



Appeal Decision

Site visit made on 22 November 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20.12.2023

Appeal Ref: APP/G3110/W/23/3323224

The Oval street works, The Oval, Oxford, OX4 4SF

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Gallivan of CK Hutchison Networks (UK) Ltd against the decision of Oxford City Council.
 - The application Ref 22/02919/T56, dated 8 December 2022, was refused by notice dated 2 February 2023.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local planning authority to assess the proposed development solely based on its siting and appearance, taking account of 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 the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. I have had regard to the policies of the development plan only in so far as they are factors relevant to matters of siting and appearance, therefore.

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 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 lies within a particularly prominent location on a grass verge immediately adjacent to the pavement that runs along Ashurst Way, next to Rose Hill Primary School. It is located in a predominantly residential area.
7. The appeal site is visible from many public vantage points. There are vertical features within the vicinity including lampposts, trees, zebra crossing poles, a telegraph pole and other miscellaneous signage. However, due to the existence of an open play area between the appeal site and school buildings, which can be seen through the railings that delineate the school boundary, as well as the open appearance of the verge itself and adjacent pavement, there is a sense of spaciousness in front of the primary school which makes a significant contribution to the character and appearance of the area.
8. The proposed new cabinets are a typical form of structure seen within verges and along pavements within a residential area. Given their relatively low height and as they would be set against the backdrop of the existing school buildings they would not appear as incongruous features and would not lead to undue visual clutter.
9. I am satisfied that the appeal site is not located within a conservation area. However, the proposed 15m mast would protrude significantly above the school buildings and other vertical features in the vicinity of the appeal site. Given the open and spacious appearance of its surroundings and the fact that there would be little screening from the nearby trees, the pole would be readily visible from many vantage points and would stand out as an isolated and atypical structure. It follows that the proposal would not blend in, but rather would appear as an uncharacteristic and discordant feature within the streetscene that would unacceptably harm the character and appearance of the area.
10. The National Planning Policy Framework (the Framework) supports the provision of advanced, high quality and reliable communications infrastructure and the Government's support for the rollout of the 5G network. However, the Framework also sets out that new equipment should be sympathetically designed and camouflaged, where appropriate as well as requiring developments to be sympathetic to local character.
11. I recognise the appellant's need to provide 5G coverage within this area. The appellant has adopted a sequential approach to site selection which involved considering alternative approaches and locations including mast and site sharing, existing buildings and structures and alternative ground-based installations. The appellant highlights that there was an extremely constrained cell search area, and no mast/site sharing opportunities or existing buildings/structures were identified. Rather, a street pole with associated cabinets was deemed to be the only and most appropriate solution available. However, limited information has been provided to substantiate that finding.
12. In terms of the street pole solution, six other sites were considered and discounted. Most of these seem similar to the appeal site with comparable issues such as being adjacent to the primary school and overlooked by residential housing, but it is not clear why these would be more harmful than the proposed location. Therefore, the information is insufficiently compelling or robust to show that this is the only site on which the proposed development could be located.

13. I therefore conclude that the siting and appearance of the proposal would have an unacceptable effect on the character and appearance of the area. I am not persuaded that less harmful alternatives have been fully explored and I consider that the need for the installation does not outweigh the harm.
14. As a result, in so far as they are material considerations, the proposal would not accord with Policies DH1, and V9 of the Oxford Local Plan 2036 adopted 8 June 2020 which seek to ensure the development is of a high-quality design that creates or enhances local distinctiveness and that new electronic communications infrastructure should accord with national policy and should be sympathetically designed and camouflaged where appropriate.
15. Moreover, the scheme would be at odds with the Framework which as set out above, seeks to ensure that new equipment should be sympathetically designed and camouflaged, where appropriate as well as requiring developments to be sympathetic to local character.

Other Matters

16. I note that the appellant considers that the Council did not give appropriate weight to the economic and societal benefits of the proposal, but these factors have not been taken into account in considering the matters of siting and appearance.

Conclusion

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

S Rawle

INSPECTOR