



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: 28 October 2021

Appeal Ref: APP/P4605/W/21/3277173

Land On The East Side Of Stoney Lane (South Of Its Junction With Blakesley Road), Yardley, Birmingham B25 8RJ

- 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 2021/01874/PA, dated 3 March 2021, was refused by notice dated 26 April 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 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 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 4 no. equipment cabinets and development works ancillary thereto at Land On The East Side Of Stoney Lane (South Of Its Junction With Blakesley Road), Yardley, Birmingham B25 8RJ, in accordance with the terms of the application Ref 2021/01874/PA, dated 3 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 relevant issues when assessing applications of this type are the siting and appearance of the proposal.
3. Prior approval cases such as this are not required to be determined in accordance with the development plan, although 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 no information has been provided on whether policies are the subject of outstanding objections. As such, I attach limited weight to the emerging document.

Main Issues

4. 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) the living conditions of the occupiers of nearby residences in terms of outlook.

Reasons

Character and appearance

5. The development would be on a wide verge to the side of a busy road in a residential area. The houses on Stoney Lane are seen from the highway but tall trees on both sides of the road are significant influences on the street scene. Lamp posts lie between the trees.
6. The monopole would be visible from the surrounding properties and from the highway. However, it would be shielded to a degree by the roadside trees, particularly in medium and long distance views on Stoney Lane. As it would be in an open part of the verge, the proposal would be clearly visible from nearby and from Blakesley Road. Nevertheless, the development would not appear unduly exposed in the wider street scene due to the nearby trees.
7. Where it is visible, the lower part of the monopole would generally be seen against a backdrop of trees or houses. The upper part would be seen against the sky and so it would be noticeable, especially in nearby views. However, in these regards, it would be similar to the lamp posts and trees which protrude above the skyline.
8. The monopole would be taller than the houses and higher and wider than the lighting columns. Also, there is no other telecommunication pole in the vicinity of the site. Even so, the development would not stand out as an unusual feature given the trees and vertical structures in the vicinity and its location near a busy urban road.
9. The cabinets would be seen but they would be features that are typically found in roadside locations. The development would take up only a small part of the wide verge and so it would lead to no meaningful loss of openness.
10. For the above reasons, I conclude the siting and appearance of the development would cause no unacceptable 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 paragraphs 8.55 A to C of the Birmingham Unitary Development Plan 2005 (BUDP).

Living conditions

11. The front windows of nearby houses on both sides of Stoney Lane would provide direct views of the proposal from the interior of these properties. The development would also be seen from gardens. However, the distance between the proposal and the nearest residences would be significant and sufficient to avoid any excessive dominating effect. Also, the monopole would be a narrow structure and so it would not seriously obstruct views from the dwellings.
12. The scheme would go against the advice to avoid telecommunications development in front of habitable room windows as set out in the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008. Nonetheless, for the above reasons I conclude the

siting and appearance of the proposal would not harm the living conditions of occupiers of nearby residences in terms of outlook. In these regards, it would accord with BDP policy PG3 and BUDP paragraphs 8.55 A to C.

Other issues

13. The appellant explains the proposal is required to address a deficiency in telecommunication signal coverage and capacity. There is no substantive evidence that challenges the validity of this need.
14. The development would be outside although close to Old Yardley Conservation Area (the CA). However, I have found the scheme would cause no unacceptable harm in respect of the first issue and so it would not be detrimental to the setting or significance of the CA.
15. The development would be set off the carriageway and would not obstruct drivers' visibility or be a significant cause for distraction. There are no grounds to find the proposal would attract graffiti or any other anti-social behaviour. The scheme would include appropriate health safeguards as the submissions include a declaration that it would not exceed International Commission guidelines on non-ionising radiation protection.
16. There is no justification to dismiss the appeal for any of the above reasons. As such, the concerns raised do not override my conclusions on the main issues.

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 above reasons, I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR