



Appeal Decision

Site visit made on 11 October 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2022

Appeal Ref: APP/P4605/W/22/3299287

BHM20117 - West Boulevard Street Furniture, West Boulevard, California, Birmingham B32 2PJ

- 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 2021/10318/PA, dated 6 December 2021, was refused by notice dated 25 January 2022.
 - The development proposed is the installation of a 20 metre high monopole supporting 6 no. antennas, 4 no. equipment cabinets and development works ancillary thereto.
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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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the policies of the development plan and any related guidance and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
4. The appellant has referred to paragraphs in the 2019 version of the Framework in their statement of case. The application for prior approval was made after the publication of the latest version of the Framework in July 2021 and I have determined the appeal on that basis.

Main Issue

5. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the character and appearance of the area;

- the living conditions of nearby residential occupiers, with regards to outlook; and
- whether sufficient evidence has been submitted to demonstrate that other sites have been considered as suitable alternatives.

Reasons

Character and Appearance

6. The appeal site is a grassed verge adjacent to the footway on West Boulevard and close to a traffic roundabout. It is positioned between the main carriageway and a service road. The grass verge contains a small cluster of deciduous trees, but its appearance is largely open.
7. A row of two-storey maisonette dwellings face towards the appeal site, with the closest dwellings being Nos 462 and 464 West Boulevard. The surrounding area is relatively open with the built form being generally 2 storey, low rise buildings.
8. The proposed mast which would be sited to the edge of the grass verge would not visually integrate with the existing trees, due to its notably greater height and contrasting grey colour. It would appear higher than the trees, appearing as a stark, incongruous structure within the street-scene. Furthermore, the adjacent trees would afford only partial seasonal screening when in leaf, and only from certain approaches.
9. The proposal would appear significantly taller than the two-storey residential dwellings in this section of West Boulevard. Therefore, it would appear unduly visually prominent. Whilst there are taller buildings in the wider area, these are not located within the immediate vicinity of the appeal site.
10. There are a number of vertical features near to the appeal site, including streetlights, telegraph poles, highway signs, and a timber post and rail fence. These existing features are all of modest height. In contrast, the proposed mast with antenna headframe would give the proposal a considerably bulkier appearance and would be noticeably taller than the existing street furniture.
11. The proposal would be sited close to a busy traffic roundabout in an open and prominent setting. In addition, due to the ground level changes, it would be highly visible from a range of approaches by pedestrians and vehicular users.
12. Although the proposal could be finished in a different colour more appropriate to its location, 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 neighbouring residential properties.
13. I acknowledge that the height of the mast, at 20 metres, is the lowest possible height that would enable 5G coverage to be delivered to the area. Whilst this may be the case, it does not outweigh the harm I have found to the character and appearance of the area.
14. For the reasons given, the proposal would cause unacceptable harm to the character and appearance of the area and would fail to accord with the design objective of the Framework. In addition, the proposal would be contrary to Policy DM16 of the Development Management in Birmingham Development Plan Document (December 2021) (DPD), which amongst other things, seeks to

minimise the impact of telecommunications development on the character and appearance of the surrounding area.

Living Conditions

15. 462 and 464 West Boulevard (Nos 462 and 464) currently benefit from good levels of outlook with uninterrupted views of the open grassed verge. Therefore, Nos 462 and 464 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.
16. 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, the occupants of these two dwellings would have direct and unrestricted views of the proposed installation, which would appear highly visible. 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 462 and 464 from their habitable rooms fronting onto the proposed development.
17. Whilst there are trees on the appeal site and in the nearby area, the coverage of the tree canopies would not screen views of the proposal when viewed from Nos 462 and 464. Furthermore, the proposed mast would rise considerably above the height of the nearby trees.
18. For the reasons given above, the proposal would unacceptably harm the outlook for the occupiers of Nos 462 and 464. 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 DM16 of the DPD, which amongst other things, seeks to minimise the impact of telecommunications development on the visual and residential amenity of the surrounding area.

Suitable Alternatives

19. Paragraph 117 of the Framework explains that applications for telecommunications development, including prior approvals, 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 antenna on an existing building, mast or other structure.
20. Several sites have been considered by the appellant prior to the appeal site being selected. These sites have all been discounted by the appellant in terms of visual and residential amenity, other planning issues, and the technical suitability of each site. Similar issues as formed the basis for discounting other sites appear to be present here, such as proximity to residential properties.
21. 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 appeal site, it has not been sufficiently demonstrated that the discounted sites would be more harmful.

22. 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.
23. The proposal would be contrary to the aims of the Framework, as set out above, Policy DM16 of the DPD, and the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (2008) (SPD), which requires evidence to demonstrate that alternative sites have been explored.

Other Matters

24. The proposal would improve telecommunication services in line with the Government's aspiration to provide 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 location that would cause less harm to character and appearance and the living conditions of adjoining occupiers.
25. The proposal would not be located within a conservation area, environmental designation, or covered by a Tree Preservation Order. Whilst concern has been raised by local residents regarding highway safety issues, no substantive evidence has been submitted to demonstrate this. Moreover, the Highway Authority raised no concern and based on the evidence before me, and from what I saw on my site visit, I have no reason to reach a different view. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
26. I acknowledge that the applicant undertook pre-commencement consultation with the local planning authority, and the relevant Ward Members were notified in respect of the proposal.
27. I have had regard to 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 aid in facilitating increased robust, reliable, and efficient digital communications for the area that would benefit the needs of businesses and communities.
28. Nevertheless, this 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.
29. Consequently, no other matters alter the foregoing reasoning that the siting and appearance of the proposed development would be unacceptable.

Conclusion

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

Helen Smith

INSPECTOR