



Appeal Decision

Site visit made on 11 January 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/N1160/W/23/3327389

Whitleigh Cross, Plymouth PL6 5DR

- 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 Gallivan, CK Hutchison Networks (UK) Ltd against the decision of Plymouth City Council.
 - The application Ref 23/00034/16, dated 6 January 2023, was refused by notice dated 20 February 2023.
 - The development proposed is described as 'Proposed 5G telecoms installation: H3G 15m 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 (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 application form states the first part of the site address as 'WHITLEIGH CROSS street works', and the appeal form states it as 'Area of Footpath, Whitleigh Cross Street Works.' Within the banner heading above I have not included reference to street works or area of footpath as these are descriptions of the proposal and the site is not solely a footpath.
4. The Council do not raise any concerns with regard to the appearance of the street pole and cabinets. Given the evidence before me, and from my site visit, I have no reason to disagree. As a result, there is no need to consider the appearance of the proposal further.

Planning Policy

5. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
6. Nevertheless, Policy DEV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034) (March 2019) (LP) is a material consideration as it relates to issues of highway safety. In particular, it seeks to ensure development promotes sustainable transport choices and provide safe and satisfactory traffic

movements. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes sections on promoting sustainable transport and supporting high quality communications.

Main Issues

7. The main issues are the effect of the siting of the proposed installation on:
- highway safety with particular regard to pedestrian and cycle movements; 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

Highway safety

8. The appeal site comprises part of a shared footway/cycleway running alongside Budshead Road, a heavily trafficked single carriageway road at Whiteleigh Cross. The appeal site lies in front of an area of public open space and associated tree planting with a pedestrian crossing and roundabout on Budshead Road broadly to the north-west. The cycleway negates the need for some cyclists to negotiate the roundabout.
9. The appeal proposal seeks prior approval for the erection of a 15m high 5G mobile telecommunications street pole and associated equipment cabinets. They would be set into the shared footway/cycleway adjacent to the open space and associated trees.
10. In locations where up to 300 cyclists per hour could be expected to use the shared use footway/cycleway, Local Transport Note LTN 1/20 July 2020 sets out that a minimum overall width of 3m of shared footway/cycleway should be provided. It further states that an additional width of 500mm is required adjacent to fixed objects over 600mm in height.
11. The appeal proposal would reduce the width of the shared use area. The Council ascertains this would be approximately 1m below the recommended 3m minimum width to allow for safe movement of cyclists and pedestrians. This increases to 1.5m below the minimum width required when the additional 500mm width is added to cater for the presence of the vertical mast. I find this to be a significant width reduction causing conflict between pedestrians and cyclists, potentially necessitating their use of the adjoining grass verge or road at this point to avoid conflict. Moreover, the reduced width and conflict could discourage the use of walking or cycling. The appellant has not addressed the scheme's potential impact on cyclists or conflict with pedestrians in detail in this regard. Overall, I therefore find that the impact of the proposal on the shared space is likely to result in conflict between users, and thus harm their safety.
12. The Council also considers that the installation and maintenance of the equipment would require vehicles to park closer to the site, resulting in vehicles blocking the highway. While the agreement of short-term alternative arrangements is standard practice for works affecting the highway, the

appellant has not identified how this potential harm to highway users could be managed safely.

13. Overall, the siting of the proposed installation would significantly harm highway safety with particular regard to pedestrian and cycle movements. As a material consideration, the proposal would conflict with LP Policy DEV29 ensuring that development promotes sustainable transport choices and provides safe and satisfactory traffic movements. It would also conflict with the Framework paragraph 108 that promotes walking and cycling, paragraph 114 that ensures schemes mitigate impacts on highway safety and paragraph 116 that states that applications should give priority first to pedestrians and cycle movements.

Suitable alternatives

14. The proposal is for a new mast, addressing the inadequacy in the current 5G coverage. I note that the applicant is following a sequential approach to site selection through the provision of a new site free from any statutory designations.
15. The Framework includes a section on supporting high quality communications, and paragraph 122 confirms that the need for this electronic communications system should not be questioned. However, paragraph 121 of the Framework states 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. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts, or other structures. The evidence does not include detailed mapping or analysis of the potential for mast sharing, co-location, installing a base station on an existing building or installation within the adjoining public open space. Furthermore, whilst the appellant explains that the intended target/search area has a radius of approximately 100 metres centred over the Manadon, Plymouth area, the appeal site falls outside of the intended cell/target area. This suggests that the extent of the intended target/search area could be enlarged.
16. Only a very brief commentary on a few discounted site options is provided. Without detailed constraint mapping, it is not clear as to how these options were identified. Justification for discounting other sites includes narrow pavements, visibility splays and proximity to residential properties. However, I have found above that the siting of the appeal proposal would also create a narrow footway/cycleway.
17. Overall, therefore, I am not persuaded from the evidence that all potential options and sites for less harmful alternatives have been sufficiently assessed and discounted.

Other Matters

18. Reference has been made to various social, economic and sustainability benefits but these have not been taken into account in considering the matters of siting and appearance.

19. The appellant draws attention to an appeal decision¹ in Walworth, London. However, I have limited information in relation to this appeal to determine whether it is comparable. In any case I am required to consider the current proposal on its merits.
20. The appellant states that the siting and appearance of the associated cabinets are permitted development. However, the appeal before me relates to the scheme in its entirety, and I have assessed the proposal on this basis. In any event, I am not persuaded that there would be a greater than theoretical possibility of the cabinets being installed at the site without the associated monopole, such that I attach limited weight to this argument.

Balance and Conclusion

21. I note the support in the Framework for high quality communications, and that advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement for equipment to be sympathetically designed, as well as the guidance in the Framework for development to promote sustainable transport and to refuse development on highway grounds if there would be unacceptable impacts on highway safety.
22. While options for siting the development are limited by technical and operational constraints, the evidence does not demonstrate that there are no alternative sites available which would be less obtrusive and harmful. I do not therefore find the harm identified above from the siting of the proposal to pedestrian and cycle safety to be outweighed by the need for the installation to be sited in this location or by the lack of harm from the appearance of the proposal.
23. In addition, I do not find the harm to be outweighed by the support in the Framework for high quality communications, when weighed against the development plan harm and the wider requirements of the Framework.
24. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR

¹ APP/A5840/W/20/3254830