



Appeal Decision

Site visit made on 11 February 2023

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/C3105/W/22/3290284

Station Road, Kirtlington, Cherwell OX5 3EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Cherwell District Council.
 - The application Ref 21/03452/TEL56, dated 3 October 2021, was refused by notice dated 3 December 2021. The development proposed is for a 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has drawn my attention to an omission in the Council's officer report relating to the Mid-Cherwell Neighbourhood Plan (MCNP) which forms part of the Development Plan for the area. The appellant has been afforded the opportunity to comment and consequently, no party has been prejudiced by this omission. The relevant section relating to telecommunications is contained within the Community Action Plan of the MCNP; however, the Plan also makes it clear that Action Plan priorities do not have the status of development plan policies.
3. The Council's decision notice relates to concerns about the mast only. On this basis, I have concluded that it has no objection to the proposed cabinets and I have no reason to disagree. The same is true of the effects of the proposed development on highway safety. I have therefore focussed my attention on the visual effects of the proposed mast on the character and appearance of the Kirtlington Conservation Area (the KCA).
4. Reference is made in the officer's report to the impact of the proposed development upon the setting of the village church, a Grade II* listed building. However, the Council made no further reference to this in either its decision notice or in the Statement of Case to this appeal. I deal with this matter later in my decision.

Main Issue

5. The main issue in this appeal is whether the proposed development would preserve or enhance the character or appearance of the KCA.

Reasons

6. The proposal would see the erection of a single 15m high mast with wrap around cabinet at ground level and various antennas towards the top of the pole together with three free-standing cabinets which would be accommodated within a triangular parcel of land at the junction of Station Road and Bletchington Road within the village of Kirtlington and designated KCA.
7. The proposed equipment would be set back in this grassland wedge some 5m from a low dry-stone wall that frames this parcel of land. There is a small number of street furniture at this location, including a single 7m high BT pole and service cabinet and two street signs. Immediately behind the low dry-stone wall is a large evergreen tree some 20m in height together with smaller deciduous trees. Also behind this wall and to the west, is a traditional farmstead comprising some stone buildings with generally flat enclosed countryside beyond forming part of the 18th century Kirklington Park.
8. The significance of the KCA is derived from the historic mainly linear form of the village, its vernacular buildings many dating from the 18th century and the association with Kirklington Park and the appearance of being enclosed by farmland. The immediate surroundings of the appeal site provide a verdant agrarian character at the edges to the conservation area. The significance of the KCA is therefore expressed not only through the evolution of the village but also through the linkages and relationship with the adjacent countryside and park. The area of KCA of the site contributes strongly to this latter element of significance, with a gently rural character and an attractive openness interspersed with vernacular buildings.
9. The Framework states that where new sites serving the telecommunication industry are required, equipment should be sympathetically designed and camouflaged where appropriate. Whilst some effort has been made to design the proposed mast as a standard, uncluttered monopole, it would nevertheless exceed the height of the existing BT pole by a significant margin. The width of the proposed mast would stand out as an incongruous and dominant feature within the surrounding streetscape and would harmfully detract from the character and appearance of the area.
10. As the site lies within the KCA, I have a duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) to ensure that new developments either preserves or enhances the character or appearance of the designated KCA. I find that the proposed mast would be over dominant and incongruous at this edge of village location. It would undermine the significance of the KCA that I have identified and in turn would neither preserve nor enhance the character and appearance of this heritage asset.
11. Whilst the harm identified to the character and appearance of the KCA may be considered less than substantial in the context of paragraph 202 of the Framework, this test requires that such harm be considered against any public benefit the development might offer. The provision of facilities to provide up-to-date telecommunications may in the broadest sense be deemed to be a public benefit. However, paragraph 199 of the Framework, states that great weight should be afforded to the conservation of heritage assets, which must also by definition, include their setting. The more important the asset, the greater the weight should be.

12. Consequently, any limited public benefits would be significantly and demonstrably outweighed by the harm caused to the character and appearance of the KCA. The proposal would therefore fail to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 (CLP 1996) and Government guidance set out in the National Planning Policy Framework. Amongst other things, these policies require new developments to be sympathetic to the character of site context.

Need

13. The Framework contains a clear expression that advanced, high quality communications infrastructure is essential for sustainable economic growth, and, in this respect, there is encouragement to local planning authorities to support the expansion of electronic communications networks, including telecommunications. The proposal must would facilitate improved coverage and provide a reliable 5G service in the current network gap.
14. The Council does not dispute the need to improve network coverage in the area, nor is there any contention of the substantial benefits to mobile connectivity and the network. I see no reason to take a different stance.
15. The Framework recommends at paragraph 117 that existing masts, buildings and other structures should be used, unless the need for a new site has been justified. The appellant has set out a number of alternative sites that were considered as part of the site selection process, and the reasons why they were not pursued.
16. From my perspective, I have no reason to dispute the appellant's identified search for alternative sites and the reasons for not putting them forward. Neither have I any evidence that there may remain a possibility that the use of alternative, less harmful locations may merit further consideration by the appellant. This runs contrary to the Framework, which requires evidence that the possibility of erecting antennas on existing buildings, masts or other structures has been explored.

Other Matters

17. The Council initially expressed some concerns relating to the impact that the monopole would have on the setting of the village church and tower, a Grade II listed building. It did not pursue this potential objection when it reached its decision, and the Council's Statement of Case remained silent on the issue. In exercising my duties under section 66 (1) of the LBCA Act, the church is some 200m away interspersed by buildings and trees. I would concur with the appellant that there would be no harm caused to the setting of this listed building.

Conclusion

18. There would be economic and social benefits associated with the upgrading of telecommunication systems in this area. These aspects weigh favourably but to an extent. I am satisfied that the proposed development would cause harm to the KCA by failing to preserve or enhance its character and appearance and this assessment must be matters of considerable importance and weight. The development would also be contrary to the Development Plan and Framework.

19. For the above reasons, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR