



Appeal Decision

Site visit made on 21 November 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/P4605/W/23/3323316

Monmouth Drive, Opposite 123-125, Sutton Coldfield, Birmingham B73 6JL

- 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 2023/00852/PA, dated 8 February 2023, was refused by notice dated 31 March 2023.
 - The development proposed is 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the header is from the Council's decision notice. It is different to the addresses on the application and appeal forms but it more accurately describes the location of the proposal.
3. In light of the provisions of Schedule 2, Part 16, Class A of the GPDO, I have assessed the proposal solely on the basis of its siting and appearance. The provisions do not require consideration of the development plan. However, I am referred to the Development Management in Birmingham Development Plan Document 2021 (DMBDP), the Birmingham Development Plan 2017 (BDP) and the Birmingham Design Guide 2022 (BDG). These are material considerations as far as they relate to issues of siting and design. Also, I have had regard to the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effect of the siting and appearance of the development on (i) the significance of Sutton Park, a grade II registered historic park and garden, (ii) the character and appearance of the area, and (iii) the living conditions of occupiers of 123 and 125 Monmouth Drive (Nos 123 and 125) in terms of outlook.

Reasons

Effect on Sutton Park

5. The development would be positioned on a grass verge at the side of Monmouth Drive. Behind the site when looking from the road is the southern edge of Sutton Park. From the listing description it is apparent the park gains

its significance from its origins in the 12th century as part of a royal chase. Also of interest is its history as common grazing and woodland, its pools dating from the 18th century and its use as a rural retreat and place for recreation for the Birmingham population. The park retains an open natural feel that illustrates its history and provides a scenic relieve to the built up extent of the city.

6. Along the park's boundary to Monmouth Drive is a low fence and a line of mature trees. However, behind the appeal site is a break in the row of trees so a pool and woods within the park can be seen over and through the fence from the opposite side of the road.
7. The development would interrupt public views of the park from Monmouth Drive and so it would affect the heritage asset's setting. The pole would spoil the appreciation from the road of the park's natural and scenic qualities and so it would be harmful to its setting and significance. Therefore, I conclude the siting and design of the proposal would be contrary to DMBDP policy DM16 and policies PG3 and TP12 of the BDP insofar as they are relevant to my assessment. Amongst other things, these seek to ensure development avoids harm to heritage assets. DMBDP policy DM2 is referred to in the Council's refusal reason but it contains no provisions relevant to this main issue.
8. The development would only affect viewpoints into the park from a short stretch of Monmouth Drive and so it would cause less than substantial harm to its significance. In such circumstances, paragraph 202 of the Framework says the harm should be weighed against the public benefits of the proposal.
9. The installation would improve 5G signal coverage for a single operator. It would form part of a wider network that would be undermined by gaps in coverage. As recognised by the Framework, high quality communications infrastructure is essential for economic growth and social well-being. The proposal's contribution towards signal coverage and the subsequent public benefits attract significant weight in my assessment.
10. At the same time, the Framework says great weight should be given to a historic asset's conservation, irrespective as to whether the detriment caused by a proposal would amount to substantial or less than substantial harm. Given this policy context, I find the benefits of the development would be insufficient to justify the detriment to the setting and significance of Sutton Park as a registered historic park and garden.

Character and appearance of the area

11. Whereas the appeal site side of Monmouth Drive is dominated by trees and views of the park, the opposite side is characterised by 2 storey houses set back behind front gardens. The introduction of the development on the park side of the road would be at odds with the tendency for buildings and lampposts to be on the opposite side of Monmouth Drive. The trees would help screen the proposal in medium and long distance views along the road but they would not prevent sight of the development from nearby. The pole would not appear unduly tall or dominant when seen with the nearby trees and it is not uncommon for such features to be seen by the side of urban roads. However, in this case, the development would appear incongruous when viewed against the backdrop of the scenic park. Even if painted grey, the pole would stand out starkly against the more natural environment on the park side of the street.

12. Therefore, I conclude the siting and appearance of the proposal would be harmful to the character and appearance of the area. In these regards, it would be contrary to BDP policy PG3 and policy DM16 of the DMBDP. Amongst other things, these seek to ensure development is sited and designed to minimise impacts on the character of the surrounding area.

Effect on living conditions

13. The development would be seen from the front windows of Nos 123 and 125. However, it would be on the other side of the road so a sufficient distance away to avoid an imposing or overbearing effect. Therefore, I conclude the siting and appearance of the development would not harm the living conditions of occupiers of Nos 123 and 125 in terms of outlook. In these respects, it would accord with DMBDP policies DM2 and DM16 and the aim to ensure schemes do not adversely affect residential amenity.

Other Matters

14. The Framework states that for a new mast, evidence should be provided which shows the possibility of erecting antennas on an existing building or structure has been explored. The proposal would provide improved signal coverage to serve the surrounding area and so the appellant states the search zone for alternative sites is restricted. Also, it is claimed that there is no opportunity for the equipment to be provided on existing buildings or structures. This is understandable given the prevalence of houses in the defined search area.
15. The appellant identifies other sites that have been considered for a new ground-mounted installation but that have been ruled out. However, the explanations provided for discounting these sites are unconvincing. For example, it is unclear why locations in residential areas are deemed unacceptable given the appeal site lies opposite dwellings.
16. Also, only 1 of the considered sites is within the defined search area as set out in figure 2 of the appellant's statement of case. The appeal site itself lies well outside the search area. This suggests a new installation outside the defined area could help address the deficiency in signal coverage. Also, the alternative sites considered all lie at or to the north of the identified nominal point. There is no explanation as to why sites to the south of this point have not been assessed. As such, I am unpersuaded that the appeal site represents the only or the least sensitive location for the development, particularly in light of its proximity to the registered park and garden. Accordingly, the approach as set out at design principle 24 of the BDG has not been followed and the appellant's contentions in these regards fail to justify allowing the appeal.

Conclusion

17. The siting and appearance of the proposal would not cause harm to living conditions at Nos 123 and 125. However, the benefits and other factors in support of the scheme would not outweigh the identified harm to the setting and significance of Sutton Park and to the character and appearance of the general area. As such, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR