



Appeal Decision

Site visit made on 25 October 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/P4605/W/23/3320744

Robin Hood Lane, Yardley Wood, Birmingham, B28 0JX

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by MBNL for and on behalf of Three UK Ltd against the decision of Birmingham City Council.
- The application Ref 2022/06877/PA, dated 25 August 2022, was refused by notice dated 28 October 2022.
- The development proposed is installation of a new 18m high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets and ancillary development thereto.

Decision

1. The appeal is allowed and planning permission is granted for installation of a new 18m high monopole supporting 6 no. antennas with a wraparound equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets and ancillary development thereto at Robin Hood Lane, Yardley Wood, Birmingham, B28 0JX in accordance with the terms of the application, Ref 2022/06877/PA, dated 25 August 2022, and the plans submitted with it, including the following drawings:
 - 1201514_BHM444_29235_B1166_M002 Issue B-002 Site Location Plan;
 - 1201514_BHM444_29235_B1166_M002 Issue B-100 Existing Site Plan;
 - 1201514_BHM444_29235_B1166_M002 Issue B-150 Existing Site Elevation A;
 - 1201514_BHM444_29235_B1166_M002 Issue-B 200 Proposed Site Plan; and
 - 1201514_BHM444_29235_B1166_M002 Issue B-251 Proposed Site Elevation A (Planning).

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 Council and the appellant refer to a number of development plan policies. However, 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 be had to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and on the living conditions of the occupants of Nos. 118 and 120 Robin Hood Lane, having particular regard to outlook.

Reasons

5. The appeal site lies within a grass verge which is located between a footpath and the busy Robin Hood Lane. There is a further grassed area between the footpath and the houses on the same side of the road. An existing telecommunications installation can be found within this part of the verge which includes an 8-metre-high mast along with some cabinets.
6. The appeal site is within a suburban, predominantly residential location with mainly traditional semi-detached houses located on both sides of Robin Hood Lane, although there is a more recently built small estate of houses located adjacent to the appeal site. The nearest house to the appeal site is on this small estate and is about 10 metres away, although this does not have any windows that directly overlooks the appeal site.
7. A particular feature of the area are the mature trees that line Robin Hood Lane which together with the verge and the open space on either side of the footpath creates a sense of openness which makes a significant contribution to the character and appearance of the area. That said, within the immediate area vertical structures are a characteristic feature including the existing mast, lampposts on both sides of the road, traffic signs and a bus stop.
8. The existing mast would be replaced by a proposed 18-metre-high monopole, albeit not in exactly the same location, with some existing equipment being retained and new associated equipment installed. The appeal proposal seeks to upgrade the existing apparatus to allow the two operators who would use the proposed equipment to retain, improve and expand 3G and 4G coverage. No 5G capable antennas are proposed as part of the proposal, but the mast would be able to accommodate such equipment later if required.
9. The proposed development would be screened to a certain extent by a nearby tree in some views, but nevertheless, bearing in mind that it would be higher and wider than the existing mast it would be readily visible within the streetscene. However, it would be seen against the backdrop of existing vertical structures and the roadside trees and would replace an existing mast. Consequently, the proposed monopole would not stand out as an isolated or atypical structure within the streetscene.
10. Taking account of its proposed height, it would protrude above the existing trees and so would be visible against the sky. However, there are several lampposts located at regular intervals along the road which are also tall, in prominent locations within the verge and are also visible against the sky.

11. While the proposed monopole would be taller than the lampposts, given the existing context it would not appear as an uncharacteristic or alien feature, particularly as it would replace an existing, albeit shorter mast. Moreover, it is located a sufficient distance away to ensure it would not have an adverse impact on any area of woodland.
12. Further, as a cabinet is to be removed and the proposed new cabinets are a typical form of structure seen in the area, given their relatively low height and as they would be set against a backdrop of trees, houses and the grassed space that would remain around them, they would not appear as incongruous features on the grass verge and would not lead to undue visual clutter.
13. Moreover, notwithstanding the introduction of the proposed development, the grass verge would continue to provide a pleasant green backdrop between the busy road and the houses on this side of Robin Hood Lane and would remain a largely open feature that would positively contribute to the street scene. Accordingly, when considered as a whole, the proposal would not unacceptably harm the character and appearance of the area.
14. There are houses, including Nos. 118 and 120 Robin Hood Lane opposite the appeal site that have front facing windows that look towards the proposed development. However, these properties are located some distance away and are separated by a verge, pavement and wide road. Further, although tall, the monopole would appear as a narrow slimline feature. As a result, the proposal would not appear as an inappropriately overbearing or intrusive feature that would unacceptably harm the outlook for any occupants of the properties on that side of the road.
15. Similarly, as outlined above, the nearest house on the same side of the road has no windows that would directly overlook the appeal site and other houses would be set back by a sufficient distance to ensure that the proposal would not have an unacceptable impact on the living conditions of the occupants of properties on the same side of the road as the appeal site.
16. I therefore conclude that the siting and appearance of the proposal would have an acceptable effect on the character and appearance of the area and on the living conditions of the occupants of Nos. 118 and 120 Robin Hood Lane, having particular regard to outlook. In so far as they are material considerations, the proposal would accord with Policy PG3 of Birmingham Plan 2031 – Birmingham Development Plan adopted January 2017 and Policy DM16 of the Development Management in Birmingham Development Plan Document, December 2021 which seek to ensure that development should reinforce or create a positive sense of place and local distinctiveness that responds to local area context and that telecommunication infrastructure is sited and designed in order to minimise impact on the visual and residential amenity and character and appearance of the area.
17. The scheme would also comply with the National Planning Policy Framework (the Framework) which promotes development that is sympathetic to local character and seeks to ensure that developments create places with a high standard of amenity for existing and future users. The proposal would also accord with the guidance contained in the Birmingham Design Guide – September 2022 (BDG) which amongst other things seeks to ensure that all telecommunication proposals should be designed to minimise visual impact and intrusion.

18. In their reason for refusal, the Council has cited the Telecommunications Development: Mobile Phones Infrastructure SPD, but I have clarified that this document has now been superseded by the BDG.

Other Matters

19. Concern has been expressed about the impact of the proposal on the nearby flora and fauna, however no evidence has been submitted to demonstrate that the proposed development would be likely to risk flora and fauna and I observed nothing at the site visit which gave me cause for concern.
20. The Framework seeks to minimise the number of telecommunication sites and encourages the use of existing masts and buildings for new equipment. However, I accept that the proposal amounts to an upgrade of the existing installation which would involve the replacement of an existing mast and the installation would be shared by two operators. Based on the available evidence I am satisfied that this approach is reasonable to provide the necessary coverage and capacity to the surrounding area and to facilitate more people having access to a high-quality electronic communication network.
21. Also, as I have identified that the siting and appearance of the proposed development would be acceptable, it is unnecessary for me to consider the detailed merits of any potential alternative site. Consequently, the proposal, which would support the upgrade and expansion of high-quality electronic communications networks, would accord with the Framework in respect of telecommunications sites.
22. Concerns have been raised about potential effects on health and wellbeing. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decisionmaker should determine. 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 would be justified.
23. In relation to inconvenience during construction, any disruption would realistically be limited and for a short duration only. Concerns that the proposed development would result in interference with existing electronic equipment in the surrounding area have not been substantiated and I have no reason to conclude that this would be the case.
24. Although concerns have been raised about the loss of property values that may result from the proposed installation, there is no evidence to suggest that this would be the case and, in any event, planning is concerned with land use in the public interest. As such, any possible influence on house prices is not a material factor in the determination of this appeal.

Conditions

25. Any planning permission granted for telecommunications apparatus under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the

application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

S Rawle

INSPECTOR