



Appeal Decision

Site visit made on 25 January 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2024

Appeal Ref: APP/A1910/W/23/3322972

Queensway, Dacorum HP1 1LS Easting: 505581, Northing: 207666

- 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 of CK Hutchison Networks (UK) Ltd against the decision of Dacorum Borough Council.
 - The application Ref 22/03405/TEL, dated 15 November 2022, was refused by notice dated 6 January 2023.
 - The development proposed is described on the application form as 'Proposed 5G telecoms installation: H3G 17m 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), under Article 3(1) 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 principle of development is established by the GPDO. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require that regard be given to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are material considerations relevant to the matters of siting and appearance.

Main Issues

4. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including on the settings of heritage assets and trees; and if any harm is identified whether that harm would be outweighed by the need for the installation, taking into account any suitable alternative sites.

Reasons

5. The appeal site comprises an area of hard landscaping on Queensway, near to its junction with Alexandra Road. The immediate area is surrounded by predominantly commercial buildings.
6. The appeal site lies within Hemel Hempstead Old Town Conservation Area (CA). The special interest and significance of the CA is largely derived from the preservation of a tightly knit collection of architecturally rich buildings around the central High Street and, in part, Queensway. The appeal site and the immediately surrounding area forms a gap in built form. That immediately surrounding area of public realm contains a series of prominent, verdant mature trees. These contribute in a positive way to the character and appearance of the CA, and thereby its significance as a designated heritage asset.
7. The site is also close to a series of Grade II listed buildings. These include Lloyd's Bank¹, 23 and 25 Queensway², 27 and 29 Queensway³, 16 and 18 High Street⁴, 10, 12 and 14 Queensway⁵, 4 Queensway⁶. Nearby 6 and 8 Queensway Wrought Iron Front Railings⁷ is a Grade II* listed building.
8. Based on the evidence before me, the special interest and significance of those buildings is broadly derived from their historic and architectural interests. Important contributors in these regards are their illustration as vernacular commercial buildings and the use of traditional materials and construction techniques. The principal streets of High Street and Queensway, onto which the buildings front, in part, form the setting of the listed buildings. It is from these vantage points that the buildings are best appreciated. This immediate setting, which includes the appeal site, contributes to the special interest and significance of the assets.
9. The proposed installation would comprise a 17-metre high monopole, together with ground-based equipment cabinets. The prominent location of the installation, together with its overall height, is such that it would be highly visible from within the surrounding public realm and from nearby properties facing onto the site.
10. Although I accept that the area surrounding the site contains a range of street furniture, including lighting columns, the proposed installation would be appreciably higher than those features, appearing visually intrusive and dominant in the streetscene. It would also project above the mature trees that surround the site. These are deciduous, further reducing coverage during the winter months.
11. Ultimately, a substantial extent of the modern and utilitarian mast would be visible from the surrounding area. This would form a jarring and incongruous feature in the streetscene, harming the character and appearance of the CA and compromising the settings of the listed buildings by detrimentally altering how those designated heritage assets would be experienced.

¹ List Entry Number: 1251237

² List Entry Number: 1251094

³ List Entry Number: 1262944

⁴ List Entry Number: 1068772

⁵ List Entry Number: 1262920

⁶ List Entry Number: 1251095

⁷ List Entry Number: 1251119

12. Overall, I consider that the proposed installation would fail to preserve the settings of nearby Grade II and Grade II* listed buildings, and would fail to preserve or enhance the character or appearance of the CA. I find the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. This is a matter I return to subsequently.
13. I accept the proposed installation would be positioned in close proximity to the existing mature trees within the surrounding public space. It is possible that at some point in the future there would be pressure to prune those trees to avoid conflict with the proposed installation, with no suggestion that these may need to be removed or that they would affect the root protection areas. However, the trees are located within a CA and any works to them would require further, separate approval from the local planning authority. Based on the evidence before me, I am satisfied that the proposed installation would not adversely impact the health of the nearby trees.
14. There are clear public benefits to the proposed installation, including the contribution to providing good, fast, reliable and cost-effective communications, an objective supported by the Government. Moreover, there is no basis to question that the equipment is necessary to achieve the required standard of network coverage. Nevertheless, I must balance these public benefits against the requirement for equipment to be appropriately sited. I have concluded above that the proposed installation would be harmful to character and appearance, and I do not consider that harm to be outweighed by the support in the Framework for high quality communications.
15. For the above reasons, I conclude that the siting and appearance of the proposed installation would have a harmful effect of the character and appearance of the area, would fail to preserve or enhance the character or appearance of the CA, and would harm the settings of nearby Grade II and Grade II* listed buildings. It would therefore be contrary to the relevant provisions of Policies CS12, CS25 and CS27 of the Core Strategy (2013) and Policy 126 of the Local Plan (2004). These policies, amongst other objectives, seek to ensure a high-quality design and that the historic environment is protected.

Alternative sites

16. The appellant has set out 4 discounted alternative locations for a mast and associated apparatus. These were discounted for various reasons, including in some cases their location near to a visibility splay.
17. However, the level of detail submitted is very limited. I have no substantive information before me which convincingly demonstrates the extent to which masts in those locations would fail to achieve the same level of coverage as the site before me, or the extent to which they would harm character and appearance.
18. Consequently, based on the evidence before me, I am not persuaded that the appellant has properly explored all other potentially available, and less harmful, alternative options.

Other Matters

19. I note that the appellant entered into pre-application discussions with the Council prior to submitting the application. There is no evidence before me of any response to that submission. Nevertheless, pre-application advice is not determinative in the assessment of this appeal.
20. I acknowledge that there would be no harmful effect on pedestrian flow or safety as a result of the proposed installation. There is no dispute between the Council and appellant on this matter and I have no reason to disagree with those findings. I also acknowledge that the proposal would not have adverse impacts on public health. However, that has not been a determining factor in this case and attracts no weight in support of the appeal.

Conclusion

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

A Price

INSPECTOR