



Appeal Decision

Site visit made on 5 March 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/U1620/W/23/3326416

Land at Tuffley Avenue, Gloucester GL1 5NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 GPDO).
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Gloucester City Council.
 - The application Ref is 23/00332/TCM.
 - The development proposed is the proposed installation of a 18m monopole comprising 6 no. antennas and 2 no dishes together with the addition of 2 no. cabinets and 1 no. meter cabinet together with ancillary development thereto.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the siting and appearance of the proposed installation of a 18m monopole comprising 6 no. antennas and 2 no. dishes together with the addition of 2 no. cabinets and 1 no. meter cabinet together with ancillary development thereto on land at Tuffley Avenue, Gloucester GL1 5NA, in accordance with the terms of the application, Ref 23/00332/TCM and the plans submitted with it, including plans 002, 210 and 260.

Procedural Matter

2. As a Prior Approval application, the provisions of the GPDO require the Local Planning Authority to assess the proposal solely on its siting and appearance. My determination of this appeal has been made on the same basis. I have taken the address of the site from the Council's Decision Notice, which is more concise than that used in the application form. I am satisfied that no party would be prejudiced as a result.
3. There is no statutory requirement to have regard to the Development Plan, as would be the case for example with a planning application. Nevertheless, policies G5 of the Gloucester City Plan (GCP), adopted January 2023, and SD4 and SD14 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), adopted December 2017, are material considerations. This is because they relate to issues of siting and appearance. Based on the Council's Delegated Decision Report, I have taken the reference in the Decision Notice to '&SD4' as meaning JCS Policy SD14, as has the appellant.
4. GCP Policy G5 relates specifically to telecommunication proposals and requires them to be sympathetically designed, camouflaged and have a minimised

visual impact. It also requires the use of existing masts, structures and buildings where possible, whilst recognising the future development needs of mobile networks. The JCS policies make general requirements for good design and the avoidance of harm to the amenities of neighbouring occupiers. The National Planning Policy Framework (the Framework) is also a material consideration. The parties have had the opportunity to comment on the revised version of the Framework, and I have reached my decision using its most up-to-date version.

Main Issues

5. The main issues are:

- the effect of the siting and appearance of the proposal on the character and appearance of the area and on the living conditions of the occupiers of nearby dwellings with regard to outlook, and
- if any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Siting and Appearance

6. Tuffley Avenue is a single-carriageway road of predominantly semi-detached dwellings. It forms part of an attractive suburban area of Gloucester. The appeal site consists of part of the street pavement and is adjacent to a lengthy concrete wall that encloses the open space of Tuffley Park. Some of the dwellings on Tuffley Avenue would face directly towards the proposal, albeit with boundary treatments and the busy Avenue itself between them.
7. The site is close to the gantry of a traffic management camera, as well as lamp posts and other items of street furniture. Tuffley Avenue is lined with tall, mature street trees. The monopole would have a height greatly exceeding other vertical structures and features, apart from perhaps the tallest of the street trees. The functional nature of the monopole, including the bulbous equipment at the top, would result in it appearing as a somewhat dominant and out of place feature in the street scene, including when viewed from the dwellings opposite.
8. I am mindful however that the monopole would be slim in width, which would minimise the extent of its effect on the street scene and on the outlook of occupiers of nearby dwellings. The existing trees would provide a degree of screening, particularly when in leaf. The trees and the other street furniture would provide some vertical context for the proposal, whilst its dark green colour would further militate its visual impact. The proposed cabinets would be located adjacent to existing BT cabinets and would be below the height of the concrete wall. As such, although they would add to the visual clutter, they would not appear particularly out of place.
9. For these reasons, I conclude that the effect of the siting and appearance of the proposal would be harmful to the character and appearance of the area and to the living conditions of the occupiers of nearby dwellings with regard to outlook. However, I consider that the degree of harm would be moderate.

Alternative Sites

10. Paragraph 118 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It advises that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. From the evidence provided by the appellant, I do not doubt the need for improved network coverage in the area. The proposal would provide signal to this part of Gloucester where coverage is currently restricted.
11. Framework Paragraph 121 requires applications for telecommunications development to be supported with sufficient evidence to justify the proposal. In identifying site options, the appellant has followed the sequential approach advocated by the Framework. No existing mast or site sharing opportunities were identified within the search area. Similarly, no buildings or structures suitable for the proposal were found. From the information before me and from my own observations, I find no compelling reason to disagree with this conclusion.
12. On this basis, a new ground-based installation was sought, with other potential sites being identified. However, these were discounted because of the narrowness of the footway or conflict with overhead power lines in those locations. Although siting within commercial or industrial areas may well be preferable, there is no substantive evidence before me to challenge the rationale for selecting or discounting the alternatives, or identifying other specific sites that would meet the need and be more suitable.
13. The lack of realistic alternative sites to deliver the improved coverage and capacity is a consideration which weighs strongly in favour of the proposal. Accordingly, in this case, the moderate harm resulting from the siting and appearance of the proposal would be outweighed by its social and economic benefits.

Other Matters

14. Concerns have been raised about potential effects on health, particularly the proximity of the proposal to residential properties. However, the appellant has certified that it has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
15. The proposal would reduce the width of the pavement. However, it is fairly wide at this point, and is sufficient to take the existing cabinets without significantly restricting usability of the pavement. Consequently, the proposal would not result in undue inconvenience to pedestrians. I note that neither the Highway Authority nor the Local Planning Authority object to the proposal on these grounds.

Conditions

16. The GPDO imposes deemed conditions. These specify that the proposal must be carried out in accordance with the application details and shall begin within five years. They also require it to be removed when no longer required, and the land restored to its previous condition. The Highway Authority has suggested a further condition regarding construction management. However, the GPDO does not provide any specific authority for imposing additional conditions. In any case, given the small area of the site and the controls already available to the Highway Authority, I consider that the suggested condition would be unnecessary.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

O Marigold

INSPECTOR