



Appeal Decision

Site visit made on 16 November 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal Ref: APP/P4605/W/21/3279399

Brays Road, Birmingham B26 1NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 (1) and 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 Birmingham City Council.
 - The application Ref 2021/03780/PA, dated 28 March 2021, was refused by notice dated 17 June 2021.
 - The development is proposed 15m 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. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), require 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.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. In light of the above, the main issue in this case is the effect of the proposed development upon the character and appearance of the area.

Reasons

5. The appeal site is located adjacent to No 118 Brays Road, close to the junction with Barrows Lane. There is some commercial property close to the site, but the area is predominately residential in nature.
6. It appears from the evidence provided that the mast and equipment are required in order to facilitate 5G coverage and support the existing mobile network.

7. Although there is nearby commercial property, the monopole, although reduced in height from a previous submission, would project above it, and would provide limited mitigation. The pole would be forward of commercial and residential property and would be set close to the highway, a point raised by consultees. There are limited mitigating features to assist in screening within the locality.
8. In the absence of effective mitigation, I find the pole and equipment would be an obtrusive, freestanding feature, which would detract from the character and appearance of the area. Due to the still significant height of the proposal, it would rise above nearby development and be unduly dominant in the locality.
9. I am mindful that the height of the proposed development must be sufficient to enable local provision and clear surrounding buildings, particularly due to the requirements of 5G installations. The proposal would also support the Governments aims regarding 'levelling up' digital connectivity. These factors weigh in the proposal's favour.
10. In accordance with paragraph 114 of the National Planning Policy Framework (the Framework), I afford weight to the economic and social benefits of providing and enhancing electronic communication infrastructure. The Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology (such as 5G), should be supported but sympathetically designed and camouflaged where appropriate.
11. I note the support in the Framework for high quality communications. I also note that policies and decisions should support the expansion of the communications network, and that the delivery of 5G infrastructure is specifically referenced. However, I must balance this against the requirement of the overarching imperative in the Framework for development to achieve well-designed places for the long term.
12. As set out above, the proposal would significantly harm the character and appearance of the area and would be contrary to the development plan in this regard. Moreover, it has not been demonstrated that it is necessary to site the installation in the location proposed. Whilst the development would improve 5G coverage in this area, and the Framework seeks to support high quality communications, these considerations do not outweigh the harm I have identified and the associated conflict with the Development Plan.

Other Matters

13. I have also noted the concern of the Council in relation to highway safety issues relating to the location of the mast and passing vehicles, but highway safety is not an issue that can be assessed, and issues must relate to siting and appearance.

Conclusion

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

Paul Cooper

INSPECTOR