



Appeal Decision

Site visit made on 21 September 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/P4605/W/21/3275854

Outside McDonald's car park, Belchers Lane, Bordesley Green, Birmingham B9 5RT

- 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) (GPDO).
 - The appeal is made by Hutchison 3G (UK) Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/10228/PA, dated 21 December 2020, was refused by notice dated 1 April 2021.
 - The development proposed is the installation of an 18 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 allowed, and approval is granted under the provisions of the GPDO, for the proposed development to install an 18 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 4 no. equipment cabinets and development works ancillary thereto at Outside McDonald's car park, Belchers Lane, Bordesley Green, Birmingham B9 5RT in accordance with the terms of the application, Ref 2020/10228/PA dated 21 December 2020, subject to the standard conditions set out in the GPDO and the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 002 Site Location Plan; BHM 2059_PLANNING_REV_B Issue: B; 215 Proposed Site Plan; BHM12059_PLANNING_REV_B Issue: B; 265 Proposed Site Elevation, BHM12059_PLANNING_REV_B Issue: B.
 - 2) The external surfaces of the monopole shall be grey in colour and appearance, and the equipment cabinets shall be green in colour and appearance.

Procedural Matters

2. For clarity and precision, I have inserted 'Outside McDonald's car park' into the address in the banner heading above, as it is listed on the appeal form. I have also taken the description of development from the appeal form as a description is not listed on the application form.
3. The provisions of the GPDO, requires 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 relevant provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to the policies of the development plan and related supplementary guidance only in so far as they are a material consideration relevant to matters of siting and appearance.
5. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes, but no comments have been submitted.
6. Whilst not cited on the Council's decision notice, both parties have referred to Policy TP46 of the Birmingham Development Plan 2017 (BDP) in their submissions. Therefore, I will not prejudice either party by taking BDP Policy TP46 and the Framework into account in reaching my decision.

Main Issues

7. The main issues of this appeal are:
 - i. the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
 - ii. the effect of the proposed development on the living conditions of occupiers of neighbouring properties with particular regard to outlook and dominance.

Reasons

Character and appearance

8. The area surrounding the appeal site is characterised by a mix of commercial and residential properties, predominantly two storeys in scale. The surrounding area is a typical urban area with common street furniture paraphernalia including street lighting, road signs, litter bins, a bus stop and an illuminated zebra crossing.
9. The proposal would be taller than the majority of structures and buildings in the area. However, telecommunication structures are common features in built up areas and the proposal, whilst being visible, would not necessarily be highly noticeable as it would blend in with similar structures such as street lighting and be sited in proximity to mature trees adjacent to the highway, which would provide some screening. A 'picket' style timber fence would also be sited behind the proposed development, which would provide some mitigation for the proposed cabinets.
10. The proposal would mainly have a vertical emphasis, which would be in keeping with similar structures in the near locality. Although, the proposed development would be visible, due to its siting, height and bulk, it would not appear as an intrusive feature that adversely compromises the street scene and surrounding buildings.
11. Therefore, the proposed development would not have a significant harmful effect on the character and appearance of the surrounding area. Thus, whilst

not determinative, the proposed development would accord with the design, character and appearance aims of 'saved' paragraph 8.55 of the Birmingham Unitary Development Plan 2005 (UDP), BDP Policy PG3, the Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 (the SPD) and the requirements of the Framework.

Living conditions

12. The proposed development would be situated close to residential properties located off the nearby roundabout, particularly the 4no. houses located off Belchers Lane / Bordesley Green East (the nearest properties). The width of the proposal would not be excessively bulky and whilst the proposed development would be tall in height, the relatively slimline design would ensure that any overbearing effects would not adversely compromise the living conditions of local residents in neighbouring properties.
13. Due to the siting, height and bulk of the proposed development, it would not have a significant overbearing effect on the living conditions of neighbouring occupiers. This is mainly through the notable distance of the site from the nearby dwellings, particularly those located around the roundabout, including the nearest properties, which would also not directly face the proposed development.
14. Accordingly, the proposal would not have a significant harmful effect on the living conditions of the occupiers of neighbouring properties with regards to dominance and outlook. Thus, whilst not determinative, the proposed development would accord with the amenity aims of 'saved' UDP paragraph 8.55; BDP Policies PG3, TP46; the SPD and the requirements of the Framework.

Other Matters

15. The installation would provide 5G coverage for the surrounding area, which would be of significant benefit to its users. The proposed development would contribute to delivery of advanced, high quality and reliable communications infrastructure, which is recognised as being essential for economic growth and well-being in paragraph 114 of the Framework.
16. I acknowledge that the height of the proposed development must be sufficient to enable local provision and clear surrounding buildings and the installation with 5G also needs to be at the height detailed to clear ICNIRP¹ guidelines and thus there is no scope to lower the height of the array.
17. Paragraph 117 c) of the Framework requires for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure is applicable. I acknowledge the list of sites explored in the appellant's submission, which clearly and convincingly, demonstrate that there are no alternative sites available. Thus, in this instance, I am satisfied that undertaking the proposed development at this site is the only way to achieve the identified economic and social benefits in compliance with the digital communication aims of BDP Policy TP46.
18. I have had regard to concerns raised from local residents and a Ward Councillor on the planning application, which include matters on health issues, location of

¹ International Commission on Non-Ionizing Radiation Protection

schools, television interference, amongst other things. I have given careful consideration to these matters, some of which the Council have not raised any objections to, but they do not lead me to a different conclusion on the main issues, nor do they amount to harm in which would justify withholding consent.

Conditions

19. Beyond the standard conditions which are imposed by the GPDO, it is reasonable and necessary to impose a condition relating to the approved plans for certainty. It is also reasonable and necessary to impose a condition relating to the colour of the equipment in the interests of character and appearance.
20. Whilst the Council has suggested a time limit condition of three years, the standard conditions in the GPDO refer to a time limit condition of five years. In this instance, I am not satisfied that it is reasonable or necessary to depart from the time limit specified in the GPDO.

Conclusion

21. For the reasons given above, I conclude that the appeal should succeed, and prior approval should be granted.

W Johnson

INSPECTOR