



Appeal Decision

Site visit made on 12 March 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/Q3060/W/23/3328182

Arkwright Walk Street Works, Arkwright Walk, Nottingham NG2 3BS.

- 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 appeal is made by Mr Gallivan on behalf of CK Hutchison Networks (UK) Ltd against the decision of Nottingham City Council.
 - The application Ref is 23/00492/PAT.
 - The development proposed is 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) (the Order), 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 the Order do not require regard to be had to the development plan. As such, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only as far as they are material considerations relevant to matters of siting and appearance.
4. The appellant has referred to a 20m pole within their statement of case. However, I have considered the proposal as described on the application form, and as shown on the submitted plans, as an 15m pole.
5. A revised National Planning Policy Framework came into force on 19 December 2023 with a further change published on 20 December 2023. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the changes, and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issue

6. The main parties do not dispute that the appeal scheme meets the requirements of Class A, Part 16, Schedule 2 of the Order such that it would constitute permitted development, subject to the condition that prior approval must be sought in relation to its siting and appearance.

7. Therefore, the main issues are:

- the effect of the siting and appearance of the proposed development upon the character and appearance of the area, including on the significance of the nearby Old Meadows Conservation Area, as a designated heritage asset;
- the effect of the siting of the proposed development on pedestrian safety; 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

Character and appearance

8. The appeal site is located on the block paved section of the footpath at the junction of Radcliffe Street, Arkwright Walk and Meadows Way. The houses on Radcliffe Way back onto the site with a tall brick wall and gardens between the houses and the site and first floor windows facing over the site. The footpath at this point is wide with a tree, lighting columns, a CCTV pole, waste bin and road signage also within the same area of pavement.
9. Meadows Way, adjacent to the site, widens to four lanes where it forms a junction with the A60 and Bathley Street. Other than the immediately adjacent residential development the area is mixed with commercial uses, community uses, car parking, the road network, and the canal.
10. Other than the appeal site the green and treed areas along Meadows Way provide a verdant character which softens the appearance of the road. The part of the footpath proposed for the siting of the appeal scheme is hard surfaced, wide, and open. As a result, the appeal site has an open character and appearance, with a back-drop of housing in a mixed-use area.
11. The appeal site lies outside but close to the Old Meadows Conservation Area (CA). The Nottingham City Council Old Meadows Conservation Area Character Appraisal and Management Plan, identifies two character areas in the CA; the leafy suburbia and public spaces, and the streets of terraced houses. As far as it is material to the appeal, I consider that the character of the CA as a whole is derived in part from the mix of terrace houses, large villas fronting the river and the areas of public green space, including the open recreational ground.
12. The setting of the CA extends beyond its defined boundary as there are views of the CA from the wider area. These views, where the housing and open spaces can be appreciated, contribute to the significance of the heritage asset.
13. The appeal site currently makes a neutral contribution to the character and appearance of the CA. However, the proposed pole would be visible from parts of the CA, over the houses at the end of Lamcote Street, and in longer views from adjacent to The Embankment public house. These views would be limited and restricted by existing buildings and vegetation. However, the proposal would be seen within the setting of the CA and would adversely affect the public appreciation of the character and appearance of the CA, by reason of being development within its setting.

14. The utilitarian appearance of the pole would be in contrast with the traditional appearance of the buildings within the CA. Although there are other utilitarian structures immediately around the site none of the other structures are to the same height as the proposed pole. The height of the proposal would result in a greater visual intrusion than the other existing utilitarian structures in the area.
15. Albeit that there are limited views of the proposal within the setting of the CA and other utilitarian structures in the immediate area, I find that the proposed development would have an adverse effect on, and lead to harm to, the significance of the CA, as a designated heritage asset, from development within its setting. The harm to the CA as a whole would be less than substantial. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
16. Existing tall street furniture consists of street lighting columns which are located on all of the surrounding roads, and the CCTV column. However, they are mostly of a slim design, coloured green, and consistent in height, similar in height to the trees. The lower-level street furniture including road signs and a waste bin are all aligned around the edge of the pavement and do not result in a cluttered street scene.
17. The proposal is for a 15-metre pole with associated ground-based apparatus which would be located on the footpath adjacent to the tree, set back from the edge of the pavement and the other street furniture. The proposed pole would be at a greater height than any of the existing street furniture in the area and whilst the pole has been designed to be the least intrusive, simplistic, and as narrow as possible, it would still be wider. I note that the Order does allow for a height of up to 25metres and the proposal is 15 metres, which is the lowest possible height for the needs of the proposal. However, the proposal would still extend above the existing street furniture.
18. Furthermore, the pole would extend above the height of the trees and buildings around the site. From most directions the view of the pole would be with the backdrop of the housing on Radcliffe Way. Although there is one tree adjacent to the proposed site, the pole would not be seen with a backdrop of trees. The siting and appearance of the proposed pole would stand out in the street scene as an incongruous and alien feature, not respecting the existing scale of the area. Although such poles are often found in urban locations, in my judgement, the proposal before me would not, contrary to the appellant's assertion, be of a design solution that is suitable for the proposed site and would not mitigate the harmful effect on the character of the area.
19. Moreover, the proposal would be visually prominent as viewed from the houses on Radcliffe Way. The pole would be visible from the first-floor habitable rooms above the brick boundary wall. Albeit that the wall and gardens would provide separation the occupants of the immediately adjacent properties would have a prominent view of the pole.
20. I, therefore, conclude that the siting and appearance of the proposed development would adversely affect the character and appearance of the area, including the significance of the nearby Old Meadows Conservation Area, a designated heritage asset. The proposal would, therefore, insofar as it is relevant, be contrary to Policies 10 and 11 of the Greater Nottingham, Broxtowe Borough, Gedling Borough, Nottingham City, Aligned Core Strategy, Part 1 Local Plan, adopted September 2014 (ACS) and Policies DE1, DE2, NE1

and IN1 of the Nottingham City Land and Planning Policies Development Plan Document, Local Plan Part 2, adopted January 2020 (LAPP). These policies, taken together, seek to ensure that new development creates an attractive environment, respects and enhances the streetscape, secures improvements to an area, conserves or enhances the historic environment and requires telecommunications development to not have a detrimental effect on the appearance and character of the area and be designed so as to minimise its visual impact.

21. For the same reasons, the proposal would also fail to comply with the requirements of the Framework, which seeks to ensure that new electronic communications poles are sympathetically designed and camouflaged, where appropriate.

Pedestrian Safety

22. The width of the footpath and position of other street furniture around the appeal site would provide sufficient space for the proposed pole and cabinets. From my observations, the proposal would be located on a pedestrian desire line between the signal-controlled crossing over Meadows Way and the pavement on Arkwright Walk. However, given the width of the pavement, pedestrians could walk around the proposal and there would still be space for safe pedestrian movement, including for those with visual impairments.
23. I, therefore, find that the siting of the proposed development would not adversely affect pedestrian safety and, in regard to this main issue, would comply with the pedestrian safety requirements of Policy 10 of the ACS and Policies DE1, DE2 and IN1 of the LAPP which, taken together, require new development to create a safe, inclusive, and healthy environment, and to ensure safe, convenient, and good accessibility.

Alternative Sites

24. I acknowledge that siting of the proposal is based on coverage and capacity to the surrounding area and, therefore, the siting of the proposal is required within areas where the service is used. In this regard, a street-based solution has been proposed, with Arkwright Walk being identified as the best location.
25. For the reasons given above I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area, including the Conservation Area. The other options that might be available are therefore an important consideration.
26. The appellant's alternative site assessment indicates that there are constraints associated with other new mast locations within the search area. The information refers to six discounted alternative options, numbered D1 to D6. Reasons are given as to why they have been discounted and these include narrow pavements, effect on visibility splays, and being located in residential areas. Site D2 was also discounted on being too close to existing street works site, which I saw at my visit relates to an existing monopole and cabinets.
27. I note the reasoning behind discounting the sites shown with the submission. Although I accept that the discounted sites would be more harmful than the appeal site it is not clear why the six sites were chosen as they are all close to residential properties and in areas of narrow pavement. The supporting information is also unclear why the proposal needs to be sited in a prominent

position on the footpath of Arkwright Walk, which, like many of the discounted sites, would also be close to residential properties.

28. Moreover, the appellant's evidence indicates that the search area has a radius of approximately one hundred metres and only six alternative sites have been considered. The map provided showing the search area covers an urban area with many other roadside locations available. Some of these alternatives are not on the edge of residential development. Furthermore, the appeal site is outside of the target search area shown and within an area indicated as already provided with sufficient coverage. For these reasons, other alternative sites may represent a more appropriate location for the siting of the proposal.
29. The appellant states that there are no mast/site sharing opportunities or existing buildings/structures. However, I have not been provided with details of the extent of buildings or other structures that have been considered and I noted a number of large buildings in the immediate area during my visit. There is little information before me on the use of existing buildings/structures as required by the Framework.
30. I am, therefore, not convinced that the search area has been properly explored. The evidence before me is not compelling and I cannot be sure that the appeal scheme is the most suitable in terms of its siting and appearance. I consider that limited information has been provided for the discounting of other sites, including the use of existing buildings/structures. There is little evidence before me to support the assertions that other options are unavailable, unsuitable, or more harmful.
31. In summary, the development proposed would cause harm to the character and appearance of the area and I am not satisfied that less harmful alternatives have been properly explored. For these reasons I find the siting and appearance of the proposed development to be unacceptable and the harm identified is not outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Other Matters

32. The appellant has referred to pre-application correspondence sent to the Council; however, I have not been provided with any evidence of the Council responding to this. In any event the pre-application correspondence would not alter my findings on the main issues.
33. I note the support in the Framework and by the Government for high quality communications, the overall improvements that enhanced 5G brings to an area and that access to advanced, high quality, reliable communication infrastructure is considered essential for economic growth and social well-being. There can also be environmental, healthcare and education benefits including facilitating access to services and improving connectivity speed.
34. I acknowledge the changes to working patterns since the Covid-19 pandemic, with particular regard to working from home and the reliance on the communication network. I also note that policies and decisions should support the expansion of the communications network and that the support was reiterated in the Department for Digital, Cultural, Media and Sport letter provided within the appellant's evidence.

35. However, I must balance this against the requirement for equipment to be sympathetically designed and camouflaged where appropriate, as well as the overarching imperative in the Framework for development to achieve well-designed places for the long term. In this case, the harm I have identified is not outweighed by the general support for enhanced and improved telecommunications infrastructure.

Conclusion

36. For the reasons given above, I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR