



Appeal Decision

Site visit made on 17 October 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/Z0116/W/23/3319468

Clifton Down Street Works, Clifton Down, Bristol BS8 3GH

- 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 CK Hutchison Networks (UK) Ltd against the decision of Bristol City Council.
 - The application Ref 23/00049/Y, dated 6 January 2023, was refused by notice dated 1 March 2023.
 - The development proposed is 5G telecoms installation: H3G 17m 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 and informed the main issues.
3. The Council has referred to a number of development plan policies and the National Planning Policy Framework (Framework) in its decision notice. However, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard to be had to the development plan. I have therefore had regard to the policies of the development plan and the Framework only insofar as they are a material consideration relevant to matters of siting and appearance.
4. In September 2023 a revised Framework was published. However, in respect of the main issues for consideration in this appeal, the revised Framework has not changed Government policy and so the cases for the appeal parties have not been prejudiced. I shall consider the appeal accordingly.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on:

- the character and appearance of the area including the Clifton and Hotwells Conservation Area (CHCA) and the setting of The Downs Conservation Area (DCA);
- highway safety, with particular regard to pedestrian safety; 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 proposed development would be located on the pavement alongside the A4176 at the north-western edge of the CHCA and adjacent to DCA. As such, in respect of the CHCA I have had regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.
7. The significance of the CHCA, insofar as it relates to this appeal, includes the combination of formal Victorian Gothic architecture surrounded by well-maintained landscaped spaces, including mature planting. It contains the adjacent former Bristol Zoological Garden, which is a generally spacious and verdant complex, reflected by its designation in the development plan as a Local Historic Parks and Garden. The Downs is a Conservation Area renowned for its wealth of green infrastructure, particularly the adjacent, open expansive plateau of parkland. The site is therefore an intimate part of the setting of DCA.
8. The road at the locality of the appeal site is characterised by grass verges with trees on rising ground to one side and a car park to the other side which slopes down from the site. Buildings are typically set down and away from the appeal site reflecting the nature of the local topography. As a consequence of these factors, the area has a pleasant spacious, verdant and open feel. It therefore makes significant contribution to the significance of the CHCA and the significance DCA draws from its immediate setting.
9. The proposed monopole would be a sizeable structure and at 17 metres in height it would be an intrusive feature in the locality, towering above the height of other development that is present. The pole would have a large girth, making it much bulkier than the nearby street lighting columns which are significantly shorter and more slender. Even though there is existing street furniture within the vicinity of the appeal site, including signs, a bench and a bin, the equipment cabinets would serve to increase the visual presence of the development and result in the loss of part of an existing grass verge.
10. Whilst telecommunications equipment is typical in many urban and suburban areas generally, overall, the appeal scheme would be an overly prominent and out of scale addition to the street. It would be visible from views beyond the immediate area, including from Northcote Road and The Avenue, as well as from parts of the open spaces of the Downs, particularly in the winter months when trees are not in leaf and there would inevitably be less screening.
11. As a result, it would be a highly discordant addition at this location, harmfully out of scale with existing features, with an industrial aesthetic at variance to

the verdant qualities for which this part of Bristol is known. I note the appellant says the equipment would be coloured in an effort to assist with assimilation, but this would not mitigate the harm.

12. For the reasons given, the appeal scheme would be in stark contrast with the character and appearance of the surrounding area, and it would cause significant harm to the character and appearance of the area, including the CHCA.
13. The edge of Clifton forms an essential component of the setting of this part of DCA. The significance of DCA, insofar as it relates to this appeal, includes its green spaces occupying an elevated position and its relationship with the development edging Clifton.
14. As such, the proposed development would cause less than substantial harm to the CHCA and less than substantial harm to the significance DCA draws from its setting. In accordance with paragraph 202 of the Framework, such harm should be weighed against the public benefits of the proposal.
15. The proposal would improve the provision of a 5G network in this location, with associated benefits including faster and more reliable 5G connectivity. In turn it would contribute to economic growth in the UK, improve connectivity in society and serve potential new technologies. I consider that the public benefits arising from this particular proposal would be moderate, but they would not be sufficient to outweigh the less than substantial harm to the significance of the heritage assets, to which great weight must be given in accordance with paragraph 199 of the Framework.
16. In conclusion, the siting and appearance of the proposed development would harm the character and appearance of the area including the Clifton and Hotwells Conservation Area (CHCA) and the setting of The Downs Conservation Area (DCA).
17. Insofar as they are material considerations, the proposal would, for the reasons above, be contrary to the aims of Policies BCS9, BCS21 and BCS22 of the CS and Policies DM26, DM28, DM31 and DM36 of the DMP. Amongst other things, these policies seek to protect the character and appearance of the area, safeguard or enhance heritage assets, and seek to resist the loss of green infrastructure. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places and conserving and enhancing the historic environment.

Highway safety

18. The appeal scheme would extend the pavement over part of an existing grass verge. This would have the effect of widening the pavement and ensure that pedestrians would not be unacceptably impeded by the construction of the proposed telecoms installation.
19. Consequently, the appeal scheme would not materially harm highway safety, with particular regard to pedestrian safety. As such with regard to this main issue, insofar as they are material considerations, the proposal would not be contrary to Policies BCS10 and BCS13 of the CS and Policies DM23 and DM28 of the DMP. Amongst other things these policies require development to be designed and located to ensure the provision of safe streets, to encourage walking and ensure development contributes to a safe and legible public realm.

There would also be no conflict with the Framework where it seeks to promote sustainable transport.

Availability of alternative sites

20. Applications for telecommunications development should be supported with the necessary evidence to justify the proposal in accordance with paragraph 117 of the Framework. The appellant has followed a sequential approach to site selection. It is stated that no buildings or site sharing opportunities were identified. However, I observed an existing mast to the west of the appeal site alongside the A4176 and the appellant has not addressed the Council's case that no evidence for the discounting mast sharing has been provided. Nevertheless, the appellants' submissions refer to a number of alternative sites that were considered but subsequently discounted.
21. The information before me is limited to aerial photographs showing the cell area and six other sites that have been considered and discounted. However, only a very brief explanation as to why each of the alternative sites is unsuitable has been provided. It is also noted that all of the alternatives are located directly alongside the road and there is no consideration of sites in other locations, including possible sites within private land or on existing buildings. The main reasons for discounting the alternatives refer in vague terms to highway concerns, viability, unsuitable pavements or grass verges and being located in a residential area.
22. There is little detail on how the search for alternative sites was carried out or how sites were selected for further consideration. No substantive evidence has been provided to show that adverse impacts would take place or that locations within the identified alternative sites could not host an installation.
23. The search area is highly constrained. However, on the basis of the evidence before me, I find that the search and assessment of possible alternative sites, is not sufficiently robust to demonstrate that a more suitable site may not be reasonably available or that the need for the mast could only be met at the appeal site.
24. In summary, I am not satisfied that less harmful alternatives have been properly explored. For these reasons I find the siting and appearance of the proposed development to be unacceptable.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR