



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/21/3282062

Brays Road, Sheldon, Birmingham B26 2RL

- 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 MBNL against the decision of Birmingham City Council.
 - The application Ref 2021/06078/PA, dated 30 June 2021, was refused by notice dated 13 August 2021.
 - The development proposed is '20m high EE/H3G Phase 7 steelworks 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 Issues

4. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area and on the safe operation of Birmingham International Airport.

Reasons

5. The appellant has been issued with a Notice to Quit (NTQ) a site at St Thomas Church in Birmingham and so 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

¹ 7 December 2021

- 5G coverage and significantly improve connectivity. The installation would be shared by commercial operators EE Ltd and Hutchinson UK Ltd, who have a network sharing agreement with the Emergency Services Network.
6. The appeal site comprises land on the pavement as part of the public highway close to the corner with Horrell Road and a four-armed roundabout in a predominately residential area. The proposed installation would be sited outside a convenience store and children's nursery which are set back from the road behind a car park. There is existing vertical street furniture nearby in the form of street lamps and telegraph poles ranging in height from 5 – 7 metres. The topography is flat, there are few trees and the dwellings are set back from the road, such that the area has an open and spacious character and appearance.
 7. The proposal would involve the installation of a 20 metre high telecommunications street works monopole with wrap-around base unit that would be sited at the back edge of the pavement in front of the edge barriers around the car park. Seven equipment cabinets of varying heights and sizes would also be installed along the back edge of the pavement either side of the monopole. The monopole and cabinets would be coloured grey.
 8. The pole needs to be tall enough to clear buildings and trees and robust enough to take the necessary antennae and infrastructure. However, at 20 metres high the proposed monopole would be significantly taller and more than twice the height of nearby lamp posts, telegraph poles and the roofs of adjacent dwellings. It would also be substantially thicker and bulkier than the existing nearby vertical street furniture. The monopole would therefore be visually at odds with the prevailing size and scale of existing vertical street furniture and nearby buildings.
 9. Located close to a well-used roundabout in an open and prominent setting with relatively low-lying buildings behind and around, the monopole would be widely visible from a range of approaches by pedestrians, drivers and other road users. Some nearby residential properties would also have unrestricted views of the proposed installation, a number of whom have objected. The roundabout has no landscaping and the area has few trees, so there is no substantial landscaped screening or backdrop to reduce the visual impact. As a result the monopole would be an unduly prominent and a visually incongruous feature in the street scene.
 10. The numerous cabinets, of varying sizes and not insignificant heights, would be unduly prominent aligned in a row around this open corner location and add visual and physical clutter to the pavement, which already has car park 'edge barriers', litter bin, telephone box and hinged car park barrier all in very close proximity.
 11. The cabinets would also project into the pavement and narrow it. I note the concerns of the Highway Authority. However, the pavement is annotated at being about 4.7 metres wide for most of the appeal site, which is wider than standard pavements and I am satisfied that this would not adversely affect pedestrian safety.
 12. The proposed development lies approximately 1.44 kilometres west of the perimeter of Birmingham International Airport (the 'Airport'), and the appellant advises there are radar facilities contained within its boundary fencing. The

Airport has objected to the 5G installation as the mast would be in close proximity to its radar, and highlights that Ofcom has 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. The appellant considers the site to be suitably distant from the airport to ensure interference with radar is 'benign' and has made some suppositions based on American research. However, in the absence of any assessment or site specific knowledge submitted by either the appellant or the Airport to demonstrate there would be no harmful impacts to its safety, I am not satisfied there would not be harm. This therefore weighs against the siting of the proposed installation.

13. In so far as they are a material consideration, the proposal would be contrary to BDP Policy PG3 and DMinB Plan Policy DM16. These collectively seek to ensure that development, amongst other things, is sited and designed to minimise its impact on the surrounding area's visual and residential amenity. It would also be contrary to the Council's 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. BDP Policy TP46 refers to 'Digital communications' and the provision of appropriate infrastructure and is not directly relevant to siting and appearance.
14. 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.
15. I am mindful of the NTQ on the appellant's existing installation. The appellant has looked at and discounted a number of other sites for a variety of reasons, most of which were discounted for being close to residential development, which the appeal site is. I have not been presented with coverage maps indicating how the appeal site and the alternative sites fill any gaps in that coverage. I find the submitted evidence lacks sufficient detail to demonstrate that the appeal site is the only viable option, especially with regard to proximity to the Airport.
16. 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

17. 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.
18. 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 and 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 or Airport safety.

Conclusion

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

K. Stephens
INSPECTOR