



## Appeal Decision

Site Visit made on 16 December 2020

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 January 2021**

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**Appeal Ref: APP/C1055/W/20/3260379**

**Ford Street, Cathedral Quarter, Derby DE1 1BX**

- 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 Hutchinson 3G UK Ltd against the decision of Derby City Council.
  - The application Ref 20/00493/PNRT, dated 23 April 2020, was refused by notice dated 30 June 2020.
  - The development proposed is described as 'Telecommunications installation: Proposed Phase 8 monopole C/W wraparound Cabinet at base and associated ancillary works'.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), 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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

### Main Issue

4. In light of the above, the main issue is the effect of the siting and appearance of the development upon the character and appearance of the Friar Gate Conservation Area (CA) and the setting of nearby listed buildings.

### Reasons

5. The appeal site relates to a section of the public footpath on Ford Street, a busy vehicular and pedestrian route through the City centre. The proposal is to erect

a telecommunications pole with antennae at the top totalling 20 metres in height. A wraparound cabinet would be provided at the base of the pole as well as three further associated cabinets.

6. The site is situated within the Friar Gate Conservation Area (CA), the significance of which largely derives from the generally linear form, broadly comparable heights and the prevalence of high-quality traditional architecture exhibited by the buildings on Friar Gate. The development would be located close to the junction of Ford Street with Friar Gate. Buildings at the junction include the Grade II listed building at No 23 Friar Gate, the side elevation of which is situated next to the site. There are several further listed buildings on Friar Gate in close proximity to the site, ranging between Grade II and II\* listings as well as the Grade II Listed No 47 Ford Street which sits opposite the site. These buildings are reflective of the distinct traditional character and appearance of the CA and form an integral part of its significance.
7. Whilst outside the Friar Gate CA, the upper part of the 'fine, tall, late perpendicular stone west tower'<sup>1</sup> of the Grade I listed Cathedral Church of All Saints is also visible in views towards the site from the west. This view forms part of the historic backdrop to the CA and adds to its significance.
8. There is existing street apparatus next to the appeal site including street lights, a CCTV pole, traffic lights and associated cabinet and street signage. There is also some soft landscaping to the side of No 23 Friar Gate including tree planting. The existing street apparatus does not positively contribute to the CA. Even so, its quantum and the relative consistency in terms of design and maximum heights, means it is relatively understated in terms of its presence within the CA and the relationship with nearby listed buildings. For the same reasons, it does not visually compete with more distant views of the wider historic built environment.
9. In contrast, the utilitarian appearance of the telecommunications pole coupled with its significant height would appear as an alien and incongruous structure within the CA. It would have a dominating presence in views towards the much lower and traditional built form of the listed building at No 23 Friar Gate. This would be particularly evident for those approaching the site from the section of Friar Gate that is situated to the west of the site and also when looking towards the front elevation of No 23 from Stafford Street to the south. In the latter view the overbearing impact of the pole would also be seen in close context with the remaining Grade II listed buildings in the same parade of buildings at Nos 16 to 22 Friar Gate. Consequently, the siting and appearance of the proposals would detract from the setting of these heritage assets particularly in terms of how they would be experienced by passers-by at these specific points within the public realm.
10. The appellant suggests the proposals would be seen in context with the nearby car parking facility, offices, and a University building. Whilst this might be so in some views, this does not overcome or justify the specific harm that I have identified to the significance of heritage assets. The appellant also contends that the equipment cabinets are permitted development. Even so, they are inextricably linked to the telecommunications pole. In combination with the

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<sup>1</sup> Cathedral Church of All Saints (Grade I) listing

variety of existing street furniture, the pole and ancillary apparatus would result in an overly cluttered streetscene at this prominent junction which would add to the harm identified. I am not persuaded that a condition to control the colour of the development would be sufficient to assimilate the development into its surroundings or to mitigate the harm identified.

11. The intervening buildings and distance between the site and the Cathedral Church of All Saints means the development would be unlikely to be harmful to the setting of the Grade I listed Cathedral Church of All Saints. However, the telecommunications pole would detract from the views of the tower of this church within the vista from the opposite side of Ford Street which has historically made a positive contribution to the character and appearance of the area in terms of a wider appreciation of the historic environment.
12. I have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the setting of Listed Buildings. The National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets and that any harm to an asset should require clear and convincing justification.
13. In the context of paragraph 196 of the Framework, the development proposal would lead to less than substantial harm to the significance of the CA and the setting of listed buildings. Whilst the provision of the telecommunication apparatus would seek to improve mobile phone 5G coverage in the area, with clear associated economic and social benefits, these benefits would not outweigh the less than substantial harm that would be caused to the setting of the CA or the listed buildings identified having regard to the great weight that I must attach to their conservation. Furthermore, such benefits would not outweigh the significant harm that would be caused by the proposal to the character and appearance of the area.
14. I conclude that the development would not be acceptable in terms of its siting and appearance. Whilst the proposal would deliver economic and social benefits, in accordance with paragraph 112 of the Framework, this would not outweigh the harm that would be caused to the character and appearance of the area or to the setting of the CA and the Grade II listed buildings at Nos 16 - 23 Friar Gate. From a siting and appearance perspective, the development would conflict with the design, visual amenity and conservation requirements of policies CP3 (Placemaking Principles), CP4 (Character and Context) and CP20 (Historic Environment) of the Derby City Local Plan - Part 1: Core Strategy (2017), saved policies E18 (Conservation Areas), E19 (Listed Buildings and Buildings of Local Importance) and GD5 (Amenity) of the City of Derby Local Plan Review (2006) and the Framework.

## **Other Matters**

15. The Site Specific Supplementary Information (SSSI) states the appeal site is the only viable option for 5G coverage in the Ford Street area. However, I do not consider the SSSI provided is particularly robust. It does not provide a list of sites considered nor information as to why any alternative sites were discounted. Furthermore, the maps included in the SSSI do not include a key to

assist interpretation including the extent of the area requiring coverage nor the relative coverage of the appeal proposal compared with any alternative locations. Therefore, I cannot be certain that the appeal proposal is the only viable solution nor that there are no alternative locations that would be less harmful to the settings of heritage assets.

### **Conclusion**

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

*M Russell*

INSPECTOR