



Appeal Decision

Site visit made on 2 October 2023

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th December 2023

Appeal Ref: APP/X1355/W/23/3326396

Grass verge on Stockton Road, Elvet, Durham DH1 3LY

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Limited against the decision of Durham County Council.
 - The application Ref DM/23/00332/PNT, dated 31 January 2023, was refused by notice dated 12 May 2023.
 - The development proposed is telecommunication equipment and cabinets 15m high monopole - grey - RAL7035 Equipment Cabinets - grey - RAL7035.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Because this is an application for prior approval, the provisions of the Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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. This appeal will be determined on the same basis. Also, as the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan, or to apply the statutory duty in respect of section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, I have had regard to the policies of the development plan and any related guidance and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
3. The address of the site has been amended by the Council to '*Land south east of Whitechurch, Church Street Head, Durham DH1 3DN*' and the description amended to describe the proposal as '*Prior notification for the installation of a 15m high slim-line monopole, supporting 6no. antennas, 1no. wraparound equipment cabinet at the base of the monopole, 2no. equipment cabinets, 1no. electric meter cabinet and ancillary development thereto including 1no. GPS module.*' I concur that these amendments accurately describe the location and description of the proposal before me and I have proceeded on this basis.
4. As the proposal is in Durham City Conservation Area, I have had special consideration to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

5. The National Planning Policy Framework has been updated on 19 December 2023, and after the submission of the appeal. The historic environment policies have remained unchanged within the updated version of the Framework as well as those relating to digital communications, which are a material consideration.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation 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

Siting and appearance

7. The appeal site is located within the Durham City Conservation Area. The conservation area is extensive, covering the medieval core of the city and the areas into which the city expanded prior to 1900. In addition, it encompasses areas of countryside and open space that contribute to the setting of the city.
8. In so far as it is relevant to this appeal, the significance of the Elvet area of the conservation area where the appeal site is located, is that it forms the predominantly unaltered historic network which spanned out from the Peninsula of the historic core of the city where development has emerged between these routes. The area has retained the historic street pattern of the medieval town together with swathes of green space that contribute to its verdant character creating a semi-rural character. Whilst buildings of a mixed character from the 20th and 21st century have altered the townscape of the south eastern part of the city, its medieval agricultural buildings, grand Georgian townhouses and Victorian terraces intermingles with mid-20th century housing. Its simple plan-form remains intact together with a varied aesthetic value derived from the differing architectural styles and the relationship of the component buildings to each other, and the spaces that they enclose. The topography of the area allows the historic evolution and multi-layered built form of this part of the city to be clearly appreciated.
9. The appeal site also forms part of the setting of the Durham Castle and Cathedral World Heritage Site (WHS). The WHS was inscribed in recognition of the castle and cathedral's outstanding universal values derived from the site's architectural importance, political history, and religious significance. The varied and multilevel group of buildings and roofs at the foot of the castle and the wooded slopes of the River Wear gorge, emphasise the dominance and visual drama of the Castle and Cathedral in relation to the rest of the city. From this area of Elvet, background views of the uppermost part of the Cathedral Tower of Durham Cathedral are visible in the skyline.
10. With regards to this proposal, the monopole installation would be required to deliver 5G coverage to the local area and constructed at approximately fifteen metres high as a slimline glass reinforced plastic monopole sited on grass highways verge along the northern side of Stockton Road, outside the Whitechurch café/public house (PH). Three external equipment cabinets would support the installation and sited at the rear of the footway alongside the installation.

11. The highways verge is reasonably wide and level, and apart from grass and some sporadic semi-mature trees, contains only typical street furniture within it. Despite the streetlamps, directional signage and other highway effects, the overall scale of the installation would not relate to the typical street furniture that are recognised physical features of this streetscape and are well assimilated into its fabric. The proposed apparatus would be more visually apparent as it would be stepped forward from its backdrop of the PH that is significantly lower in height than the monopole would be, with a horizontal emphasis to its built form. With no other vertical features to compare to, it would take on a discordant appearance therefore appearing prominent, stark and alien as it would not be successfully absorbed into this sensitive environment. Furthermore, the existing natural landscaping would not adequately provide mitigation screening measures. Neither would the large-scale university campus buildings in close range, or the fact they are contemporary standalone buildings mitigate its impact, and would overall only seek to highlight its incongruous appearance.
12. The townscape of the western end of Stockton Road is mixed with its verdant character together with the variety of 19th, 20th and 21st century buildings of differing styles and functions, and the Cathedral Tower of the Grade I listed Durham Cathedral seen in the background to the north west of the appeal site. These features all contribute positively to the important historical significance of the CA, although as a heritage asset, it is nevertheless sensitive to change. The harmful effects of installing a modern vertical telecoms mast that would not integrate with its context appearing visually obtrusive would lead to a visual change to the detriment of the character and appearance of the CA and would not preserve or enhance the special interest of the CA. The resultant degree of change as a result of the telecom's siting and appearance would have a limited but deleterious effect upon a small but integral component that underpins the character and appearance of the Durham City CA as a whole, that would not be preserved or enhanced.
13. This area also forms part of the inner setting of the designated WHS and as a WHS, has the highest level of national protection. Development within the WHS is identified within the Durham Castle and Cathedral WHS Management Plan 2017-2023 to manage change positively. Part of the Cathedral Tower is visible in wider panoramic views in the skyline from this part of Elvet, seen behind a substantial tree belt connecting this part of the city to its historic core. The siting and appearance of the proposed monopole I have found would be visually jarring here. Whilst views of the WHS are experienced from this area, this is taken within a context of buildings, open space, landscaping and typical highways paraphernalia. These highways features are especially apparent due to the four-way road junction of the local area. The many traffic lights and streetlamps all have a vertical emphasis and are located in a regular and ordered arrangement. The addition of a 15m high monopole when taken in combination with the proliferation of other vertical street features and in this context would, in my view, have a neutral effect upon the setting of the WHS being one small part of a much larger whole.

Other considerations

14. The appellant comments that the 4G network is under significant pressure from consumer demand, made more severe by the proximity to the University of Durham campus opposite the site and its proposed location close to the city

centre and on a busy main road thoroughfare. However, I note there is no substantiating digital evidence to demonstrate their perceived demand on the network or that there is 'limited' 5G coverage within the local area.

15. Although the appellant points to this target area to deploy 5G coverage, the Framework states that before a new mast or base station can be considered, the operator must explore alternative solutions with the possibility of erecting antennas on an existing building, mast or other structure with a sequential test of site options to be undertaken by the appellant to explore the availability of other potentially less harmful siting options.
16. I appreciate there are technical and operational limitations that can restrict the location of telecommunications equipment as well as safety requirements of the ICNIRP guidelines to which have been met by the appellant. The many constraints of site identification reported by the appellant including unimpeded pedestrian movement; construction and maintenance to comply with specific highways Acts; avoiding underground services; tree cover constraints and other tall structures constraints; location close to sensitive residential and heritage receptors, all require due consideration. However, amongst the appellant's discounted sites, it is not clear why a number of these options are considered by them to be too far away to deliver the required coverage. Why these are included within the search area is therefore ambiguous. Indeed, no target coverage maps have been provided with the submission to substantiate their evidence as to why the discounted locations are not appropriate. Neither is there data evidence submitted with this appeal as to how this site meets a technical need as the only viable option. Whilst they state this monopole is the very lowest height a mast can be to deploy 5G coverage, neither has this been evidenced on coverage maps to demonstrate this to be the case.
17. The appellant insists within their submission that mast options to support 5G technology are few and therefore this is the least visually obtrusive option. Nevertheless, upgrading the slim-line telecommunications monopole located in close range to the site on Stockton Road, also within the CA, is a material consideration. Although this has been discounted by the appellant largely based on its structural stability to support the extra weight as they explain the 5G apparatus would require more sturdy infrastructure, there is no substantiating evidence presented by them to justify why this mast cannot be considered as a real possibility to upgrade. Nor is there evidence presented that a shared structure would appear more visually intrusive than the monopole design before me. This further weighs against the proposal.
18. I fully appreciate there is an imperative towards supporting advanced digital connectivity in order to deliver the public, social and economic benefits that mobile communications bring. This is also supported in the form of published Government statements and other mobile technology publications brought to my attention by the appellant. The rollout of high speed 5G as the most up to date mobile network can assist in the delivery of these wider benefits. To that end, new infrastructure cannot be considered without clear and persuasive evidence to demonstrate there is a need for a new mast to support the 5G network here and substantiating evidence that this site and mast is the least harmful means to deliver mobile technology.

19. Another Inspectors' decision to allow a telecoms lattice mast¹ has been brought to my attention by the appellant. I have had due regard to this decision letter. It is however a different style of mast than the monopole before me and is not located within a conservation area. Therefore, I do not consider the same circumstances of these two appeals to compare, and I apply limited weight to it.
20. I therefore conclude that the proposal would have a neutral impact upon the inner setting of the WHS, therefore its siting and appearance would meet the expectations of Policy 45 of the County Durham Plan (CDP) and Policy H1 of the Durham City Neighbourhood Plan in their aims to protect this heritage asset. Nevertheless, its siting and design would not preserve or enhance the character or appearance of the Durham City CA thereby conflicting with the heritage safeguarding aims of Policies 44 CDP and H1 of the Durham City Neighbourhood Plan, as well as the same heritage safeguarding aims of the National Planning Policy Framework. It would conflict with Policy 27 of the CDP that relates to appropriately siting telecoms and CDP Policy 29 only in so far as it relates to broad character parameters. However, I find no direct relevance to Policy 6 of the CDP as this relates to development within unallocated sites.

Other Matters

21. The Council have provided me with statutory list descriptions of a number of heritage assets. The Framework advises 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.
22. Of those statutory list descriptions, the Grade I listed Cathedral Church of Christ and St. Mary the Virgin (List entry 1161023) and other listed buildings and structures within its precinct including the Grade I listed Cathedral Cloister East Range (List entry number 1121388), West Range (List entry number 1121389) and South Range (List entry number 1310239) and the Grade I listed Lavatorium (List entry number 1161129), some of these heritage assets are located internally to the cathedral and their setting would not be directly compromised by this proposal. Although the Cathedral Tower of Durham Cathedral is seen from the appeal site in distant views, the combination of degree of intervening land together with substantial landscape belt and built-form would ensure the proposal would not affect the ability to understand this heritage asset. With regards to the Grade II listed 54-56 Hallgath Street (List entry number 1160068) and 58 Hallgath Street (List entry number 1323280) and Chorley's Cross (List entry number 1121392), given the proposal's position and the distant relationship from these heritage assets, I consider it would not compromise the ability to appreciate these heritage assets. All things considered, I am satisfied that the effect of the siting and appearance of the proposed monopole on their settings would be neutral.

Balance and Conclusion

23. I have found that the proposal would have a neutral effect upon the setting of the WHS. Nevertheless, I have concluded that the siting and appearance of the proposed telecoms mast in this location would not preserve or enhance the character or appearance of this part of the Durham City CA and would

¹ Appeal Reference APP/B5480/W/20/3251086

therefore harm the significance of the designated heritage asset as a whole. I have therefore balanced the proposal against the public benefits taking into account the need for improved network coverage and the possibility of any suitable alternatives. I have found that there is an acute absence of reliable evidence to demonstrate the need for the 5G network in this locality and there are ambiguities within the outcome of the alternative site selection. These matters attract significant weight and outweigh the benefits associated with it.

24. For the above reasons, I conclude that the appeal is dismissed.

Alison Scott

INSPECTOR