



Appeal Decision

Site visit made on 28 March 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P4605/W/22/3310973

Heath Road Adjacent To Junction With Hawthorne Road, Bournville, Birmingham B30 1HU

- 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 GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Birmingham City Council.
 - The application Ref 2022/06630/PA, dated 21 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is telecommunications installation. Proposed 15.0m phase 8 monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a telecommunications installation. Proposed 15.0m phase 8 monopole C/W wrapround cabinet at base and associated ancillary works at Heath Road Adjacent To Junction With Hawthorne Road, Bournville, Birmingham B30 1HU in accordance with the terms of the application ref 2022/06630/PA, dated 21 August 2022, and the plans submitted with it.

Preliminary Matters

2. The appeal site address in the header and decision above is from the Council's decision notice. It is more suitable than the addresses given on the application and appeal forms as the development would be near the road junction.
3. The appellant claims the proposed equipment cabinets could be provided under permitted development rights without the need to apply for prior approval. Even so, I have taken them into account in my assessment as they are shown on the appeal plans.
4. In light of the provisions of Schedule 2, Part 16, Class A of the GPDO, I have assessed the development solely on the basis of its siting and appearance. The provisions do not require consideration of the development plan. However, I am referred to policies of the Development Management in Birmingham Development Plan Document 2021 (DMBDP), the Birmingham Development Plan 2017 (BDP) and guidance in the Birmingham Design Guide 2022. These are material considerations as far as they relate to issues of siting and design. Also, I have had regard to the relevant parts of the National Planning Policy Framework (the Framework).

Main Issue

5. The main issue is the effect of the siting and appearance of the development on the character and appearance of the area.

Reasons

6. The development would be on a grass verge between the carriageway and the pavement. Mature trees lie along both sides of Heath Road and Hawthorne Road. Also, there are trees behind the site on the boundary of an open space associated with Rowheath Pavilion, a nearby grade II listed building. Playing fields are on the opposite side of the highway and residences face onto Hawthorne Road and Heath Road to the west of the site. The locality has an attractive and verdant suburban feel, although it is not in a conservation area.
7. Lampposts, telegraph poles and other lower street furniture are present on the local highways. Of particular note is the telecommunications monopole with cabinets on a verge on the same side of the road and near to the appeal site. I am advised that this pole measures 17.5m tall and so the proposed mast would be slightly shorter. This existing development was only allowed by default as the Council's objections were not issued within the time period prescribed under the GPDO. In any case, irrespective of the planning history, it would be inappropriate to ignore the presence and visual effect of the existing equipment on the character and appearance of the area.
8. At the time of my site visit, the roadside trees were without leaves. Even so, I saw that their trunks and branches obstruct sight of the existing monopole in medium and long distance views along Heath Road. Where it is visible, the pole does not stand out as an unduly prominent feature as it tends to be seen through tree limbs.
9. The proposed monopole would be set slightly away from the existing installation. Nevertheless, it would be screened to a significant degree by roadside trees. Where visible, the pole would tend to be seen against a backdrop of tall trees rather than against the sky. As such, the development would blend in with its context when seen from afar on Heath Road.
10. The existing monopole is concealed by roadside trees from parts of Hawthorne Road but where visible, its upper element stands out against the sky. The proposed column would not be so obvious as it would be lower than the existing pole and it would be positioned around the corner and hidden by trees.
11. Like the existing installation, the proposed development would be most obvious from the nearby road and pavements and the playing fields on the opposite side of the road. From such vantage points the mast would appear tall but it would avoid a discordant dominating visual effect as the existing monopole and nearby trees are of a similar height. Also, the monopole would be screened from the Rowheath Pavilion grounds by the tall trees on the boundary.
12. In many views the development would be seen alongside the existing telecommunications equipment. Even so, the presence of 2 installations would not represent excessive clutter, particularly as they would be set apart from each other. The proposal would lead to a minor erosion in the openness of the grass verge but this would not be harmful given the significant lengths of roadside verges that would remain.

13. It is evident that buildings and streets in Bournville have been carefully designed to create an attractive neighbourhood. Nonetheless, the existing street furniture near to the site shows that modern installations can be provided without significantly undermining the fundamental characteristics of the area. The development would not meaningfully detract from the visual qualities of the street and its verdant nature would continue to prevail.
14. Under a recent appeal decision, an Inspector refused to approve siting and appearance details for telecommunications equipment on a nearby site. I have not been provided with the full details of this proposal but the submissions indicate that it was for a taller monopole than that currently proposed and on the other side of Heath Road. Given these differences, I am not bound to arrive at the same decision with this appeal.
15. For the above reasons, I conclude the development would not harm the character and appearance of the area. In these respects, it would accord with DMBDP policies DM2 and DM16 and BDP policy PG3 as far as these are relevant to the determination of the appeal.

Other Matters

16. Other concerns have been raised by interested parties. The development would not be easily seen with Rowheath Pavilion due to the separation distance and intervening vegetation. As such, it would not affect the setting of the listed building nor its significance. The proposal would be too far away to influence the settings of any conservation areas.
17. There is no reason to disagree with the Council's tree officer's advice that the installation would be a sufficient distance away to avoid harm to any trees. The proposal would have no impact on features of ecological importance. It would be set away from the nearest dwellings and so the monopole would not appear overbearing nor unduly affect the outlook from local residences. There is no substantive evidence to show the installation would generate noise to cause harm to the living conditions of any occupiers of property. Also, it would be far enough away to avoid an impact on any schools or nurseries.
18. Concerns have been raised over the potential effects of the development on health. The appellant has provided a certificate to confirm that the proposal would comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The Framework advises against the setting of health safeguards different to the ICNIRP guidelines. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy is justified.
19. The set back from the carriageway would ensure the development does not reduce visibility of on-coming traffic from the road junction. Also, it would not obstruct pedestrians' visibility when crossing the road nor hinder pedestrian movement on the pavement. As such, it would not prejudice highway safety.
20. It is stated that the Inspector for the aforementioned previous appeal found no identified deficiency in the signal coverage in the area. However, in this case, the appellant has provided evidence to show the local area lacks signal coverage. The proposal would improve the telecommunications service to the surrounding area and so the search zone for alternative sites is restricted. In response to paragraph 117(c) of the Framework, the appellant has undertaken

a desktop survey and physical inspection of the area and found no opportunities for the equipment to be installed on existing buildings or structures. The existing monopole has been discounted due to the nature of the antennas and the separation distances required from other items. The Council has not sought to dispute the appellant's claims and I find no reason to disagree.

21. An interested party suggests that there would be no need for the proposed equipment in light of potential mergers between telecommunications companies. However, at paragraph 118 the Framework states that the need for electronic equipment should not be questioned. Also, it is suggested that there are other sites where the development could be accommodated. However, I have found the proposal would cause no harm and so there is no need to consider the feasibility of alternative sites.
22. Concern is raised that further masts would be provided in the area if this appeal is allowed. However, there is limited evidence to indicate that other proposals would come forward. In any case, any future schemes would need to be considered on their own merits. It does not follow that they would be allowed simply on the basis of this current scheme being permitted.
23. The Council refers to 4 other appeal decisions that refused approval for telecommunications development in Birmingham. I was the determining Inspector with 2 of these appeals¹ and so I am aware that the context to the current proposal is significantly different. Limited information is before me on the other referred to appeals² and so I am unable to draw accurate comparison with this proposal. As such, these previous appeal decisions fail to influence my assessment.
24. The other matters referred to do not show that the siting and appearance of the development would be unacceptable. As such, they do not affect my conclusion.

Conditions

25. There is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place. The Council suggest a condition that requires the development to be painted fir green. The appeal plans indicate the installation would be finished in this colour.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed and that prior approval should be granted.

Jonathan Edwards

INSPECTOR

¹ Appeals reference numbers APP/P4605/W/21/3274540 and APP/P4605/W/21/3273960

² Appeals reference numbers APP/P4605/W/21/3268535 and APP/P4605/W/21/3271283