



Appeal Decision

Site visit made on 24 May 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2022

Appeal Ref: APP/P4605/W/21/3285761

Acfold Road, Birmingham B20 1HB

- 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 CK Hutchison Networks (UK) Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/04384/PA, dated 8 May 2021, was refused by notice dated 6 July 2021.
 - The development proposed is a 15.0m phase 8 monopole c/w wraparound cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

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 Saved policies 8.55 to 8.55C of the Birmingham Unitary Development Plan (2005) were superseded on adoption of the DPD.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 appellant was given the opportunity to comment on the relevance of this to the appeal.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. Consequently, I have taken it into account as a material consideration but only insofar as the policies relate to matters of siting and appearance.

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 nearby occupants with regard to outlook, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site is a high point in the locality, with Acfold Road and Leopold Avenue both sloping steeply up towards the site. Hamstead Hall Avenue also slopes up to the site from the north. The proposed mast would be sited alongside trees in the adjoining garden which are of a comparable height to the appeal scheme and would provide a backdrop to the proposal. However, the longevity of these trees is uncertain, particularly given their location in a private garden. There are lampposts in the vicinity and street trees on nearby residential roads. However the lampposts are considerably shorter than the proposal and the street trees are also modest in scale.
7. Therefore, the proposal would appear visually intrusive and dominant in the street scene, noticeably taller than other existing street furniture and street trees. This would be emphasised by the topography of the surrounding roads from which the proposal would be a conspicuous addition. Its prominence would be significantly increased in the event that adjacent trees were to be substantially pruned or one or more trees removed, which is outside of the appellant's control.
8. The appeal site is in a residential area where there would be oblique views of the proposal from a number of nearby houses. However, the extent to which there would be direct views from nearby houses would be highly limited as there are no houses that face directly onto the appeal site. Consequently, the proposal would not result in unacceptable impacts on living conditions of nearby houses with respect to outlook.
9. I note the alternative locations considered by the appellant and reasons given for discounting each of those. Given the harm I have identified to the character and appearance of the area, alternatives must be robustly explored to determine the likelihood of there being less harmful alternatives to the appeal scheme. The site at D6 (Hamstead Hill) is discounted on the basis of its proximity to residential properties. However the immediately vicinity of the site does not appear to be particularly residential in character, being close to a public house and hand car wash, with mature trees and playing fields on the opposite side of the road. Therefore, subject to further investigation this site might reasonably be less harmful to character and appearance than the appeal scheme.
10. Similarly, the site at D7 (Vernon Avenue) was discounted due to its proximity to residential properties. However, dependent on the precise location proposed, this might reasonably provide an alternative location where visibility from residential properties would be limited, aided by extensive tree cover there. Accordingly, it would appear that D6 and D7 offer realistic alternatives that might reasonably accommodate the appeal scheme with less harm to factors such as the character and appearance of the area. No robust evidence is before me to indicate otherwise.
11. I recognise the importance of good, fast, reliable and cost-effective communications and the support for high quality communications infrastructure within the Framework. Nevertheless, I conclude that the harm from the siting and appearance of the proposed installation on the character and appearance of the area would not be outweighed by the need for the installation to be sited as proposed, taking into account the potential for suitable alternatives.

Conclusion

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

Rachel Hall

INSPECTOR