



Appeal Decision

Site Visit made on 26 October 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/T3725/W/21/3278534

Primrose Hill, Woodloes Park, Warwick CV34 5TZ

- 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 appeal is made by Hutchinson UK Ltd against the decision of Warwick District Council.
 - The application Ref W/21/0725, dated 10 April 2021, was refused by notice dated 10 June 2021.
 - The development proposed is the installation of 15m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. This appeal follows a decision by the Council not to grant prior approval for the siting or appearance of a development that would otherwise be permitted under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The principle of the development is therefore established and the scope of this appeal is limited to matters of siting and appearance. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are material to matters of siting and appearance.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the locality
 - the effect of the proposed development on the living conditions of nearby residents with particular regard to outlook
 - if any harm is caused, whether it is outweighed by other considerations.

Reasons

Character and appearance

4. Primrose Hill is a curving arterial road flanked by pavements, verges and areas of landscaping including stands and rows of mature trees. The lit road passes through a primarily residential area where the houses are accessed from and

address tributary side roads and cul-de-sacs. The road traverses land rising generally from south to north and the verge site lies close to a brow in the local topography.

5. The proposal includes the erection of a 15m high mast set within a base cabinet between the northern footway and edge of the road. Three additional cabinets would be positioned nearby.
6. The proposed siting of the equipment within the verge close to where existing cabinets are present would not impede existing traffic and pedestrian flows. The site would make good use of existing trees on the southern side of the road which would provide some screening to the uphill views along Westcliffe Drive. A stand of trees within the embankment to the north would also provide some screening value. However, in both views, the extent of screening would vary throughout the year on account of the deciduous nature of the trees.
7. The views to the mast along Primrose Hill would be more open. Although the width of the road corridor would moderate the perception of scale of the mast, the height and girth would make the pole a prominent feature in the streetscene. Whilst the proposal utilises an industry standard design, the scale and functional appearance of the headset would appear incongruous in the context of the green road corridor and amongst the finer detailing and scaling of the surrounding residential area.
8. I accept that some assimilation could be achieved by the use of a colour finish to the equipment. Given the bending alignment of the road and existing backdrop of trees to the west, the effect in views from the east could be partly mitigated by this approach. Nevertheless, for the above reasons, I find that the scale and appearance of the mast would cause a moderate level of harm to the character and appearance of the locality.

Living conditions

9. The proposed siting would be directly opposite the rear outlook of 25 Eborall Close, a 2-storey dwelling to the north which is set higher than the appeal site. The mast would lie a short distance from the rear garden boundary of that property and its neighbours.
10. There is a stand of 3 trees on the embankment between the site and the residential property. According to the submitted plans, the trees have a relative height of 13m to the proposed level of the base of the mast. The easternmost tree would provide some screening value to No25 when in leaf. At other times the effect would be substantially more limited such that the mast, and particularly the headset, would dominate the outlook from the rear windows and garden area of that dwelling to cause harm to the living condition of the occupiers of that property.
11. The neighbouring property at 26 Eborall Close would benefit from the overlapping canopies of the other 2 trees. These would provide reasonable levels of screening and filtered views for the majority of the height of the mast except for the upper section. Accordingly, any effect would be less pronounced.
12. However, the trees would have little screening value to the rear outlook and back garden area of 22 Eborall Close, which is set perpendicular to No25. Although offset, clear views of the mast would exist at a relatively short distance. The height and scale of the mast would draw focus and dominate

outward views due to the close proximity. This would cause harm to the living conditions of its occupiers through poor outlook.

13. Moreover, I am mindful that the trees are not under the control of the appellant and therefore there is no guarantee of their long-term presence to secure any screening effect. In the absence of any health assessment of the trees, or proposal to replace them should they fail, the identified effects could be seriously exacerbated.
14. For the above reasons, I find the scale and siting of the mast would cause a significant adverse impact on the living conditions of the occupiers of those properties through poor outlook.

Other Matters

15. There is general support for electronic communications within Policy BE6 of the Warwick District Local Plan 2011-2029 (WDLP). However, in the case of development adjacent to sensitive locations, there is a requirement to demonstrate that there is no other technically suitable location which causes less environmental harm, or that the benefits of the proposal considerably outweigh the level of harm resulting from the development.
16. There is no dispute between the main parties that the proposal would increase coverage and capacity in an area where 5G coverage requires enhancement. However, there is disagreement between the parties in respect of the level of information provided in relation to the discounting of potential alternative locations which would cause less harm.
17. A list of alternative options has been provided by the appellant with brief reasons for discounting them. The appellant describes the proposal as the only viable option whilst being situated as far away as technically possible from the views of residential receptors. However, there is little objective information to support the claims or demonstrate why, in the context of the long section of Primrose Hill and rural fringes available within the search area, other opportunities to minimise the potential harm arising from the effects on residents' living conditions have not been considered. Although I have no reason to dispute their justifications, I find that in the circumstances of the case, the appellant's absence of supporting evidence in relation to the discounted sites is significant.
18. In support of the proposal, the appellant directs me to the social and economic benefits arising from enhanced 5G coverage and capacity. Benefits would derive from increased data capacities, connectivity and reliability. It could facilitate a broad range of 'smart' applications including health and transport uses which would provide consumer and business benefits. It would provide for increased productivity, innovation and efficiencies with associated secure service delivery and potential environmental benefits.
19. Furthermore, the mast would facilitate use by more than one operator to avoid a proliferation of masts dedicated to individual providers. These are established benefits that are recognised in Paragraph 114 of the Framework and are matters that weigh in favour of the development.
20. I note the concerns of some third parties in relation to the health effects of electromagnetic radiation used in telecoms apparatus. The appellant has certified that the proposal has been designed to comply with the guidelines

published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The Framework confirms that in such circumstances, health safeguards are not a relevant planning consideration for a decision maker to determine.

21. I acknowledge the concerns raised by third parties in respect of the use of the site by bats and other wildlife, however, there is no substantive evidence to support those claims. I am therefore unable to attribute significant weight to those arguments in relation to the siting of the proposal.
22. I also note the other concerns of third parties in relation to lack of consultation by the developer. As this is not a requirement of the procedures set out in Part 16 of the GDPO it is a matter of negligible weight in my determination of the appeal.

Planning balance and conclusion

23. I have found that the proposal would result in a moderate adverse impact on the character and appearance of the locality. It would cause significant harm to the living conditions of nearby residents through the creation of poor outlook. It would conflict with Policies BE1 and BE3 of the WDLP as they seek to enhance the character and appearance of locations and protect the residential amenity of residents respectively.
24. There would also be conflict with Policy BE6 of the WDLP in relation to the requirement to demonstrate that other available sites could not be utilised to minimise the adverse effects of the development. Having regard to those matters and the benefits presented by the appellant I find that, in the circumstances of the case, the stated benefits would not outweigh the totality of the harm identified.
25. For those reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR