



Appeal Decision

Site visit made on 28 October 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/P4605/W/22/3296399

Parklands, Birmingham, B45 9PZ

- 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 2021/09761/PA, dated 9 November 2021, was refused by notice dated 29 December 2021.
 - The development proposed is described as "proposed 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 (the 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 do not require regard be had to the development plan. Consequently, I have taken Policy DM16 of the Birmingham Development Plan Document (2021) (DPD), Policy PG3 of the Birmingham Development Plan (Part of Birmingham's Local Plan) (2017) (LP) and the the Telecommunications Development Mobile Phones Infrastructure Supplementary Planning Document (2008) (SPD), into account as a material consideration but only insofar as the policies relate 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 highway safety, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site is a grassed area adjacent to a footpath. Parklands Business Park and associated car park is located behind the appeal site. The immediate area is otherwise residential in nature and is characterised by large areas of green open space with tree planting and principally by two-storey semi-detached properties. There are streetlighting columns, road signs and trees nearby. The deep grassed verges, open spaces and tree planting contributes to a verdant character.
6. The proposal is intended to provide new 5G network coverage to the residential area in and around Parklands. The proposed development would be of a functional appearance, typical of telecommunications equipment seen in urban areas generally.
7. The height of the proposed monopole would be some 10 metres taller than nearby existing streetlights. Whilst the proposal would be read as being grouped with existing street furniture against a backdrop of commercial uses, when travelling along Parklands it would be considerably and noticeably taller and wider than the existing street furniture.
8. Due to its height and prominent siting, the proposal would be readily visible from various points along Parklands and nearby Fleming Way. Given its height and width, and prominent siting, the proposed monopole would appear at odds with the prevailing smaller scale, residential and commercial nature, and verdant character of the area.
9. Consequently, the siting and appearance of the proposal would be harmful to the character and appearance of the area.
10. The appeal site is located on a bend in the road, close to a junction with Fleming Way. Parklands has two lanes and is restricted to 20 mph. Streetlighting columns and road signs are located close to the highway. During my site visit Parklands was lightly trafficked. I have had regard to the concerns raised by the Council with regards to highway safety.
11. The proposed development would be located approximately 1.4 metres from the edge of the adjacent highway and falls within the forward visibility splay when travelling when travelling from the east. Whilst the proposed mast would be prominent, the associated cabinets would be low level and would not block views of oncoming traffic which would still be visible to vehicles travelling from the east. Consequently, the proposal would not result in unacceptable impacts on highway safety with regards to visibility.
12. I note the alternative locations considered by the appellant and reasons given for discounting each of those. Given the harm I have identified to the character and appearance of the area, alternatives must be robustly explored to determine the likelihood of there being less harmful alternatives to the appeal scheme. The site at D1 (Park Way) is discounted based on insufficient pavement width and tree canopy. However, it is a large area with potential to move the specific location of a mast. Pavements appear wide, with other street furniture already located within the footway. It is adjacent to a roundabout where the landscaping changes and the mast could be moved to an area with less tree coverage. Additionally, the immediately vicinity of the site does not appear to be particularly residential in character, being close to a commercial

area, with no residential development. Therefore, subject to further investigation this site might reasonably be less harmful to character and appearance than the appeal scheme.

13. Similarly, the site at D6 (Bristol Road South) was discounted due to insufficient space. However, this is at the junction with a main road where there is a large area of footway and highway verge. Additionally, there are several pieces of street furniture and taller lighting columns. Dependent on the precise location proposed, this might reasonably provide an alternative location. Accordingly, it would appear that D1 and D6 could offer realistic alternatives that might reasonably accommodate the appeal scheme with less harm to factors such as the character and appearance of the area. No robust evidence is before me to indicate otherwise.
14. I recognise the importance of good, fast, reliable, and cost-effective communications and the support for high quality communications infrastructure within the Framework. Nevertheless, I conclude that the harm from the siting and appearance of the proposed installation on the character and appearance of the area would not be outweighed by the need for the installation to be sited as proposed, considering the potential for suitable alternatives.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR