



Appeal Decision

Site visit made on 14 November 2023

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2023

Appeal Ref: APP/B1605/W/23/3322827

**Coronation Square Street Works, Coronation Square, Cheltenham
GL51 7RS**

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Gallivan (CK Hutchison Networks Limited) against the decision of Cheltenham Borough Council.
 - The application Ref 22/01937/PRIOR, dated 28 October 2022, was refused by notice dated 12 December 2022.
 - The development proposed is proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), and subject to any relevant exception, limitation or condition specified therein, development by, or on behalf of, an electronic communications code operator for the purpose of the operator's electronic communications network, is permitted development. Therefore, matters such as the need for, or benefits of, the development, are not at issue in this appeal.
3. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) and (7) 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.
4. The Council has referred to development plan policies in its decision notice. However, 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. Therefore, I have had regard to the policies of the development plan, and the Framework only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account the potential availability of alternative sites.

Reasons

Character and appearance

6. The appeal site comprises an area of grass verge on the eastern side of Princess Elizabeth Way which forms part of Coronation Square. The verge contains limited items of street furniture. The surrounding area is predominantly residential and is characterised by 2 and 3 storey properties. To the south of the site is a 3-storey parade of shops. Coronation Square and Princess Elizabeth Way are lined by grass verges and trees.
7. The proposed telecommunications installation would be sited on the grass verge. The cabinets are not unusual features or excessive in scale and the proposed mast would appear to be the minimum height and width for operational reasons. However, at 20m in height, it would be significantly higher and wider than streetlights, bus stops and road signs in the surrounding area. Appearing higher it would stand starkly in contrast to surrounding vertical features and neighbouring buildings. Given their height relative to the proposed mast, nearby trees would not provide any meaningful screening.
8. Whilst the proposed colour would not be overly obtrusive, and there would be no harm to protected trees or any areas with a statutory designation for a particular protection such as for heritage purposes, nonetheless it would be readily visible from various points along Princess Elizabeth Way and Coronation Square, where it would appear excessive in scale and would fail to visually integrate with its surroundings.
9. For the above reasons, the proposed siting and appearance of the installation would result in harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would conflict with Policy D1 of the Cheltenham Plan (2020) (LP) and Policy SD4 of the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy 2011-2031 (2017) (JCS). Together, and amongst other things, these policies seek to ensure that development responds positively to the character of the site and its surroundings. For similar reasons, insofar as it is a material consideration, the proposal would be contrary to Chapter 12 of the Framework which seeks to secure high quality design.

Need and Alternatives

10. I have found that the proposed siting and appearance of the mast would result in harm to the character and appearance of the area. It is therefore necessary to consider whether other options for siting the equipment may be available which might have a lesser visual impact. Paragraph 117 of the Framework requires that information is provided to justify the proposed development. In relation to a new mast, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. When noting the visual sensitivities that would apply to a mast within a residential area, it is reasonable to require clear and comprehensive supporting evidence.

11. The supporting information submitted with the application indicates that the search area for a new mast is tightly constrained and that none of the 'sequentially preferable' options set out in the Framework are available. The appellant provided details of 5 alternative sites which were considered and discounted. There is little information to explain if and why only these 5 options have been considered.
12. The residential nature of the area, narrow pavement width and 'visibility concerns' are cited as reasons for discounting these options. I concur with the appellant's assessment that the identified sites at D1 Marsland Road, D2 Laxton Road and D3 Cassin Drive would appear to be unsuitable due to the narrow width of the pavements in these locations. However, the appellant's justifications for discounting sites D4 Marsland Road and D5 Shakespeare Road are brief, and there is no particular information before me which sets out what the cited 'visibility concerns' are or analysis of why the 'proximity to residential housing' at these sites would be more harmful than that of the appeal site, in particular given the similarities between the appeal site and the discounted sites in terms of their proximity to residential properties.
13. On this basis, I do not find the appellant's submission to be sufficiently robust in discounting alternative sites and I cannot be satisfied that the location chosen is the least harmful in terms of its visual effects. Therefore, insofar as it is relevant, I also find conflict with Paragraph 117 of the Framework as set out above.

Other Matters

14. The appellant comments that the proposal followed pre-application consultation with the Council and notification of ward members. However, this does not otherwise persuade me from my findings in relation to the main issues.
15. I note that a certificate confirming that the proposed equipment complies with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) has been submitted with the application. This represents a lack of harm, which is a neutral matter.

Planning balance and conclusion

16. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance. In this instance, on the evidence before me, the harm to the character and appearance of the area is determinative.
17. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

N Robinson

INSPECTOR