



Appeal Decision

Site visit made on 31 October 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/G3110/W/23/3322582

Woodstock Road Street Works, Woodstock Road, Oxfordshire OX2 7NN

- 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) ('GPDO').
 - The appeal is made by Mr Cameron Wilkinson, CK Hutchison Networks (UK) Limited against the decision of Oxford City Council.
 - The application Ref 22/01762/T56, dated 15 July 2022, was refused by notice dated 28 February 2023.
 - 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 application originally sought a 20m street pole but during the application process this was revised to a 15m street pole. I have determined the appeal on this basis and my description of the proposal reflects this.
3. There is no dispute between the parties that the proposal satisfies the limits to permitted development set at Paragraph A.1 to Class A, Part 16 of Schedule 2 of the GPDO. Paragraph A.3 requires that before development can commence a determination be made as to whether prior approval will be required as to the siting and appearance of the development.
4. The Council has referred to development plan policies in its decision notice. However, the principle of development is established by the GPDO and this does not require that regard be had to the development plan. I have nevertheless had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. Based on the Council's reason for refusal, the main issue is the effect of the siting of the proposal on the character and appearance of the area and public safety with regard to an existing tree; and, in the event that any harm is identified, whether that harm would be outweighed by the need to site the installation in the location proposed and any benefits associated with the proposal.

Reasons

6. The appeal site comprises part of a footpath next to the bus stop on Woodstock Road, opposite the entrance to South Parade. The playing fields and sports facilities for the St Edward's school lie to the west while to the east lies the rest of the school site, including the Grade II listed Apsley House.
7. Most notably, this part of Woodstock Road near the appeal site is set against the back drop of trees associated with the adjacent playing fields. As such, these trees and other mature landscaping along this main arterial road into the City, positively contribute to the verdant character and appearance of the area.
8. The proposed 15m street pole monopole would incorporate a wrap-around cabinet at its base, along with further separate cabinets adjacent to this 'The proposed telecommunications installation'). The proposal is part of an integral requirement to expand Fifth Generation ('5G') telecommunications network coverage for improving service in and around this area.
9. The Council has concluded that all possible steps have been taken to minimise the scale of the street pole, including reducing its height to 15m and to ensure that its appearance would be muted by the use of green colour finish for the proposed telecommunications installation. Furthermore, other locations were considered by the appellant and that the appeal site is the most sensitive with regard to safeguarding heritage assets, the amenity of neighbours and highway safety. I have also considered these matters and have no reason to disagree with the Council's conclusions.
10. However, the proposed telecommunications installation would be located in close proximity of a number of trees. In particular, a mature tree broadly to the south west of the appeal site, as identified on submitted drawing: 215 Proposed Site Plan.
11. To facilitate the proposed telecommunications apparatus, in particular, the street pole it is likely that some form of excavation and substructure to support this would be required. Given the proximity of the existing tree such works could compromise its roots and unacceptably impact on the longevity, health or structural integrity of this tree. This could give rise to an adverse impact on the character and appearance of the area if the tree was damaged and consequently removed. Also, given that the tree is adjacent to the highway any compromise in its structural integrity could result in its collapse and significantly threaten public safety.
12. On the information available to me, the Council raised concerns about the effects of the proposal on the adjacent trees at pre-application stage and also stated that it would be necessary to provide information to demonstrate that the proposal would not impact on these trees.
13. Although the appellant's appeal submissions refer to a Arboricultural Report – (Appendix 6), this report is not in the evidence before me.
14. Consequently, it has not been demonstrated that the siting of the proposed telecommunications installation would not result in unacceptable harm to the character and appearance of the area and public safety.
15. Having taken account of the Oxford Local Plan (2036) ('LP') as far as this is a relevant consideration within the terms of the GPDO, the proposal would

conflict with the aims of LP Policy G7 for protecting green infrastructure and LP Policy RE7 for safeguarding amenity.

Other Matters

16. Support for the delivery of advanced, high quality and reliable communications networks is afforded by the National Planning Policy Framework ('the Framework') by other government documents and the development plan, and such networks bring significant social and economic benefits. Furthermore, the proposal would support 5G coverage to the area.
17. Paragraph 117 of the Framework outlines that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be submitted.
18. I have taken account of the appellant's contention that to achieve the operational requirements of 5G, the selected site is the best available of the alternative options considered. Nonetheless, the appellant's evidence on alternative sites, does not outweigh the harm arising from the proposal.
19. The fact that the proposal would meet the ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines for public exposure is a requirement of prior approval and does not influence my findings on the main issue.

Planning balance and conclusion

20. I acknowledge the potential economic and social benefits of the proposal detailed by the appellants, and the support given by the Framework in Paragraph 114 to advanced, high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.
21. However, in this case, for the reasons given above, I do not consider that the public benefits of the installation in terms of the enhancement of the telecommunications network, its contribution to economic growth and the locational needs of the appellant, outweigh the harm that I have found arising from the proposal due to its siting. I, therefore, conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR