



Appeal Decision

Site visit made on 22 November 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/P4605/W/22/3301494

Brandwood Road, Druids Heath, Brandwood End, Birmingham B14 6PX

- 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 & 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 2021/09478/PA, dated 4 November 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the installation of a 15 metre 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 this basis.
3. In its decision, the Council has referred to Policy PG3 of the Birmingham Development Plan 2031 (adopted 2017) (BDP) and Policy DM16 of the Development Management in Birmingham Development Plan Document (adopted 2021) (DPD), as well as the National Planning Policy Framework (the Framework). However, the principle of development is established by the GPDO 2015 and Part 16, Class A does not require regard to be had to the development plan. I have had regard to the development plan and the 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 i) the character and appearance of the area, and ii) the living conditions of neighbouring occupants with regard to outlook, and, if any harm would occur, whether it is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Character and appearance

5. The site is part of a roughly triangular area of grass on the corner of Brandwood Road and Brandwood Park Road, sub divided by walkways. The surrounding area is predominantly residential, with a few commercial premises on the opposite side of the busy road junction. The immediate area contains a variety of existing street furniture, including lighting columns, bus shelters, fixed rubbish bins, street signs and traffic lights. The immediate area also contains two existing telecommunication masts, adjacent to Brandwood Park Road, and multiple cabinets. Nearby there are electricity pylons along Brandwood Park Road. There are a few modest trees in the grass area, and a larger tree in a neighbouring front garden, but the area around the site is predominantly open.
6. The proposed monopole is described as being slim and unfussy, designed to minimise visual impact but meet necessary technical requirements. While not as tall as the existing masts on the other side of the grass area, the proposed monopole would be substantially taller and wider than the streetlights. The openness of the site and the lack of any significant screening means the proposal would be highly visible from the junction as well as several roads on the approach to the site. The monopole would be substantially taller than the nearby dwellings and trees meaning the widest top section containing the antenna would be a particularly bulky and visually intrusive element against the skyline. Regardless of whether or not the cabinets would be permitted development, they would add further visual clutter to an area that is currently open and uncluttered.
7. The proposal does not include the removal or replacement of either of the existing masts in the immediate area so I have considered the proposal on the basis that it would be an additional monopole and cabinets. The existence of other equipment and street furniture can, in some circumstances, help a proposal assimilate with the surroundings. However, there is a point at which additional items just become unacceptable clutter. In this case, locating 3 masts and numerous cabinets in such close proximity, along with a variety of other street furniture, all highly visible within the same open corner, would exacerbate the clutter and have a disproportionately harmful visual impact.
8. The proposal would be located on the Brandwood Road side of the grass area and viewed primarily in the context of Brandwood Road, which has a suburban residential character. By contrast, the existing masts are viewed primarily in the context of Brandwood Park Road, which is a much wider road, with dwellings set well back from the road and where the skyline is dominated by electricity pylons. As such, the visual impact of the proposal is materially different to that of the existing masts.
9. Whatever the colour of the monopole, and despite being set away from any heritage assets, as a consequence of the factors set out above, the siting and appearance of the proposal would result in significant harm to the character and appearance of the area.

Living conditions

10. The proposal would be sited to the front of two dwellings at 261 and 263 Brandwood Road. The main front outlook of both dwellings would be towards the monopole and cabinets, at relatively close proximity, with no intervening features to provide screening.
11. However, visibility does not necessarily equate to harm and the proposal would be viewed from the dwellings against the backdrop of the busy junction. Given the separation distance and the context, the proposal would not be significantly detrimental to the outlook from these dwellings. Therefore, the siting and appearance of the proposal would not result in unacceptable harm to the living conditions of the occupants of No 261 and 263, with regard to outlook.

Alternative sites

12. The Government's support for such proposals is clear with paragraph 114 of the Framework establishing that decisions should support the expansion of electronic communications networks including next generation mobile technology such as 5G. However, the conditions set out under A.2(1)(b) of Part 16, Class A of the GPDO require that the visual impact of the proposal on an area is minimised, so far as practicable. Paragraph 115 of the Framework states that new equipment should be sympathetically designed and camouflaged where appropriate.
13. In addition, paragraph 117c requires that for a new mast, the applicant must provide evidence that they have explored the possibility of erecting antennas on an existing building, mast or other structure. These National Policy elements are closely reflected in the requirements of Policies DM16 and DM46 of the DPD. Therefore, taking into account my finding of harm regarding character and appearance, I need to consider the availability of suitable alternative sites which are potentially less harmful in terms of siting and appearance.
14. The appellant has set out the need for the proposal to fill a gap in coverage in the area, to provide for 5G and increase capacity. A map of the cell search area has been provided, which I have no reason to question and, given the requirements of 5G, I accept that the area is constrained. I am aware of the sequential site selection process¹ and have taken it into consideration.
15. In terms of mast sharing options, the appellant states that shared structures need to be taller and more substantial so the proposal is designed for a single operator, to keep the impact to a minimum. The possibility of sharing one of the existing masts in the immediate area was ruled out as it would require redevelopment with a wider and taller structure. Shared masts may well need to be taller and wider than single operator masts, but this does not lead me to conclude that multiple single operator installations would necessarily be less harmful, in terms of siting and appearance, than fewer shared installations. Regardless of any current mast sharing agreements, I have been presented with no substantive evidence that would enable me to undertake a comparison between the harm of the proposal for a single operator installation and the harm of an alternative shared option.

¹ As set out within the Code of Practice for Wireless Network Development in England (2022).

16. I understand that technical constraints rule out the use of electricity pylons as a location for antennas. Beyond this, no evidence has been presented regarding possible rooftops or other structures that were explored or why they were discounted.
17. Brief information has been provided on 4 potential alternative sites which were considered but discounted, one of which was an existing mast as set out above. The other three sites were discounted due to stated issues with proximity to dwellings, pylons, and access to a sports ground. No detail on the extent of the potential issues has been provided so I am unable to consider if the discounted options would have been more or less harmful than the proposal. In addition, no substantive information has been provided to explain why the 4 identified sites were the only reasonable alternatives.
18. While I note that the Council has not suggested alternative sites, the issues identified above place doubt over whether alternative site options have been fully and properly considered. Therefore, I do not have clear and persuasive evidence that, in all likelihood, there are no sites available which are more suitable and less harmful.

Other Matters

19. While I acknowledge that there would be various social and economic benefits, the GPDO is clear that the only considerations should be the siting and appearance of the proposal. Therefore, the potential wider benefits have not been taken into account.
20. I have considered referenced appeal decisions in so far as they have relevance to this appeal². However, full details are not before me and I note that one of the appeals was decided prior to the most recent iteration of the Framework. The impact of the siting and appearance of telecommunications equipment will vary considerably from one site to another and I have determined this appeal on the basis of its own details and context.

Conclusion

21. The need for an installation to provide coverage in this area weighs in favour of the appeal. However, I am in no doubt that the proposed siting and appearance would be harmful to the character and appearance of the area. It has not been demonstrated that less harmful alternatives have been fully explored. Consequently, the need for the installation in this location does not outweigh the harms identified. Therefore, for the reasons given above, the appeal is dismissed.

Helen Davies
INSPECTOR

² The following were referenced by the appellant - APP/P4605/W/19/3241791 and APP/Z4310/W/21/3269643.