



Appeal Decision

Site visit made on 5 December 2023

By N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2023

Appeal Ref: APP/E2734/W/23/3323127

Park Parade Street Works, Park Parade, Harrogate HG1 5AF

- 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 CK Hutchison Networks (UK) Ltd against the decision of Harrogate Borough Council.
 - The application Ref 22/04225/PNT56, dated 3 November 2022, was refused by notice dated 20 December 2022.
 - The development proposed is 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. An update to the Framework has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issue

5. The main issue is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 16, Class A of the GPDO with regard to the siting and appearance of the proposed installation, including whether it would preserve or enhance the character or appearance of the Harrogate Conservation Area (CA) 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 relates to an area of pavement occupying a prominent position along Park Parade fronting onto a grassed Stray and is highly visible from a number of public viewpoints. The surrounding area is largely residential and there are a number of properties located to the direct south of the site. The site lies adjacent to the entrance to Park Place, a building containing flats and abuts a tall hedge and mature trees to the west that are contained within Park Place. There are further trees located along this stretch of the road as well as several other trees located on the opposite side of the road. Whilst a number of lamp posts and street signs can be seen along Park Parade and along the drive of Park Place, the site itself is largely free from street furniture. This, along with the backdrop of hedging and trees helps to soften the hard edges of the surrounding built development providing a sense of openness and visual relief to the street scene.
7. The site lies within the CA. As such, I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have also had regard to paragraph 205 of the Framework which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets' conservation.
8. The significance of the CA is derived from its historic and aesthetic merits. In accordance with the Harrogate Conservation Area Character Appraisal, 2010 (HCACA), the site falls within Character Area D 'High Harrogate' (the triangle). It explains that Park Parade is of particular note as the majority of buildings on this frontage to the Stray are listed making it an important heritage asset. No 25 North Park Road and No 3 Park Parade which are located directly to the south of the appeal site are listed in the HCACA as being 'buildings of local interest'. These are said to be prominently sited within the Character Area and play an important role in their respective frontages. The HCACA explains that trees play a very important role in the Character Area. Most roads and footpaths are bordered by trees, which increase their attractiveness but which, particularly in the summer, may limit views.
9. The proposed development would be located on the pavement directly in front of the hedging and trees that are contained within Park Place. It would therefore be visible from Park Parade and surrounding streets including North Park Road to the south. The 20-metre high street pole would exceed the height of the adjacent trees and nearby properties. This, along with its overall width which would be greater than other features in the area, would affect the sense of openness and visual relief to the street scene. This would result in the street pole being visually incongruous within this otherwise open setting which would not assimilate with the context of the site. It would be a stark and dominant addition to the street scene, exacerbated by its overall colour which would clash against the backdrop of the trees and hedges. Whilst the installation would not be directly in front of any residential properties, its overall design, height and width and its close proximity to the identified buildings of local interest, would unacceptably impact upon the current views afforded by drawing the eye away from these buildings to the detriment of these properties and their setting.

10. I appreciate that the pole and cabinets are designed to be installed alongside public roads and are often found in such urban locations. I also acknowledge the reasoning for the overall location and height in terms of providing the required essential coverage. However, this does not mean that it would not be harmful. Further and as acknowledged above, there are a number of trees along Park Parade which would provide for a level of screening. However, the site is still highly visible particularly when travelling along Park Parade and would be more so during the winter months where the trees are not in leaf which was evident at the time of my site visit.
11. Accordingly, I find that the proposed development would fail to preserve or enhance the character or appearance of the CA causing less than substantial harm to its significance as a designated heritage asset. Paragraph 206 of the Framework explains that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. It goes on to explain at paragraph 207 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
12. I appreciate the public benefits associated with provision of enhanced digital communication as set out by the appellant including high-speed mobile connectivity, facilitating educational benefits, providing access to vital services, improving communications with the associated commercial benefits for local businesses, enabling e-commerce and facilitating the increased need and demand for working from home, as well as enjoying access to social, media and gaming for leisure time activities. However, such benefits would not be sufficient to offset the identified harm to the CA which I have attached great weight as advised by the Framework.
13. Paragraph 121 of the Framework sets out that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. The appellant has followed a sequential approach. It states that the cell search areas for 5G are extremely constrained with a limited cell radius and that in this location, existing mast sites are not capable of supporting additional equipment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited. A street pole with associated cabinets is claimed to be the only and most appropriate solution available.
14. I have had regard to the location of the alternative sites explored by the appellant and the explanation on why these were discounted. The information before me however is limited with only 3 sites put forward. These have been discounted due to pavement widths being too narrow to accommodate the proposed equipment. I am not however convinced that this is applicable to all sites particularly given that some of these sites abut areas of green space/green verges. The appellant sets out that the equipment is designed to be installed upon grass verges and pavements where limited opportunities exist. There is therefore a lack of information in this respect including other possible options/locations where there are wider pavements and grass verges. Additionally, I note the Council's claims that the 'stray', on which the land lies

is forever to remain open and unenclosed under the terms of an Act of Parliament. The review of alternative sites has failed to take this matter into account which also makes the appeal site a less preferable option.

15. Overall, I am not satisfied based on the evidence before me that a thorough review of possible options has been explored or that the appeal site represents the only viable option.
16. Whilst not determinative, the proposal would be contrary to Policies HP2, HP3 and T15 of the Harrogate District Local Plan 2014-2035, 2020 which together, amongst other matters, requires development to incorporate high quality building, urban and landscape design that protects, enhances, or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments. Applicants should ensure that proposals affecting a heritage asset, or its setting, protect or enhance those features which contribute to its special architectural or historic interest.
17. The proposed development would also be contrary to chapter 16 of the Framework which relates to conserving and enhancing the historic environment.

Other Matters

18. Pre-application consultation has been undertaken with the Council and ward members have been notified about the proposed development. However, this would not alter my findings in relation to the above main issue.
19. My attention has been drawn to a previous appeal decision¹. However, there are material differences in that appeal and the appeal before me in terms of the matters in dispute as well as their specific location and siting including overall character of the area. Therefore, that appeal is not directly comparable to the one I am considering.

Planning Balance

20. Paragraph 118 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
21. I have had regard to the benefits of the proposed development as set out above. However, on the basis of the evidence in front of me and my own observations on site, I have found that the proposed development would fail to preserve or enhance the character or appearance of the CA. It has not been demonstrated that the appeal site represents the only viable option. Therefore, notwithstanding the need to upgrade the network and assist the government's digital connectivity vision along with the associated benefits, the harm that would arise from the siting and appearance of the development would not be outweighed by the overall need in this location.

¹

APP/A5840/W/20/3254830

Conclusion

22. For the above reasons and having regard to all other relevant matters raised, I conclude that the appeal is dismissed.

N Teasdale

INSPECTOR