



Appeal Decision

Site visit made on 30 November 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/P4605/W/21/3279404

Mott Street, Jewellery Quarter, Aston, Birmingham B19 3HN

- 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 UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/03673/PA, dated 16 April 2021, was refused by notice dated 16 June 2021.
 - The development proposed is a 15.0m 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 15.0m phase 8 monopole c/w wrapround cabinet at base and associated ancillary works at land at Mott Street, Jewellery Quarter, Aston, Birmingham B19 3HN in accordance with the terms of the application Ref 2021/03673/PA, dated 16 April 2021, and the plans submitted with it including 210 Proposed H3G Site Plan BHM10153_MD02 B; 260 Proposed H3G Elevation BHM10153_MD02 B; 303 Proposed H3G Antenna Schedule and Line Configuration BHM10153_MD02 B; and 305 Equipment Schedule and Support Structure Details BHM10153_MD02 B.

Preliminary Matters

2. The Council adopted the Development Management in Birmingham Development Plan Document (the DPD) on 7 December 2021, after the start of the appeal. Saved policies 8.55 to 8.55C of the Birmingham Unitary Development Plan (2005) were superseded on adoption of the DPD. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the adopted DPD in my decision.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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. 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 Issue

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

Reasons

6. The site is located adjacent to a substantial brick-built warehouse that is windowless on adjacent façades and set behind galvanised palisade fencing. There is considerable variation in building heights on Mott Street and Howard Street, with some two storey premises with flat roofs, and other larger scale warehouse buildings with an industrial appearance. Mott Street slopes up towards Great Hampton Row, where other substantial premises are visible. There is a surface car park opposite the site, enclosed on two sides by warehouses including one with a sawtooth roof profile.
7. Street lamps on Mott Street and Howard Street are relatively low in height, however taller street lamps are visible in the surrounding area, for example on Constitution Hill. From the site and surrounding area, the top section of the BT tower is also visible as a landmark, projecting above the intervening buildings. Therefore, substantial buildings and vertical structures are readily visible in this area, which has a commercial and industrial character.
8. Viewed against the warehouse building immediately behind the site, the proposal would not appear substantially taller. At ground level, due to the width of the pavement on this corner location, the monopole and cabinets would be positioned without unacceptably encroaching on the footpath. In this context, given the presence of a number of substantial buildings and existing vertical structures, it would not appear unduly prominent in the street scene.
9. I am satisfied that a suitable assessment has been undertaken and no reasonable alternative sites have been identified. On the evidence before me, the appeal site would not be within a residential area or an area of high quality open space. Although there are some longer views of the site along Mott Street and from Howard Street, the site is not particularly prominent in the locality. Nearby Constitution Hill serves as the main thoroughfare through this area from the city centre. The proposal would also not be in close proximity to listed buildings, conservation areas, or other heritage assets.
10. In conclusion, the proposal would not harm the character and appearance of the area. Therefore, the proposal would accord with Policy DM16 of the DPD, which supports telecommunications developments subject to certain criteria, including that proposals minimise the impacts on residential amenity, the character and appearance of the surroundings, areas of landscape importance and heritage assets and their setting.
11. It would also comply with paragraphs 114 and 117 of the Framework. These recognise the importance of electronic communications networks for economic growth and social well-being, and require proposals to include evidence of

having explored their potential siting on existing buildings or structures, and provide self-certification that International Commission guidelines will be met.

12. The proposal would also comply with Birmingham City Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (2008), which provides further guidance on assessing the suitability of sites for telecommunications developments. Consequently, the siting and appearance of the proposal would be acceptable.

Conditions

13. The submitted details show that the 15.0m phase 8 monopole would have a galvanised finish and the four cabinets would be grey. I have assessed the appeal proposal on that basis. In the event that the appeal were to be allowed, the Council suggested a condition to require that the telecommunications equipment is powder coated in a colour to be agreed in writing with the local planning authority. I note that the Council's Regulatory Services team also requested a condition be imposed to restrict noise of plant and machinery.
14. However, the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it, therefore no further conditions are imposed.
15. The deemed conditions 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.

Rachel Hall

INSPECTOR