



Appeal Decision

Site visit made on 2 August 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2022.

Appeal Ref: APP/P4605/W/22/3295045

Raymond Road, Saltley, Birmingham B8 3SP

- 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 and Schedule 2, Part 16 of the Town and Country Planning (General permitted Development) (England) (Order 2015 (as amended)).
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/07344/PA, dated 15 August 2021, was refused by notice dated 12 October 2021.
 - The development proposed is 15.0m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Description of development

2. The description above is taken from the application form. The Council's decision notice, delegated report and appeal statement refer to a 20 metre high Phase 8 Monopole. This is also the height referred to in the appellant's covering letter submitted with the application and is the height of the pole mentioned in the appellant's Site Specific Supplementary Information (SSSI). However, the application form and submitted plans clearly refer to a 15 metre high Phase 8 Monopole, as does the appellant's Appeal Statement. I have therefore determined the appeal on this basis.

Development Plans and Policy

3. Since the application was determined the Council has adopted the Development Management in Birmingham Development Plan Document (the DMB)¹. The Council has confirmed that DMB Policy DM16 (Telecommunications) now attracts full weight and that saved Paragraphs 8.55-8.55C from the Birmingham Unitary Development Plan 2005 (the UDP) have now been superseded. I shall determine the appeal on this basis.
4. Policy TP27 from the 2017 Birmingham Development Plan (the BDP) is cited in the Council's first and third reasons for refusal. However, Policy TP27 relates to the creation of sustainable neighbourhoods arising from new housing and residential development. The proposal is not for new housing and hence Policy TP27 is not relevant to this appeal.

¹ Adopted 7 December 2021

Procedural Matters

5. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'), under Article 3 and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received.
6. The principle of development is established by the GPDO, subject to various limitations and conditions. Policies of the development plan and National Planning Policy Framework (the 'Framework') are 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

7. The main issues are:
 - The effect of the siting and appearance of the proposal on the character and appearance of the area,
 - The effect of the siting and appearance of the proposal on the proximity to Parkfield Community School,
 - The effect of the siting and appearance of the proposal on the living conditions of occupiers of nearby properties with regards to outlook, and
 - If any harm would occur whether this is outweighed by the needs for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

8. The appellant says that 'Three UK' is in the process of building the UK's fastest 5G network with a service that will be much faster and able to handle more data that will help with the government's aim of 'levelling up' digital connectivity. The nature of 5G means that radio frequencies used do not travel as far and not all existing sites can be upgraded. The proposed 15m high Monopole is needed to improve digital wireless mobile coverage within the Saltley area to facilitate 5G coverage.

Character and appearance

9. The appeal site is the highway footpath on the western side of Raymond Road and close to the staggard crossroads with Couchman Road and Kiln Rise. The area is predominantly residential with surrounding streets of mainly two-storey residential terraced or semi-detached properties. Raymond Road is a cul-de-sac with housing only on its east side. On the west side, behind the appeal site are the metal railings that enclose Morris Park an area of open space with its play area and recreation ground. Along the railing boundary within the park is a row of trees, about 6-9 metres tall. The Parkfield Community School and its associated grounds are located approximately 100m to the south of the appeal site, with part of its boundary fencing across the end of the cul-de-sac.
10. On my visit, I saw there was little vertical street furniture in the vicinity of the appeal site, including on nearby roads. On the east side of Raymond Road there were only two slimline streetlighting columns and two telegraph poles.

On the west side of Raymond Road, on which the appeal mast would be installed, there was a single slim streetlighting column towards the end of the cul-de-sac some distance from the appeal site. Due to lack of built development adjacent to and behind the appeal site, the immediate area has a generally low-rise, open and spacious character and appearance.

11. The Monopole and the various cabinets would line along the back edge of the pavement, which is wide enough to accommodate the installation without impeding pedestrian movement. However, the proposed 15m high Monopole would be substantially taller and thicker than existing vertical street furniture and would thus be out of keeping. There is limited screening such that the Monopole would tower over the adjacent trees and punctuate the skyline. Furthermore, the antenna are not contained within a smooth sheath, which I understand is because of operational reasons, but this would nonetheless compound the visual intrusion when projecting beyond the trees, which will take years to mature and screen the Monopole.
12. 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. I appreciate that the Monopole needs to be tall enough to clear buildings and trees to ensure suitable coverage within the cell and provide connection between the cells, and also robust enough to take the necessary antennae and infrastructure. However, in this instance the lack of a meaningful landscaped or building backdrop, the lack of vertical street furniture, the proximity to open space and a park and close to a junction would make the Monopole and associated cabinets unduly conspicuous and incongruous in the street scene in this low-rise residential area. It would therefore cause unacceptable harm the character and appearance of the area.
13. In so far as it is material, the proposal would be contrary to DMB Policy DM16, and Policy PG3 of the Birmingham Development Plan (the BDP). These collectively seek to ensure the impact on the character and appearance of the surrounding area is minimised, that development responds to local context and that streets and spaces are attractive. It would also be contrary to the Council's 2008 Supplementary Planning Document 'Telecommunications Development: Mobile Phone Infrastructure' (the SPD) which advises that street locations will be discouraged, but where they are the only option they should be similar in character and appearance with existing street furniture and should not be prominent in the street scene.

Proximity to Parkfield Community School

14. The Council's second refusal reason relates to the proximity to the school, which under paragraph 8.55 was deemed to be a 'sensitive location' for telecommunication development. The school lies approximately 100 metres to the south. Paragraph 8.55 stated that telecommunication development would only be acceptable in sensitive locations if the applicants were able to demonstrate there were no other suitable locations. However, paragraph 8.55 has been superseded.
15. The newly adopted and replacement DMB Policy DM16 makes no reference to 'sensitive locations' or them being avoided, but does expect applicants to demonstrate that opportunities have been explored for mast sharing and that no suitable alternatives exist. In addition, the Framework makes no reference

to 'sensitive locations' and places no requirement on telecommunication installations to avoid schools. It does, however, require an applicant's supporting evidence to include the outcome of consultations, in particular where a mast is to be installed near a school or college. The SPD, which pre-dates both the Framework and Policy DM16, lists education institutions as 'sensitive locations' and expects applicants to demonstrate the agreement of the school for locations within or adjacent to the grounds.

16. The appellant undertook pre-application consultation with Parkfield Community School, but no reply was received. The Council's Officer Delegated Report confirms that, following consultation and display of site and press notices, no representations were received from the school, or indeed any other interested parties apart from Aerodrome Safeguarding and the Council's Environmental Pollution Control team, neither of which raised any objections.
17. Existing local or national policy do not preclude the siting and appearance of a telecommunication masts based on their proximity to a school. However, I shall deal with alternative sites later as Policy DM16 requires consideration of this in the wider context.

Living conditions of neighbouring residents

18. The Council's SPD states that residents may perceive telecommunication installations as a significant visual intrusion if they are close or visible from their homes or gardens, and can also cause residents to have concerns about perceived health effects. To this end, the SPD advises that residential areas should be avoided, and particularly locations immediately in front of habitable room windows.
19. The Council has identified the properties that would be affected. The nearest is No 59 Couchman Road. It occupies a corner location and presents its side elevation to Raymond Road, which has a first floor habitable room that would face towards the proposal. However, as the mast would be sited on the opposite side of the road it would not be immediately in front of the first floor window.
20. From the rear gardens of 60-63 Couchman Road, which are side on to Raymond Road, views of the mast would been seen above the top of existing garden boundary fences from some directions. The rear of 75 Parkfield Road is a substantial distance away. Whilst there may be some glanced views of the mast, it would be seen across the intervening back gardens of properties on Couchman Road.
21. Whilst occupiers of these properties may see the mast at times, due to the angles of view and separation distance the proposed mast would not be immediately in front of habitable windows or immediately adjacent gardens. It would not cause any meaningful obstruction to views from the window or gardens, nor would it create a significantly overbearing effect on occupiers of these residences. I am satisfied that the siting and appearance of the proposal would not result in harm to the living conditions of identified nearby residential occupiers with regards to outlook.
22. In so far as it is material to siting and appearance, the proposal would not conflict with the DMB Policy DM16, which seeks to ensure there is minimal impact on residential amenity. Whilst sited in a residential area, the mast

would not be immediately in front of habitable windows and so would not conflict with the SPD.

23. To meet health safeguards and as advised by the Framework, 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). No sufficiently authoritative evidence has been provided to indicate the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Alternative sites

24. The social and economic benefits arising from proposed prior approval telecoms installation have already been recognised by the scope to grant permission under Article 3 of the GPDO. The GPDO is clear that the only considerations should be siting and appearance of the proposal, however there is scope to consider the need for the proposal to be sited in the proposed location.
25. The Framework recognises the importance of advanced, high quality and reliable communications infrastructure to economic growth and social wellbeing, and states planning decisions should support the expansion of networks, including next generation mobile technology such as 5G. It also states that the number of masts and sites for installations should be kept to a minimum, and the use of existing masts, buildings and other structures should be encouraged. Where new sites are required the equipment should be sympathetically designed and camouflaged where appropriate. For new prior approval base stations applications should be supported by necessary evidence, including that the appellant has explored the possibility of erecting antennas on an existing building, mast or other structure.
26. Similarly, Policy DM16 seeks to promote the development of advanced, high quality communications infrastructure to support economic growth and more accessible, inclusive communities. However, in doing so the Policy requires new telecommunication proposals to evidence that opportunities for mast or site sharing has been explored and that there are no suitable alternative sites in the locality, including the rection of antennae on existing buildings or other suitable structures.
27. The appellant has looked at about 8-9 alternative sites within a constrained cell search area, although it is not clear from the appellant's Fig 5 Area Coverage Map which are 'unshaded' areas lacking coverage and 'red' areas being congested and needing additional telecommunication equipment.
28. The sites considered in the appellant's SSSI were in relation to a 20m high Phase 8 Monopole. The alternative sites listed in the appellant's Appeal Statement include most of the same sites, but the proposal is for a 15m high Monopole. There is no explanation as to whether or not a shorter pole needs a different site selection criteria. Furthermore, whilst some of the site references differ, the same sites have different reasons for being discounted in the SSSI when compared to the Appeal Statement. For example site D3 in the Appeal Statement is discounted for 'potential vis splay issues' but in the SSSI it is discounted because the 'pavement is overlooked by residential properties.' Residential overlooking could well describe the appeal site but there is no criteria to explain how the two sites are different and why the appellant deems the appeal site acceptable. Overall, the level of detail about all sites is scant. I

saw a number of commercial or other premises in the surrounding area, but there is little evidence to indicate existing buildings or other structures having been considered. There is only generic reference to mast sharing, but it is not clear if other masts have been explored for co-location or mast sharing.

29. Overall the discrepancies, unexplained differences, and lack of commentary about existing buildings or structures causes me to question whether a thorough enough review of possible site options for a 15m high Monopole has been conducted to demonstrate that the appeal site is the only viable option. The lack of information and criteria for site searches makes it difficult to understand how or why the choice of the appeal site was arrived at. I am therefore unable to meaningfully assess alternative locations and therefore the acceptability of the proposed location.
30. Accordingly, the harm I have identified to the character and appearance of the area is not outweighed by the needs for the installation to be sited in the proposed location.

Other Matters

31. The appellant refers to the Council not responding to pre-application consultation. That is a matter for the appellant to address with the Council. It does not alter my findings with regard to the harm caused to the character and appearance of the area.

Conclusion

32. The siting and appearance of the proposed development would cause harm to the character and appearance of the area. The lack of harm to living conditions of nearby residents and the proximity to the school carry neutral weight in my consideration of the proposal.
35. For the reasons given above I conclude that the appeal should be dismissed.

K. Stephens
INSPECTOR