



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: 26 January 2022

Appeal Ref: APP/P4605/W/21/3273802

Old Bromford Lane, Birches Green, Birmingham B8 2EB

- 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 Hutchison 3G UK LTD against the decision of Birmingham City Council.
 - The application Ref 2020/07571/PA, dated 20 September 2020, was refused by notice dated 18 November 2020.
 - 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 dismissed.

Procedural Matter

2. The proposal was amended during the application process, reducing the height of the mast from 20m to 15m, as such I have taken the description from the application form and amended the height so that it accurately reflects the development proposed.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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.
4. Part 16 of the Order 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 planning permission.
5. Nevertheless, Policy PG3 of the Birmingham Plan 2031: Birmingham Development Plan (the BDP, 2017), saved Policy 8.55 of The Birmingham Plan: Birmingham Unitary Development Plan (the UDP, 1993) and the Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (the 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 (the Framework) is also a

material consideration and includes a section on supporting high quality communications.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on (i) the character and appearance of the area and (ii) the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

7. The appeal site is set at the junction between Bromford Lane and Old Bromford Lane within a predominantly residential area. Bromford Lane is a dual carriageway largely characterised by trees and deep verges while Old Bromford Lane is much smaller and characterised by residential properties close to the road. By way of its siting between the two roads and legible from both, the proposal would be read in connection with the characters of both roads.
8. The proposal itself would include a tall mast which would be significantly taller than the nearby properties, and streetlights. Although the trees and streetlights provide a pattern of tall features along Bromford Lane, the siting of the mast is such that it would not be read in connection with the linear rows of streetlights and trees. Moreover, by way of their positioning, nearby trees would not screen or soften the appearance of the mast. Therefore, the proposed mast would be in a prominent position visible for some distance along both Old Bromford Lane and Bromford Lane where it would be an intrusive feature. Furthermore, the proposed mast, although of a neat and uniform design, would be utilitarian in appearance and therefore not in keeping with the residential character of the area.
9. Telecommunication masts may be a common feature in some areas and may be becoming more common within residential areas with the upgrading of the 5G network, however, this does not outweigh the harm I have identified above. Moreover, it is unlikely that an alternative colour scheme would have any substantive effect on the identified harm. Given the scale of the cabinets they would be a somewhat retiring feature that would not be out of keeping with the residential area.
10. Nevertheless, the siting and appearance of the proposal would harm the character and appearance of its surroundings. In reaching this conclusion, I have taken into account, and find the proposal would conflict with, Policy PG3 of the BDP and saved Policy 8.55 of the UDP as outlined above. It would also conflict with the character and appearance aims of the Framework, including Paragraph 130, and the guidance contained within the SPD.

Living Conditions

11. As a result of its siting, the proposal would likely be visible from neighbouring gardens and windows. However, the appeal site is separated from neighbouring dwellings by the surrounding roads with the closest property a children's nursery. Given the degree of separation, and notwithstanding the harm to character and appearance outlined above, its siting and narrow form would ensure that whilst visible it would not unacceptably affect the outlook of neighbouring occupiers.

12. 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 Policy 8.55 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

13. I note that there is a need, supported by the Government, to upgrade the mobile telecommunications network and that there is a limited search area available to accommodate this. I am also mindful that the new technology required by the 5G network has made sharing with other providers more difficult and has reduced the radio range in comparison to previous generations. In this case I have no doubt that in order to achieve upgrade the 5G network a new mast would be required.
14. In support of this, eight discounted locations have been laid out by the appellant. It is clear that some of these locations are a significant distance away from the nominal point identified by the appellant and are therefore not appropriate. The nominal point itself, as it is within the carriageway, would also not be appropriate. However, the evidence before me is not sufficient to demonstrate that the remaining options (Nos. D2, D3 and D8) need be discounted. Although these options would be close to residential properties and visible from them, I do not find this to be significantly different to the scheme before me. Moreover, there is a large area of the tree-lined central reservation serving Bromford Lane close to the nominal point. It is not clear why only one location within this reservation has been considered and I find it likely that other potential locations may exist. As there is a potential for other locations within range of the nominal point, I find that this area has not been sufficiently considered.
15. From the submitted information I cannot be certain that the site before me is less harmful than alternatives and that they are not viable. Therefore, without sufficient evidence to demonstrate otherwise, I cannot be certain that the site before me represents the only viable option. As there may be other viable options it has not been demonstrated that the proposal would need to be sited in the proposed location.
16. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.
17. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Conclusion

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

Samuel Watson

INSPECTOR