



Appeal Decision

Site visit made on 22 February 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st April 2022

Appeal Ref: APP/P4605/W/21/3283033

Hengham Road SW, Sheldon, Birmingham B26 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval 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 MBNL against the decision of Birmingham City Council.
 - The application Ref 2021/06354/PA, dated 29 June 2021, was refused by notice dated 2 September 2021.
 - The development proposed is described as "20.0m High EE/H3G Phase 7 Streetworks Pole on root foundation and associated ancillary works."
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal the Council adopted¹ the Development Management in Birmingham Development Plan Document (the 'DMinB Plan'). As a result, DMinB Plan Policy DM16 (Telecommunications) replaces saved policies 8.55-8.55c from the Birmingham Unitary Development Plan. The Council also refers to DMinB Policy DM2 (Amenity).
3. The provisions of the GPDO require telecommunication proposals under Schedule 2, Part 16, Class A to be assessed on the basis of the proposal's siting and appearance, taking into account any representations received. Policies of the development plan and National Planning Policy Framework (the 'Framework') are also taken into account but only in so far as they are material considerations relevant to matters of siting and appearance. I have determined the appeal on this basis.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area and the pedestrian environment.

Reasons

5. Following a Notice to Quit (NTQ) a site at St Thomas Church in Birmingham, the appellant is seeking a replacement site to replicate the same coverage given by the church cell and to provide suitable and demanded levels of digital coverage within the cell. The new installation would facilitate 5G coverage and significantly improve connectivity. The installation would be shared by

¹ 7 December 2021

commercial operators EE Ltd and Hutchinson UK Ltd, who have a network sharing agreement with the Emergency Services Network.

6. The appeal site comprises highway land as part of the pavement close to a roundabout from which 7 roads radiate in a predominately residential area with some commercial premises in the wider vicinity. The pavement sits adjacent to an area of open grass, a feature that is repeated at the ends of most of the other radiating roads creating an open and spacious character and appearance. There is existing vertical street furniture in the vicinity comprising a regular and relatively uniform arrangement of 6 metre high lamp posts and telegraph poles along the radiating roads, as well as 10 metre high lamp posts arranged around the outer edge of the roundabout. The configuration of the roundabout, its seven radiating roads with open spaces positively contribute to the striking character and appearance of the area.
7. The proposal would involve the installation of a 20 metre high telecommunications street works monopole with a wrap-around base cabinet. Seven further equipment cabinets would also be installed along the back edge of the pavement either side of the monopole, and would be a variety of sizes ranging in height from about 1 metre to 1.75 metres. The monopole and cabinets would be coloured grey.
8. At 20 metres high the proposed monopole would be significantly taller than neighbouring lamp posts and telegraph poles, and twice as high as the tallest ones in the area. It would also be substantially thicker and bulkier than the existing nearby vertical street furniture. Hence the monopole would be visually at odds with the prevailing size and scale of existing vertical street furniture, and disrupt the regular arrangement of lamp posts and appear visually incongruous to the area.
9. The nearby residential buildings, the adjacent commercial fencing/landscaping yard and nearby former Police Station are relatively low-rise structures and Hengham Road is on an incline rising up from the roundabout. As a result, the monopole would appear even taller in relation to its surroundings. Without a built-up backdrop or a landscaped setting to reduce its visual impact, it would breach the skyline, be visually exposed and unduly prominent.
10. In addition, the proposed installation would be sited close to a busy vehicular and pedestrian location in an open and prominent setting and would therefore be widely visible from a range of approaches by pedestrians, drivers and other road users. The trees in the centre of the roundabout would afford only partial seasonal screening when in leaf, and only from certain approaches. Some nearby residential properties would also have unrestricted views of the proposed installation, a number of whom have objected.
11. The pavement is narrowed along part of the appeal site due to a line of concrete bollards near the kerb. The numerous cabinets of varying sizes would project some 600mm into the pavement and narrow it even more, a concern raised by the Highway Authority. This could potentially impede access for people passing and diminish the pedestrian environment. Furthermore, during my visit I saw that this stretch of road was frequented by customers visiting the nearby fencing and landscaping business, and whom I saw park their vehicles near to the proposed site to visit and load up with purchased goods. Moreover the number of cabinets, of varying heights and sizes, would add physical and visual clutter to the street scene.

12. The proposed development lies within 3 kilometres of the perimeter of an aerodrome, in this case Birmingham International Airport (the 'Airport'). The Airport has submitted an objection to the 5G installation, highlighting that Ofcom have identified an issue with the spectrum used by 5G in the vicinity of aerodrome radar bands, as well as the specification surrounding the permitted out of band emissions of the mobile structure, which could cause interference within the radar band. In the absence of any assessment by the appellant to demonstrate there would be no harmful impacts to Airport safety, this is another factor that weighs against the siting of the proposed installation.
13. Whilst telecommunication installations are not uncommon features in urban areas, each needs to be assessed against the particular site context and surroundings it is to be placed in. The monopole needs to be tall enough to clear buildings and trees and robust enough to take the necessary antennae and infrastructure. However, in this instance, the siting and appearance of the monopole and cabinets would result in a visually intrusive, incongruous and overly dominant feature in the street scene that would significantly detract from the character and appearance of the area and the pedestrian environment. The siting could also compromise Airport safety. Conditioning that the cabinets and monopole are a different colour would not overcome the harm I have identified.
14. In so far as they are a material consideration, the proposal would be contrary to BDP Policy PG3 and DMinB Plan Policies DM2 and DM16. These collectively seek to ensure that development, amongst other things, is sited and designed to respond to site conditions and the character and appearance of the surrounding area to minimise its impact on the surrounding area's visual and residential amenity. It would also be contrary to the Council's 2008 Supplementary Planning Document 'Telecommunications Development: Mobile Phone Infrastructure' which advises installations should blend in with the existing townscape, their height is relative to surrounding buildings and structures and locations viewed against the skyline and open land should be avoided. The appellant refers to the omission of BDP Policy TP46. However, this refers to Digital communications and the provision of appropriate infrastructure and is not directly relevant to siting and appearance.
15. The Framework is a material consideration and recognises the importance of advanced, high quality and reliable communications infrastructure to economic growth and social wellbeing. Planning decisions should support the expansion of networks, including next generation mobile technology such as 5G. It also advises that the number of masts and sites for installations should be kept to a minimum consistent with the needs of customers and efficient operation of the network, and existing masts, buildings and other structures should be utilised where possible. The proposal would be shared with a number of operators and so does this. Where new sites are required, the Framework states that the equipment should be sympathetically designed and camouflaged where appropriate. The proposal would not do this for the reasons already outlined above.
16. I am mindful of the NTQ on the appellant's existing installation. The appellant has looked at and discounted a number of other nearby sites for a variety of reasons. These are listed in the evidence and their locations shown on an aerial image. However, I have not been presented with any coverage maps indicating how the appeal site and the alternative sites would fill any coverage gaps.

Furthermore, the evidence does not make clear which, if any, of the alternative sites lie beyond the 3 kilometres of the Airport. I therefore find the submitted evidence lacks sufficient detail to demonstrate that the appeal site is the only viable option.

17. I am aware that there would be some social and economic benefits from the installation, but the GPDO is clear that the potential wider benefits should not be taken into account when considering siting and appearance.

Other Matters

18. To meet health safeguards, 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.
19. The appellant refers to the Council and other consulted bodies not responding to pre-application consultation. That is a matter for the appellant to address with the Council and those bodies concerned. It does not alter my findings with regard to the siting and appearance and the resultant detrimental impact on the character and appearance of the area.

Conclusion

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

K. Stephens
INSPECTOR