



Appeal Decision

Site visit made on 28 May 2024

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/V2635/W/23/3327450

St Nicholas Close street works, St Nicholas Close, Kings Lynn PE30 1QW 8NJ

- 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 Cooke and CK Hutchison Networks (UK) Ltd against the decision of Kings Lynn & West Norfolk Borough Council.
 - The application reference is Ref 23/00292/T3.
 - 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 GPDO), 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. As the proposal is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Whilst the proposal lies close to listed buildings, the proposal relates to an application for prior approval, rather than planning permission, and so the provisions of section 66(1) of the Act does not apply.

Planning Policy

4. The principle of development is established by the GPDO, and the provisions of Schedule 2, Part 16, Class A do not require regard to be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance. The Framework includes a section on supporting high quality communications.

Main Issues

5. The main issues in this appeal are the effect of the siting and appearance of the proposed installation on the significance of: 1) the St Nicholas Conservation

Area; 2) The Chapel of St Nicholas, a Grade I listed building; and 3) True's Yard and Smokehouse, which are both Grade II listed buildings.

Reasons

The St Nicholas Conservation Area

6. The appeal site (the site) lies within an area of footway which forms part of the public highway of North Street. Notwithstanding the inclusion within the area of some modern development the CA has a rich architectural and historic legacy, containing many listed buildings. North Street forms the interface between the historic core of Kings Lynn and the modern development.
7. The significance of the CA derives evidential and historic value from its narrative as a port town. This is reflected in many street names in the vicinity, and from the architectural, aesthetic and historical value of its buildings. Given the above, I find that the significance of the CA, insofar as it relates to this appeal, to be the heritage value associated with the authenticity of the architecture and its narrative of the maritime fishing and trading community.
8. The proposed 15 metre monopole and associated cabinets would be located between a street light and the access to St Nicholas Close, in front of a low brick wall and close to a tree of moderate size. However, there would be negligible screening for the proposal as the cabinets would be visible below the canopy of the tree and the monopole would project well above it. Consequently, the monopole and cabinets would be highly visible in the street scene.
9. Whilst there are streetlights in close proximity, they are of a much slimmer design, and significantly shorter than the proposed mast. The structure would be higher than any of the surrounding buildings and trees to the south and would be much bulkier than any of the existing street furniture in the locality.
10. The equipment would, therefore, be a highly visible, prominent, and incongruous feature that would be out of proportion with the surrounding scale of the buildings and street furniture. Its harmful visual impact would be readily perceived by nearby residents and people passing along the street.
11. In arriving at this conclusion, I have considered the appellant's choice of colour, and I consider that the colour of the mast could be controlled by condition. However, whilst some colours may reduce the prominence of the proposed development to a limited degree, they would not successfully conceal its height, bulk, and incongruous presence in these suburban surroundings, or dominance in views of the listed buildings.

The Chapel of St Nicholas

12. The Chapel of St Nicholas (the Chapel) was founded in 1146 as a chapel of ease to the Church of St Margaret, it was rebuilt around 1200, with a west tower added around 1220. Subsequently, it was all rebuilt, except for the tower, between 1371 and 1419. A steeple was added in 1500 and rebuilt in 1869 by Sir George Gilbert Scott.
13. It is unusually large for a chapel of ease, reflecting the wealth of the town's merchant community from the end of the 14th century onwards, and the prosperity of King's Lynn as a national port in the medieval period. It has a

close historical link to the fishing community of North End, stemming from the late 19th century.

14. Whilst the religious use of the church has dwindled it still provides a community focus. Notwithstanding 20th century development the prominence of the spire in the townscape still provides a way marker in the area. I find that the prominence of the spire contributes to its special interest because it provides a visual focus for the community it served and serves, both in terms of waymarking and socially. Given the above, I find that the setting of the building, insofar as it relates to this appeal and its special interest, to be primarily associated with the prominence of the spire as a focal point in the townscape. This directly contributes to its special interest for the reasons given.
15. The monopole would appear in the foreground of existing views of the spire of the Chapel from the street. Given its height and bulk it would predominate over the spire as a landmark, undermining the Chapel's current dominance of the skyline in these views. In doing so it would harm the Chapel's importance as a visual focal point and wayfaring landmark that I have identified above as contributing to its significance.
16. In longer views the lower part of the monopole and cabinets would be largely screened from view by existing development. Consequently, its harmful impact would mainly be confined to its immediate vicinity and views encompassing the spire.

True's Yard and Smokehouse

17. True's Yard and the Smokehouse are rare surviving buildings from the fishing community of North End. True's Yard is a pair of former fisherman's cottages dating from the 18th century, re-fenestrated in the 19th century. The cottages of modest scale and design are built using vernacular materials and largely intact. True's Yard is the only surviving relic of the traditional fishermen's dwellings following slum clearances of the 1930s. As such it is a rare survival testifying to the harshness of the lives of workers in the fishing industry. The Smokehouse dates from the mid-19th century and is a significant survival of a rare building type and relates specifically to the local fishing industry of the port.
18. Whilst the wider area, outside of the CA has been largely subject to 20th century redevelopment, and this is evidenced in the modern buildings across North Street, True's Yard and the Smokehouse, together with the buildings around the junction of North Street with St Anne's Street and St Anne's Fort form a group of pleasing appearance with a common patina of age and reflect the maritime trading and fishing history of the port. Given the above, I find that the setting of the Grade II listed buildings, True's Yard and The Smokehouse, insofar as it relates to this appeal and their special interest, to be primarily associated with its contribution to their visual appearance as relics of the maritime history of the port. This directly contributes to their special interest for the reasons given.
19. The monopole would dominate views of True's Yard from the West, appearing as an overtly modern, industrial addition and undermining the modest, vernacular appearance of the heritage asset. In so doing, the important features that I have identified above as making a positive contribution to the interest of the building would be undermined and thereby harmed.

20. As the Smokehouse is set further back off the street and screened by intervening development the monopole would not appear in views encompassing it.

Findings in regard to heritage assets

21. In conclusion, whilst the appeal scheme would preserve the special interest of the Smokehouse it would fail to do so for True's Yard and the Chapel of St Nicholas.
22. I have identified above that the monopole would dominate in views of the spire of the chapel and that this would undermine the importance of the spire as a focus in the local community and as a wayfaring landmark. Given that these matters are directly associated with the development of the settlement and its trading and fishing history, this would harm the character of the CA.
23. I have also found that the dominance of the proposal in views of True's Yard undermines its significance. True's Yard is part of a prominent group of buildings within the street scene, of obvious age and pleasing appearance. Thus, this would harm the appearance of the CA as a whole.
24. Given the above, I find that the proposal would fail to preserve the special interest of the listed buildings and the significance of the CA as a whole. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.

Heritage Balance

25. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification.
26. Given that the proposal does not physically alter the fabric of the Heritage Assets, but only affects how they are experienced, I find the harm to be less than substantial in this instance. Where a proposal would lead to less than substantial harm to the significance of designated heritage assets, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
27. The appellant is of the opinion that the proposal would be beneficial because it would provide network coverage in the local area, and it has been demonstrated that there is a need to fill this gap. Such coverage would provide connectivity to the network for not only residential users, but also businesses and the emergency services. This aligns with the aims of paragraph 118 of the Framework and is a public benefit providing support to the proposal. Support is also gained from the King's Lynn and West Norfolk Borough Council Core Strategy (2011), recognising the importance of communications networks in supporting development.
28. The evidence before me indicates that the sequential approach to site selection set out in paragraph 121 of the Framework has been followed, and that there

are no opportunities for erecting antennas on existing buildings, masts, or other structures.

29. It is contended that, within a constrained search area, the appeal site presents the only viable solution, bearing in mind technical requirements. The appellant's evidence highlights six alternative sites within the target coverage area that have been considered, but the reasons given for discounting them are brief. The sites, referred to as D1, D2, D3, D4, D5 and D6 were identified as having insufficient or unsuitable pavements or grass verge. However, I have no information before me as to what it was about these pavements or verges that was unsuitable or what the minimum width of footway would be to accommodate the apparatus. In most cases the footway appeared to be of a similar width to that of the proposal site, although, in the case of D6, it appeared slightly narrower.
30. Sites D1, D2, D4 and D5 were discounted due to additional visibility splay issues. No information has been provided in regard to visibility splay requirements or how visibility splays are affected at each site.
31. In addition, D3 was discounted due to its proximity to dwellings, which was an issue for D6 as well. All of the sites occupy prominent positions, although, with the exception of sites D2 and D5, none appear to affect views of the spire and True's Yard in the way that the site does. Furthermore, apart from D1 and D2 none appear, from the information before me, to be within a conservation area.
32. The Council has identified a further potential site, on North Street, but on the opposite side of the street. This would be viewed in context of the modern development to the north and would be screened from inclusion in views encompassing the spire by existing development. The footway on this frontage appears to be of a similar width to that of the proposal site and, whilst the frontage has vehicular accesses, these seem well set back from the carriageway edge.
33. I therefore find that the evidence provided is not sufficient in detail for me to reasonably conclude that there are no more suitable sites for the installation, or that these would have a similar, or greater, impact upon the heritage assets. In consequence I reduce the weight that I place on the public benefit of providing coverage as it could be provided without the harm to heritage assets that I have identified above. Thus, I do not find that the public benefits are sufficient to outweigh the harm that I have identified in this instance.
34. Given that the public benefits of the proposal would not outweigh the harm that would be caused the appeal scheme would fail to satisfy the requirements of the Act, and paragraph 206 of the Framework. Similarly, the proposal would be contrary to paragraph 135(a), (b) and (c) of the Framework, in as much as these seek to ensure that development will add to the overall quality of the area, is visually attractive and is sympathetic to local character and history, including the surrounding built environment and landscape setting.

Conclusion

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

I A Dyer

INSPECTOR