to, which includes, amongst others, the DCMS Code of Best Practice, the 5G Strategy and the National Infrastructure Strategy, which provide a supportive narrative to installations like the proposal.
13. The appellant states that there currently is no 5G coverage in the area and that installations such as the proposal is required to provide additional capacity on both the 4G network and the new 5G coverage. Therefore, the installation in this location weighs in favour of the appeal. Moreover, there is no basis to question the appellant's contention that the equipment is necessary to achieve the required standard of network coverage.
14. However, whilst alternative sites have been considered, the appellant's reasoning behind the exclusion of the alternative sites is brief. Furthermore, I do not consider that sufficient evidence has been provided to justify the 'small' search area. Therefore, I am not convinced that less harmful alternatives have been properly explored. As such, on the evidence before me, I am unable to rule out that a potentially less harmful siting, in a less sensitive location, may exist.
15. Furthermore, in finding harm to the significance of the CA, this is something to which I have given considerable importance and weight to. The Framework also requires that great weight should be given to heritage assets' conservation. Therefore, whilst there would be public benefits arising from the proposal, these would not be sufficient to outweigh the harm that the proposal would cause to the significance of the designated heritage asset.
16. Therefore, I conclude that the development would harm the character and appearance of the area, having particular regard to the setting of the West Overcliff Drive CA. This harm is not outweighed by the need for the installation to be sited as proposed and its social and economic benefits. Insofar as they are a material consideration, the proposal would conflict with Saved Policy 5.11 of the Bournemouth District Wide Local Plan (Local Plan) (adopted 2002), and Policies CS39 and CS41 of the Bournemouth Local Plan: Core Strategy (adopted 2012). These policies, in combination, seek to ensure that the siting and external appearance of telecommunications apparatus has been designed to minimise the impact on visual amenity and that development through its siting and appearance should be designed to respect the site and its surroundings. These policies also seek to protect designated heritage assets from proposals that would adversely affect their significance.
17. It would also conflict with the Framework which seeks to facilitate the growth of new and existing telecommunications systems whilst keeping environmental impact to a minimum.
18. Policy 4.25 of the Local Plan is cited in the reason for refusal, which relates to the retention of landscaping, including trees, as well as requiring sufficient land for planting and landscaping. I note that the Council accept that no trees would

be directly affected at this stage and therefore, it considered that a tree reason for refusal would not be appropriate. Based on the evidence before me, I have no reason to disagree. Therefore, any alleged conflict with Policy 4.25 would not be determinative in these circumstances.

Other Matters

19. The appellant has drawn my attention to a Costs decision¹ which found that a Council did not carry out the appropriate balancing exercise to support its decision. The allegation that the Council in this case did not carry out the balancing exercise does not materially affect my consideration of the planning merits of the appeal proposal. I have carried out a balancing exercise above, and have concluded that the public benefits of the proposal would not outweigh the harm to the significance of the CA.
20. The appellant alleges that a pre-application enquiry was submitted. However, the Council do not have any record of them engaging with the Councils pre-application service. Nevertheless, I have dealt with the appeal on its planning merits and found harm for the reasons set out above.

Conclusion

21. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Laura Cuthbert

INSPECTOR

¹ APP/G5180/W/16/3151769