



Appeal Decision

Site visit made on 23 June 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th July 2022

Appeal Ref: APP/P4605/W/21/3288621

Land at Pershore Road, Pershore Road, Edgbaston, Birmingham B5 7RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 2021/06193/PA, dated 8 July 2021, was refused by notice dated 1 September 2021.
 - The development proposed is the installation of a new 15.00m monopole supporting 6 no. antennas with a wrap around equipment cabinet at the base of the column, installation of 3 no. new equipment cabinets and ancillary development thereto.
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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 the installation of a new 15.00m monopole supporting 6 no. antennas with a wrap around equipment cabinet at the base of the column, installation of 3 no. new equipment cabinets and ancillary development thereto at land at Pershore Road, Pershore Road, Edgbaston, Birmingham B5 7RL in accordance with the terms of the application Ref 2021/06193/PA, dated 8 July 2021, and the plans submitted with it including: 002 Site Location Plan BHM12219_Planning_Rev_B dated 23 June 2021; 100 Existing Site Plan Drawing No. BHM12219_Planning_Rev_B dated 23 June 2021; 150 Existing Site Elevation Drawing No. BHM12219_Planning_Rev_B dated 23 June 2021; 215 Proposed Site Plan Drawing No. BHM12219_Planning_Rev_B dated 23 June 2021; 265 Proposed Site Elevation Drawing No. BHM12219_Planning_Rev_B dated 23 June 2021.

Preliminary Matters

2. 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.

Planning Policy

3. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 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 Issues

4. 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 accuracy of the submitted plans.

Reasons

Submitted Plans

5. There is dispute between the main parties regarding the submitted plans. The Council has stated that those accompanying the original application were not drawn to scale and that, despite updated versions being provided, its concerns were not addressed during the application process.
6. The appellant has submitted the updated application plans with the appeal, and the Council has had the opportunity to provide further comments on these. Based on my observations, the plans submitted with the appeal are accurate, correctly scaled and perform their intended purpose of indicating the proposed location of the installation.
7. For the above reasons, I conclude that the application has been accompanied with a plan indicating its proposed location in line with paragraph A.3(4)(a) of Schedule 2, Part 16, Class A.

Character and appearance

8. The appeal site comprises a grassed area of footpath at the junction of Pershore Road and Pebble Mill Road. The surrounding area is characterised by a range of uses, with residential and commercial buildings of varying heights and styles visible. Tall trees and a regular arrangement of streetlights line both Pebble Mill Road and Pershore Road in the vicinity, and vertical road signage is present nearby.
9. The proposal seeks to introduce a 15m high monopole and associated cabinets. Although the monopole would be greater in height than the street signage and lampposts, vertical structures and tall landscape features are nevertheless commonplace in the immediate setting. It is within this context that the proposal would be experienced, such that its addition would not appear out of place. While featuring a wider pole than the streetlights and signage, with antenna at the top, it would overall remain a slimline addition that would not be so bulky as to appear disruptive.
10. The site itself is an open area of the footpath. Located close to the edge of the highway, the proposal would be readily visible to passing pedestrians and vehicular users, in addition to occupiers of nearby residential buildings. However, ample vegetation is present in the surrounds. As such, even acknowledging the distance from this vegetation, on the approach to the site from multiple directions the proposal would be experienced against a backdrop of trees and partly screened by them. This, combined with its proposed green colouring, would serve to soften the presence of the proposal, including the cabinets, in the streetscene so that it would not appear unduly dominant.
11. As a result of the surrounding features and mixed use of the area, the proposal would not read as an incongruous addition. It would visually relate to nearby vertical

structures and, due to the presence of other commercial uses along and set back from Pershore Road, would not appear jarring or out of place in the wider context.

12. For the above reasons, I conclude that the siting and appearance of the proposal would not result in significant harm to the character and appearance of the area.

Other matters

13. The mast would be accompanied by three equipment cabinets that are permitted development. Therefore, although these cabinets are related to the proposed mast, the effect of the siting and appearance of these on the character and appearance of the area has limited bearing on the main issue. In any event, on the basis of the evidence before me and the variety of street furniture present near the site, I do not consider that these cabinets would appear out of place in the proposed location.
14. 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.
15. While potential alternative sites have been raised, I have found this scheme to be acceptable and as such have no need to assess the suitability of alternative locations.

Conditions

16. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the Local Planning Authority received the application, and must 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.
17. I note that the Council has suggested a condition relating to noise. The GPDO 2015 does not provide any specific authority for me to impose additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

C Rafferty

INSPECTOR