



Appeal Decision

Site Visit made on 13 October 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Appeal Ref: APP/P4605/W/21/3276710

Bristol Road, Edgbaston, Birmingham B5 7TW

- 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 UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/02927/PA, dated 28 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is 15 m Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 15 m Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works at Bristol Road, Edgbaston, Birmingham B5 7TW, in accordance with the terms of the application Ref 2021/02927/PA, dated 28 March 2021, and the plans submitted with it.

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 proposal. Cases such as this are not required to be determined in accordance with the development plan or National Planning Policy Framework (the Framework), although planning policies may be relevant as material considerations. Reference is made in the submissions to an emerging Development Management in Birmingham Development Plan Document. This has been the subject of examination hearings but I have been provided with no information on whether policies are the subject of outstanding objections. As such, I attach limited weight to the emerging document.

Main Issues

3. The main issues are the effect of the siting and appearance of the proposal on (i) the character and appearance of the area, and (ii) on residential, educational and medical premises.

Reasons

Character and appearance

4. The development would be on a pavement close to a bus shelter and lay-by to the side of a urban dual carriageway. The street scene is dominated by the wide road and tree lined central reservation as well as street furniture such as lamp posts, traffic lights and road signs. To a significant degree, the properties on either side of the road are concealed by trees along frontages. The main exception to this is the nearby Century Tower, a conspicuous multi-storey building.
5. By virtue of its height and position, the monopole would be seen from parts of the street. However, it would be away from the carriageway at the back of the pavement and behind the bus stop lay-by. Also, the column would be screened by trees in some medium and long distance views. As such, the proposal would not be in an exposed position.
6. In most views where it is visible, a large part of the monopole would be seen against a backdrop of trees or with Century Tower in the background. Its upper part would be above the trees and seen against the sky but in these regards it would be similar to the lamp posts in the area. The monopole would be taller than the houses behind and it would be slightly taller and wider than the lighting columns. Nevertheless, it would not be incongruous given the other vertical structures in the street scene and the urban nature of the area.
7. The development would be set away from the group of lighting columns, traffic lights and road signs at the junction where Bristol Road meets Priory Road. Therefore, it would not unacceptably add to a clutter of street furniture. The cabinets would be low key and would not be unusual features at the roadside.
8. For the above reasons, I conclude the siting and appearance of the proposal would cause no harm to the character and appearance of the area. In these regards, it would accord with policy PG3 of the Birmingham Development Plan 2017 (BDP) and saved paragraph 8.55 of the Birmingham Unitary Development Plan 2005 (BUDP), insofar as these are determinative on the issue.

Effect on residential, educational and medical premises

9. The nearest residences to the proposal are on Odell Place, behind Bristol Road. The side walls of these houses contain no windows and so there would be no direct views from their interior of the monopole. Moreover, given the shielding effect of intervening trees and its relative position and narrow width, the monopole would not dominate the outlook from the residential gardens.
10. Saved paragraph 8.55A of the BUDP encourages the siting of telecommunication equipment away from residential areas wherever possible. Furthermore, the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 identifies that residential areas can be sensitive locations for such proposals. However, the development would not be immediately in front of habitable room windows and would not cause a significant visual intrusion. In the absence of meaningful actual harm, the proximity of the scheme to residences would not provide a sufficient reason to refuse approval.

11. Also, BUDP paragraph 8.55A defines locations within or adjacent to education and health institutions as being more sensitive than others for the siting of telecommunications equipment. Elmhurst Ballet School and Priory Hospital lie on the other side of the dual carriageway and a marked distance from the appeal site. As such, the development would not be adjacent to the grounds of a school or medical institution and so would not be in a more sensitive location. Moreover, the proposal would have no meaningful effect on the school or hospital due to the separation distances.
12. For these reasons, I conclude the siting and appearance of the development would cause no harmful effect to any residential, educational and medical premises. In these regards, it would accord with BDP policy PG3 and BUDP paragraphs 8.55 and 8.55 A to C.

Other Issues

13. Listed buildings from the mid-19th century lie on the opposite side of Bristol Road to the appeal site. These gain their significance by virtue of their age and the retention of original architectural features of interest. Due to the separation distances and intervening dual carriageway, there would be little intervisibility between the proposal and these properties. As such, the development would cause no harm to the setting or significance of the listed buildings.
14. The proposal would be outside but would be seen from Edgbaston Conservation Area (the CA), the boundary of which lies on the opposite side of the road. However, for the reasons set out under the first main issue, the development would cause no harm to the appearance or character of the area. Therefore, it would preserve the setting and significance of the CA.
15. The development would include appropriate health safeguards as the submissions include a declaration that it would not exceed International Commission guidelines on non-ionising radiation protection. There is no technical evidence to show the proposal would interfere with television reception.
16. The appellant has provided information on alternative sites considered for the proposal although none of these are existing buildings or other structures. The installation of equipment on the top of Century House would appear to be a reasonable option and so the submissions fail to show that the possibility of erecting antennas on an existing building has been explored. In this regard the proposal does not fully accord with the provisions of the Framework. However, this non-compliance provides insufficient justification to dismiss the appeal as the development would cause no harm in respect of the main issues and there is no dispute it is required to provide an enhanced telecommunications service.

Conditions and Conclusion

17. There is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. For the reasons given above, I conclude that the appeal should be allowed.

Jonathan Edwards

INSPECTOR