



Appeal Decision

Site visit made on 7 December 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/P4605/W/21/3275725 Bordesley Green, Birmingham B9 4TX

- 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 GPDO).
 - The appeal is made by Hutchison UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/02701/PA, dated 21 March 2021, was refused by notice dated 11 May 2021.
 - The development is a proposed 15m phase 8 monopole C/W wrapround 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 Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 15m phase 8 monopole C/W wrapround cabinet at base and associated ancillary works at land at Bordesley Green, Birmingham B9 4TX in accordance with the terms of the application Ref 2021/02701/PA, dated 21 March 2021, and the plans submitted with it including drawing numbers 002, 210, 260 which all fall under master drawing number BHM13617_M002 issue B.

Procedural Matters

2. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring specific planning permission.
4. Nevertheless, Policy PG3 of the Birmingham Plan 2031: Birmingham Development Plan (BDP, 2017), saved Policies 8.55-8.55c of The Birmingham Plan: Birmingham Unitary Development Plan (UDP, 1993) and the Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (SPD, 2008) are material considerations as they relate to

issues of siting and appearance. In particular, they seek to ensure telecommunications installations are suitably sited and of a high quality design. Similarly, the National Planning Policy Framework is also a material consideration and includes a section on supporting high quality communications.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

6. The appeal site is at the back of a wide section of pavement serving Bordesley Green, a busy thoroughfare which divides, both physically and visually, a largely residential area to one side and a large trading estate to the appeal site side. To the back of the appeal site is a tall metal palisade fence which surrounds a car park and storage area associated with one of the large commercial buildings. Given the sense of separation created by Bordesley Green, and the siting of the appeal site adjacent to the trading estate, it is principally within this context, rather than that of the residential area, that the appeal site is read.
7. The proposed mast would be a tall but narrow feature which, while utilitarian in appearance, is of a tidy and compact design that would be in keeping with the character and appearance of the trading estate. The proposed mast would be read against the existing streetlights and tall industrial buildings within the trading estate. Within this context the proposed mast would not be so tall as to be out of keeping. Whilst its height would not integrate with the more domestic scale and appearance of the nearby residential area, the proposal is not readily read in connection with this area and so does not adversely affect its character and appearance. Moreover, whilst there is street furniture on Bordesley Green the amount of furniture is not so great that the proposal before me would result in a cluttering of the street scene.
8. The cabinets associated with the mast would be relatively modest in scale and are a feature that I find to not be uncommon beside highways. As such, and given their siting, they would not adversely affect the street scene, either on their own or cumulatively with the mast.
9. I therefore find that the siting and appearance of the proposal would not harm the character and appearance of its surroundings. In reaching this conclusion, I have taken into account, and find the proposal would comply with, Policy PG3 of the BDP and saved Policies 8.55-8.55c of the UDP as outlined above. It would also comply with the character and appearance aims of the Framework, including Paragraph 130, and the guidance contained within the SPD.

Living Conditions

10. On the opposite side of Bordesley Green from the appeal site is a row of residential properties that have windows facing the appeal site. They are separated from the appeal site by gardens and the wide Bordesley Green Road

which collectively result in a significant distance between the appeal site and the dwellings.

11. Whilst there is very limited screening between these properties and the appeal site, the distance outlined above, the narrow form of the mast, and low height of the cabinets ensure that the outlook of these properties would not be unacceptably affected. The outlook from the gardens of these properties would also not be affected given the tall boundary fence along Bordesley Green.
12. While the proposal may result in some very limited noise associated with the electronic devices it is unlikely that this would be audible beyond the appeal site. Therefore, given the distance to the nearest residential properties it is unlikely that any unacceptable level of noise would affect the living conditions of neighbouring occupiers.
13. I therefore find that the siting and appearance of the mast and its associated cabinets would not adversely affect the living conditions of neighbouring occupiers. I have been mindful of, and the proposal would comply with, Policy PG3 of the BDP and saved Policies 8.55-8.55c of the UDP which require development to be of a high-quality design that minimises obtrusiveness. It would also be consistent with Paragraph 130(f) of the Framework which requires, amongst other things, development to promote health and well-being, with a high standard of amenity for existing and future users, as well as with the guidance contained within the SPD.

Other Matters

14. The council have raised that other locations, such as on Little Green Lane, have not been considered and that they would be more appropriate. However, as I have found no harm to occur from the proposal before me, that is academic

Conditions

15. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

Samuel Watson

INSPECTOR