



Appeal Decision

Site visit made on 9 August 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/P4605/W/22/3295612

Longbridge Lane, West Heath, Birmingham B31 4JX

- 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 2021/08723/PA, dated 2 October 2021, was refused by notice dated 29 November 2021.
 - The development proposed is a 16.0m 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 provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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.
3. The appellant considers that the installation of the proposed cabinets on their own constitutes permitted development, and hence could be carried out on site without prior approval. Notwithstanding this position, this is not for me to determine as part of the appeal. I have therefore assessed the scheme based on the description of the development and the plans submitted, which for clarity, includes the proposed monopole, wraparound cabinet and associated ancillary equipment as indicated on the proposed plans.
4. The Council has referred in its decision notice to saved paragraphs 8.55 and 8.55 A-C of the Birmingham Unitary Development Plan (2005) (UDP), and Policy PG3 of the Birmingham Development Plan (2017) (BDP). It has also referred to the National Planning Policy Framework (Framework) and other supplementary planning documents. However, since the determination of the application, the Development Management in Birmingham Development Plan (DPD) was formally adopted in December 2021 with its policies replacing those of the UDP. The main parties are aware of this and have been given the opportunity to comment.

5. I have had regard to the policies of the development plan at the time, supplementary planning documents, and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

6. Within the terms set by legislation, the main issues are the effect of the proposal on:
- the character and appearance of the area;
 - the living conditions of nearby residential occupiers, with regards to outlook;
 - whether sufficient evidence has been submitted to demonstrate that other sites have been considered as suitable alternatives.

Reasons

Character and Appearance

7. The appeal site is an open grassed area of land that is located adjacent to Longbridge Lane and close to a signalised traffic junction. On the rear boundary of the site is a mature hedgerow, which separates the appeal site from the highway. A row of two storey semi-detached dwellings face towards the appeal site, with the closest dwellings being Nos 207 and 209 Longbridge Lane. Opposite the appeal site on the other side of the highway is the Saint John Baptist Church.
8. The proposed monopole mast which would be sited to the rear of the grassed area would not visually integrate with the backdrop of green foliage due to its notably greater height. It would appear higher than the hedgerow and the nearby trees, appearing as a stark, incongruous structure within the street-scene. In addition, it would appear significantly taller than the two-storey residential dwellings in this section of Longbridge Lane. Therefore, it would appear unduly visually prominent.
9. There are a number of vertical features in the immediate vicinity of the appeal site, including an existing BT pole, streetlights, and traffic light signal boxes. These existing features, including the church opposite the site, are all of modest height. In contrast, the proposed monopole post with antenna headframe would give the proposal a considerably bulkier appearance and would be noticeably taller than the existing street furniture.
10. The appeal site is on ground that is raised slightly higher than the highway below. As a result, the monopole would appear even taller in relation to its surrounding. In addition, the proposed installation would be sited close to a busy signalised traffic junction in an open and prominent setting and would therefore be widely visible from a range of approaches by pedestrians and vehicular users. The trees adjacent to the appeal site would afford only partial seasonal screening when in leaf, and only from certain approaches. Furthermore, the monopole mast would be significantly taller than the trees.
11. I acknowledge the proposed monopole could be finished in a different colour more appropriate to its location. However, this would not overcome the visual impacts arising from the height, visible distinct antenna headframe design, and

siting of the structure in relation to the low-rise neighbouring residential properties.

12. The appellant has stated that the height of the column, at 16 metres, is the lowest possible height that will enable 5G coverage to be delivered to the area in an efficient manner. Whilst this may be the case, it does not outweigh the harm I have found to the character and appearance of the area.
13. For the reasons given above, the proposal would cause unacceptable harm to the character and appearance of the area and would fail to accord with the design objectives of the Framework. In addition, the proposal would be contrary to Policy PG3 of the BDP. Amongst other things, this policy seeks to ensure new development creates a positive sense of place and responds to site conditions and the local area context. The proposal would be contrary to Policy DM16 of the DPD, which amongst other things, seeks to minimise impact on the character and appearance of the surrounding area. It would also conflict with the guidance in the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (2008) (SPD), which states that open locations should be avoided, and telecommunication equipment should not be prominent in the street scene or appear as an obtrusive addition.

Living Conditions

14. 207 and 209 Longbridge Lane currently benefit from good levels of outlook with views of the open grassed area unimpeded. Therefore, Nos 207 and 209 have relatively clear views of the appeal site from their front habitable room windows at ground and first floor levels, and from their property frontages.
15. The proposed installation would be sited in close proximity to these two dwellings and would appear straight in front of them with no screening in-between. Consequently, occupants of these two dwellings would have direct and unrestricted views of the proposed installation, which would appear highly visible. The proposed mast would be overbearing and would result in an undue sense of enclosure. I was unable to identify similar inter-relationships between street furniture and other properties during my site visit. As such, it would have a harmful impact on the outlook for the occupiers of Nos 207 and 209 from both their property frontages and the habitable rooms fronting onto the proposed development.
16. Whilst there are trees in the nearby area, they would not screen views of the proposal when viewed from Nos 207 and 209. Furthermore, the proposed mast would rise considerably above the height of the foliage backdrop and the height of the nearby trees, appearing unduly intrusive.
17. For the reasons given above, the proposal would unacceptably harm the outlook for occupiers of Nos 207 and 209. As such, the proposal would fail to accord with paragraph 130 of the Framework, which seeks a high standard of amenity for existing and future users. In addition, the proposal would conflict with Policy PG3 of the BDP, which amongst other things, seeks to ensure new development responds to site conditions and local area context. The proposal would conflict with Policy DM16 of the DPD, which amongst other things, seeks to minimise impact on the visual and residential amenity of the surrounding area. The proposal would also be contrary to the Council's SPD (2008), which states that telecommunication equipment should avoid being intrusive in

residential areas and should not be sited immediately in front of habitable room windows.

Suitable Alternatives

18. Paragraph 117 of the Framework explains that applications for telecommunications development, including prior approval, should be supported with the necessary evidence to justify the proposed development. This should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
19. Several sites have been considered by the appellant prior to the appeal site being selected. These sites have all been discounted by the appellant. I acknowledge that the 5G cell search area is very constrained. However, the evidence provided for dismissing the discounted sites is vague, lacks justification and is not readily interrogatable. Furthermore, there is no clear quantification in the evidence before me as to the specific benefits of the appeal scheme in terms of improving cell coverage. Given the sensitive location of the proposed site, it has not been sufficiently demonstrated that the discounted sites would be more harmful.
20. Consequently, from the evidence submitted, I am not satisfied that a robust review of alternative site options within the cell search area has been undertaken to demonstrate that the appeal site represents the only viable option. I also note that an interested party has suggested an alternative site that does not appear to have been considered by the appellant.
21. The proposal would be contrary to the aims of the Framework, as set out above, Policy DM16 of the DPD, and the Council's SPD (2008), which requires evidence to demonstrate that alternative sites have been explored.

Other Matters

22. The appellant refers to the Council, Ward Councillors, and other key stakeholders not responding to a pre-application consultation. However, the Council dispute this and state that no fee was submitted and therefore the pre-application was not registered. That is a matter for the appellant to address with the Council and those key stakeholders 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 and the living conditions of neighbouring occupiers.
23. The proposal would improve telecommunication services in line with the Government's aspiration to provide universal 5G coverage and would support the development and roll-out of 5G across the area. However, it has not been robustly demonstrated that similar benefits could not be achieved via an alternative and less harmful approach.
24. I have had regard to the other benefits of the proposal as advanced by the appellant including how the proposal would contribute to the delivery of sustainability and support economic growth and social well-being in the local area. It would also improve CCTV and access to communication services and emergency services. However, as siting and appearance are the only relevant matters in this prior approval, these benefits cannot weigh in favour of the proposal.

25. The proposal would be acceptable in terms of highway safety and would cause no harm to features of nature conservation or historic interest. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
26. Consequently, no other matters alter the foregoing reasoning that the development proposed would be unacceptable.

Conclusion

27. For the reasons given above, I conclude that the appeal is dismissed.

Helen Smith

INSPECTOR