



## Appeal Decision

Site Visit made on 4 August 2021

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

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

**Decision date: 11 August 2021**

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**Appeal Ref: APP/P4605/W/21/3273960**

**Land On The North Side Of Holyhead Road (Outside Sandwell Court),  
Handsworth, Birmingham B21 0HH**

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
  - The appeal is made by Hutchison 3G UK Ltd against the decision of Birmingham City Council.
  - The application Ref 2021/00921/PA, dated 3 February 2021, was refused by notice dated 19 March 2021.
  - The development proposed is the installation of a 15 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 4 no. equipment cabinets and development works ancillary thereto.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Within certain limits, Class A of Part 16 of Schedule 2 of the GPDO grants permission for the development of telecommunications equipment subject to a prior approval procedure. The GPDO states that the relevant issues when assessing applications of this type are the siting and appearance of the proposed development. There is no requirement to determine such applications in accordance with the development plan or the National Planning Policy Framework (the Framework). I have had regard to these documents only in so far as they are relevant to matters of siting and appearance.
3. The Framework was revised in July 2021, after the appeal was lodged. As part of the appeal process, I have invited comments from the main parties on the revised Framework and I have taken into account the responses received.

### Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

### Reasons

5. In the vicinity of the site, Holyhead Road includes a mix of residential, community and commercial properties that tend to be 2 or 3 storeys high and close to the pavement. The exception is Sandwell Court which is set back from the road behind a grassed area including trees.

6. The proposed monopole would be near to the kerb and carriageway and so it would be obvious to people travelling along Holyhead Road. Moreover, the highway is straight and the column would be tall and so it would be visible for a significant distance in both directions along the street. Due to the open area in front of Sandwell Court, it would also be seen from part of Sandwell Road.
7. In some views, the lower part of the monopole would be seen against a back drop of trees and buildings. However, in such views the upper element including the antennas would protrude above the skyline. Given its exposed position and height, the column would be prominent within the street scene.
8. The monopole would not be the only vertical structure in the street as lamp posts lie on both sides of Holyhead Road. Also, the area has a distinct urban character where traffic lights, bollards, adverts and other street furniture are common. However, there is no other telecommunications monopole or similar equipment near to the site. The proposed column would be markedly taller than the existing lamp posts and would be noticeably different in appearance with antennas and dishes at the top. I acknowledge that its design is influenced by technological requirements but nevertheless by reason of its height and appearance, the monopole would be an unusual feature in the area. A finish in grey or to match the lamp posts would not fully address this incongruity.
9. The proposed cabinets would be low key and similar in appearance to other features on the road. As such, they would be in keeping with the area. However, acceptability in these regards does not address or override the prominence and incompatibility of the monopole.
10. For these reasons, I conclude the siting and appearance of the proposal would harm the character and appearance of the area. In these regards, and as far as it is determinative on the matter, it would be contrary to policy PG3 of the Birmingham Development Plan 2017 and policy 8.55 of the Birmingham Unitary Development Plan 2005 (UDP). Amongst other things, these look to ensure new development responds to local context and to minimise the visual impact of telecommunications equipment.

### **Other Matters and Conclusion**

11. The monopole would be seen in the same views as the New Inns Public House, a grade II listed building. However, due to the separation distance, the column would not significantly affect how the pub is generally seen. As such, the proposal would not harm the setting or significance of the listed building.
12. UDP policy 8.55 identifies sensitive locations where telecommunications equipment will only be acceptable if there is no other suitable site. These include locations within or adjacent to education facilities. The proposal would be within sight of a day nursery on Holyhead Road, although it would be further along the street rather than directly outside. Given this separation and the intervening trees to the front of Sandwell Court, the development would not be adjacent to the nursery. Also, it would not be next to the school on Sandwell Road as Sandwell Court would lie in between.
13. The Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 (SPD) identifies predominantly residential areas as sensitive locations. However, the properties surrounding the site are in a mix of uses and are not mainly residential. Also, the SPD

advises against equipment being installed in high quality open spaces. Even if the grassed area in front of Sandwell Court fell under this description, the development would be on the pavement and not on the open space. As such, the proposal would not be in a sensitive location as defined under the UDP policy 8.55 or SPD. However, acceptability in this regard does not address the identified harm to the character and appearance of the area.

14. The Framework states that for a new mast, evidence should be provided that shows the possibility of erecting antennas on an existing building, mast or structure has been explored. The appellant's submissions refer to other sites that have been considered but discounted for various reasons.
15. One of the identified alternatives is the flat roof of Sandwell Court. This has been ruled out by the appellant as any development would be visually intrusive. However, no plans have been provided to demonstrate that equipment on Sandwell Court would be more prominent or visually harmful than the appeal scheme. Also, there is no evidence the roof would be unsuitable to accommodate telecommunications equipment or that it is unavailable to the appellant. As such, I consider that the possibility of erecting antennas on Sandwell Court has not been properly explored. Therefore, I am unconvinced the appeal scheme would be the only viable solution to ensure an appropriate service for the area.
16. The appellant refers me to appeal decisions where Inspectors have stated that there is no requirement for telecommunications equipment to be located on the best feasible site. However, these decisions are different to the current appeal as the Inspectors identified no harm would be caused to the character and appearance of the area. Furthermore, other appeals are referred to where telecommunications equipment has been allowed, despite harm being identified. These decisions relate to sites elsewhere and to proposals which have particular and different effects to those identified in respect of this scheme. As such, I am not bound to follow these decisions in my assessment of the current proposal.
17. Nonetheless, there is no dispute the development would provide enhanced signal coverage in an area where there is an identified deficiency. Also, the Framework indicates that planning decisions should support the expansion of electronic communications networks. I give positive weight to the benefits of the scheme in terms of the improved service to all of its users.
18. However, the harm caused in respect of the main issue is significant. The benefits of the scheme and other considerations do not outweigh the identified harm. As such, I conclude that the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR