



Appeal Decision

Site visit made on 20 December 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/P4605/W/22/3302357

Brays Road, Birmingham B26 1NS

- 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 required).
 - The appeal is made by CK Hutchinson Networks (UK) Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/02867/PA, dated 29 March 2022, was refused by notice dated 25 May 2022.
 - The development proposed is described as "proposed telecommunications installation: proposed 15.0m phase 9 super slimline monopole 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 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.

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;
 - the living conditions of nearby residential occupiers, with regards to outlook.

Reasons

Character and Appearance

5. The appeal site is located on the pavement of Brays Road, to the west of the roundabout junction with Brays Road and Barrows Lane. There is a small parade of shops and services close to the site, but the area is predominantly residential in nature.
6. The proposal would be sited close to a traffic roundabout in a prominent setting. In addition, due to the sloped nature of Brays Road, it would be highly visible from a range of approaches by pedestrians and vehicular users.
7. The surrounding area does have existing vertical features, such as street lighting, telegraph poles, and highway signs. However, 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 it would be noticeably taller than the existing street furniture.
8. The position of the proposed monopole and cabinets in close proximity to the highway on a prominent corner position would further contribute to the visual clutter and dominance of the proposal as perceived by residents, passing drivers and pedestrians.
9. Whilst there are some street trees nearby, the existing trees would afford only partial seasonal screening when in leaf, and only from certain approaches.
10. Although the equipment could be finished in a colour appropriate to the location to soften its visual appearance, this would not mitigate the visual impact arising from the design, height and siting of the structure.
11. I acknowledge the slimline street pole design and that the height of the mast, at 15 metres, is the lowest possible height that would 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.
12. 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 objectives of the Framework. In addition, the proposal would be contrary to Policy PG3 of the Birmingham Development Plan (2017) (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 context. The proposal would be contrary to Policy DM16 of the Development Management in Birmingham Plan (2021) (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 telecommunication equipment should not be prominent in the street scene or appear as an obtrusive addition.

Living Conditions

13. The appeal site is located near to residential dwellings, notably 118, 468 and 489 Barrows Lane, and 127 Brays Road. These properties currently benefit from good levels of outlook with views that are unimpeded.

14. The proposed installation would be sited in close proximity to these residential properties. The proposal would therefore dominate the views from the windows of these properties. Consequently, the occupants of these dwellings would have direct and unrestricted views of the proposed installation, which would appear highly visible. As such, its siting and appearance would unacceptably harm the living conditions of the occupiers of these dwellings with regard to outlook.
15. Whilst there are trees in the nearby area, they would not screen views of the proposal when viewed from these neighbouring dwellings. Furthermore, the proposed mast would rise considerably above the height of the nearby trees, appearing unduly intrusive.
16. For the reasons given above, the proposal would unacceptably harm the outlook for neighbouring occupiers. 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 Policies DM2 and 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

17. 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.
18. 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, distance from nominal point, and the proximity to existing cell resulting in interference.
19. I acknowledge that the 5G cell search area is very constrained. However, the evidence provided for dismissing the discounted sites is brief and not readily interrogatable. Similar issues as formed the basis for discounting other sites appear to be present here. 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 prominent 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.

21. The proposal would be contrary to the aims of the Framework, as set out above, which requires evidence to demonstrate that alternative sites have been explored.

Other Matters

22. The proposal would improve telecommunication services in line with the Government's aspirations 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 neighbouring occupiers.
23. 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.
24. I also acknowledge that the appellant undertook pre-commencement consultation with the local planning authority, and the relevant Ward Members were notified in respect of the proposal.
25. Nevertheless, this does not alter my findings with regard to the siting and appearance and the resultant impact on the character and appearance of the area and the living conditions of neighbouring occupiers.
26. The proposal would not be located within a conservation area or within an environmental designation. However, acceptability in these regards is a neutral factor that does not weigh in support of the proposal.
27. Consequently, no other matters alter the foregoing reasoning that the siting and appearance of the proposal would be unacceptable.

Conclusion

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

Helen Smith

INSPECTOR