

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: 9 November 2021

Appeal Ref: APP/P4605/W/21/3275790

Land adj. 77 High Street, Harborne, Birmingham B17 9NS

- 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 UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/02699/PA, dated 21 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is an 18-metre phase 8 monopole C/W wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, I have inserted 'Land adjacent. 77' into the address in the banner heading above, as it is listed on the appeal 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.

Main Issue

6. The main issues of this appeal is the effect of the proposed development on the character and appearance of the appeal site and surrounding area, including the setting of a designated heritage asset¹.

¹ The Clock Tower Community Education Centre and 106 High Street

Reasons

7. The proposed development follows from a previous scheme² which is considered to be a more sensitive area than the current appeal site. Although, little information has been provided in respect of the previous scheme. Nonetheless, in this instance, the site is located in a visually prominent and exposed location in proximity to the junction between High Street and St Johns Road, in front of No 77, which comprises a corner unit of a shopping parade.
8. I have had regard to the urban environment within which the appeal site is located, and other features such as street lighting, notice board, traffic signs and bollards, amongst other things. As such, I find that this is not an unsuitable location in principle for the siting of telecommunications equipment. However, whilst not shown on the submitted drawings, my findings during the site visit also identified a planter with a sculpture and outside seating in front of No 77, which were also close to the site.
9. The existing area surrounding the site appears spacious and positively contributes to the visual amenities of the High Street, including a similar area on the opposite side of the junction with St Johns Road. I accept that the proposed development has a monopole form, but it would have a visually dominant presence in views from the public realm than the existing features, particularly due to the combination of its greater height, column width and more bulky and visibly distinct array on top of the supporting column. I appreciate that the height of the mast is the minimum needed to meet technical requirements, and that the installation has been designed to minimise its visual impact. The monopole, particularly through its height and appearance would be very different to any other features in the locality.
10. The designated heritage asset was originally built as a school and is Grade II listed. It dates from 1885 and was designed by Martin and Chamberlain, one of the leading architectural practices in late-Victorian Birmingham. The building is constructed out of red brick and terracotta with minimum stone dressings; tile roof with decorative ridge tiles with an asymmetrical composition partly of one and partly of 2 storeys with 6 bays, with the tower in the third bay. Its significance is derived from its Gothic design that was popular in the historical development of the city.
11. I agree that the area surrounding the site is urban in character, but I find that the heritage asset is close to the site and thus, the site is within the setting of the heritage asset. Given the distance between the heritage asset and the site, the resultant harm would be less than substantial. Nonetheless, the harm to the designated heritage asset is a matter to which I give great weight, as directed by paragraph 199 of the Framework.
12. For the above reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area and would not preserve the setting of the nearby designated heritage asset. Therefore, whilst not determinative, the proposed development would not accord with the heritage, design, character and appearance aims of 'saved' paragraphs 8.55 and 8.55 A to C of the Birmingham Unitary Development Plan 2005, Policy PG3 of the Birmingham Development Plan 2017, the

² 2020/07120/PA

Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 and the requirements of the Framework.

Other Matters

13. 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.
14. I am aware that the proposed development has been designed to facilitate future site sharing. 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 International Commission on Non-Ionizing Radiation Protection (ICNIRP) standards and guidelines and thus there is no scope to lower the height of the array.
15. 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. Whilst acknowledging the list of Discounted Options in the appellant's submission, it is limited to clearly demonstrate that there are no alternative sites available, which would cause less harm than that identified above. Thus, I am not satisfied or convinced that undertaking the proposed development at this site is the only way to achieve the identified economic and social benefits.
16. I have had regard to the confirmation of compliance with ICNIRP. However, these matters are of neutral consequence in the assessment of this appeal. The appellant also advises that the cabinets are permitted development and do not require prior approval. However, I am not convinced that there is a greater than a theoretical possibility that the installation of the cabinets on their own, might take place. I also accept the absence of other harm arising from the proposed development.
17. I have also had regard to concerns raised by the appellant about the way that the Council handled the scheme, particularly regarding the request for pre-application advice, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

18. I acknowledge the potential economic and social benefits of the proposal detailed by the appellant, and the support given by the Framework towards a high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.
19. In this instance, I do not consider that the public benefits of the installation in terms of the enhancement of the telecommunications network, its contribution to economic growth and the operational and locational needs of the operators outweigh the significant harm that I have identified to character and appearance. In addition to the harm that I have found to the character and appearance of the appeal site and surrounding area, the harm to the designated heritage asset would be less than substantial, and in applying

paragraph 202 of the Framework, I must weigh this harm against the public benefits of the proposal.

20. Consequently, the harm in this case would not be outweighed by the public benefits of the proposed development. This would conflict with parts of the environmental objectives set out in paragraph 8 of the Framework. Thus, the proposal does not constitute sustainable development.

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

W Johnson

INSPECTOR