



Appeal Decision

Site visit made on 24 January 2023

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15 February 2023

Appeal Ref: APP/P4605/W/22/3302233

BHM19714 - Birmingham Road streetworks, Birmingham Road, Birmingham B72 1ED

- 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 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 2021/09913/PA, dated 19 November 2021, was refused by notice dated 13 January 2022.
 - The development proposed is the installation of a 15 metre high monopole supporting 6no. antennas, 4no. 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 (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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies TP46 of the Birmingham Development Plan (the BDP) and DM16 of the Development Management in Birmingham (the DMB) as well as the guidance set out within the Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document (the SPD) are material considerations as they relate to issues of siting and appearance. In particular, they seek to ensure telecommunications installations are suitably sited and do not adversely affect living conditions. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and includes a section on supporting high quality communications.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on (i) the character and appearance of the surrounding area and (ii) the living conditions of neighbouring occupiers, and, if any harm would occur, (iii) whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and Appearance

6. The appeal site comprises a small area of a significant verge that separates Birmingham Road from a service road that accesses the properties along one side of the road. The verge contains mature trees and is open to Birmingham Road, with a hedgerow along the service road. During my observations on site, I noted typical street furniture such as a bus shelter and streetlights.
7. The proposed mast would be in a prominent position close to, and readily visible from, both carriageways as well as from nearby properties. Although there are tall features, namely streetlights, within the street scene, these are largely softened and somewhat screened in views by the row of mature trees. As such, they do not form a significant or intrusive feature within the street scene. In contrast, the height and bulk of the mast, especially with regard to the antenna, would be a dominant feature that would project above the treeline. Moreover, given its functional and utilitarian design, the mast would be incongruous with the residential and somewhat verdant appearance of the row of trees. Although it has been proposed to paint the mast black, in order to match the existing street furniture, this would not be sufficient to outweigh the harm above.
8. The siting and appearance of the mast and its associated cabinets would therefore harm the character and appearance of the surrounding area. I have been mindful of DMB Policy DM16 which requires telecommunications equipment to be sited where it minimised the character and appearance impact on the surrounding area, and with the guidance set out within the SPD. It would also conflict with the character and appearance aims of The Framework, including Paragraph 130 regarding developments being sympathetic to the local character of its setting.

Living Conditions

9. As noted above, Birmingham Road is primarily residential, and the appeal site would be in close proximity to residential properties including a retirement complex which is currently under construction. The proposed mast and its associated works would therefore be visible in the outlook of these properties.
10. However, the proposal would not be so large, in massing or height, or so close to any windows, as to result in an unacceptable impact on the outlook from any property. The proposal would not, therefore, result in any unacceptable impact on the living conditions of the neighbouring occupiers.
11. I therefore find that the siting and appearance of the mast and its associated cabinets would not adversely affect the living conditions of neighbouring occupiers. I have been mindful of, and the proposal would comply with, DMB Policy DM16 and with the guidance set out within the SPD as well as with the

Framework in regards to protecting the living conditions of neighbouring occupiers.

Need for Proposed Siting

12. The appellant has submitted that the area surrounding the appeal site currently suffers from a poor level of signal, and they have identified the nominal point at the centre of this area. It is clear then, that there is some need identified for improved infrastructure. The appellant has also identified a number of alternative locations around the nominal point which were discounted for various reasons, including pedestrian safety, living conditions and, character and appearance.
13. The assessment of these discounted options is brief and the overall information on each option is significantly limited. In particular, site 4 covers a large area of the golf course car park, and any resultant effects would be dependent upon the exact siting. Moreover, it is not clear why the retirement complex, site 5, would not be suitable.
14. Consequently, I cannot be certain that the appeal site is less harmful than the alternatives or that they are not viable options. Therefore, without sufficient evidence to demonstrate otherwise, the need for the proposal to be located here does not outweigh the harm identified. As such, the proposal conflicts with Policy TP46 of the BDP, and DMB Policy DM16 which amongst other matters, require that opportunities for alternative solutions have been suitably explored. It would also conflict with the guidance set out within the SPD as well as Framework Paragraph 117 with regards again to alternative solutions and locations.

Other Matters

15. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance.

Conclusion

16. For the reasons given above, the appeal is dismissed.

Samuel Watson

INSPECTOR