



Appeal Decision

Site visit made on 5 December 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/P4605/W/23/3322749

Cliff Rock Road, Rednal, Birmingham B45 8QN

- 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 amended).
 - The appeal is made by CK Hutchinson Networks (UK) Limited against the decision of Birmingham City Council.
 - The application Ref 2022/07592/PA, dated 6 October 2022, was refused by notice dated 29 November 2022.
 - The development proposed is a 5G 15m telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the siting and appearance of a 5G 15m telecoms installation: H3G street pole and additional equipment cabinets on Cliff Rock Road, Rednal, Birmingham B45 8QN in accordance with the terms of the application, Ref 22/07592/PA, dated 6 October 2022, and the plans submitted with it.

Procedural Matter

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 only 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.

Main Issues

3. The main issues in this appeal are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area;
 - the effect of the siting of the proposed installation on the living conditions of nearby residents; and,
 - if any harm would occur, whether it would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

4. The National Planning Policy Framework (the Framework) is a material consideration and in principle is supportive of the development of

communications infrastructure. However, each application must be assessed in terms of its impacts and merits.

5. Reference to development plan policies and supplementary planning documents (SPDs) have been made by the Council in relation to the main issues. The principle of development in prior approval applications though is established through the grant of permission by Article 3(1) of the GPDO, subject to any relevant exception, limitation or condition specified in Schedule 2. As a result, such policies and SPDs are only relevant as far as they set out material which assists in assessing the effect of the siting and appearance of the proposed telecommunications development in relation to the main issues. In this case therefore policies DM2 and DM16 of the Development Management in Birmingham Plan, policy PG3 of the Birmingham Development Plan and City Note LW-55 of the Birmingham Design Guide SPD are the most relevant. Between them these policies and SPD relate to amenity, telecommunications and good design.

Character and appearance

6. The proposed pole and equipment cabinets would be located at the back of the wide pavement on the street corner where Cliff Rock Road and Leache Green Lane meet.
7. The proposed monopole would have a slim appearance with unshrouded antennas towards its top. At 15m in height it would be twice the height of the house at 234 Cliff Rock Road directly behind it. In views on the approach from the north along the busy Leache Green Lane, the pole would be readily visible with the upper half of the pole outlined against the sky, dominating its surroundings. The upward slope of the lane in this direction would add to its prominence with the tall hedge and trees behind only lessening its presence to a limited degree. However / In contrast, on the approach from the south along Leache Green Lane the tall trees along the lane and the lower level of the site would partially screen the pole and soften its appearance. For the same reasons, the visual impact of the pole would be lessened on the approach from the east along Cliff Rock Road.
8. The installation would be approximately 100m from St James Catholic Primary School which is categorised by the Council in its SPD as a most sensitive location for the siting of telecommunications infrastructure. Whilst the top of the proposed pole would probably be visible from the grounds of the school the intervening church, trees and other buildings would reduce its prominence and would mean that it would not adversely affect the character and appearance of the school.
9. Notwithstanding my favourable findings on the latter aspects of the proposal, I conclude that the siting and appearance of the very tall installation proposed would have a moderate adverse effect on the character and appearance of the area.

Living conditions

10. The proposed pole and cabinets would be located in a line in front of the hedges around the perimeter of No 234. Owing to the tall height of the pole, which would be approximately 10m taller than the hedge and much taller than the house, it would be clearly visible from the private garden area to the side and rear of this dwelling. Its narrow width though would mean that outlook

from the garden would only be slightly enclosed and that its overbearing effect would be limited.

11. In views from within 229 Cliff Rock Road opposite, the pole would be towards the edge of the normal field of vision and the presence of a large tree on the pavement outside this house would serve to draw attention away from the installation. As a result, in views from this location the pole would only be slightly overbearing. The flats at 120 and 122 Leache Green Lane opposite would have clear views of the pole. However, once again its narrow width would limit the extent to which this tall pole and its antennae at the top would be overbearing.

Planning balance

12. The appellant has clearly demonstrated the need for the proposed installation in order to provide effective 5G coverage for the cell area in and around Cliff Rock Road. In a desktop study no existing freestanding poles or masts on buildings were identified by the appellant that the proposed installation could share.
13. The appellant has set out what alternative sites for the pole and ancillary equipment were considered in this highly built up residential area and the reasons why they were not pursued. Having viewed the appeal site and these other sites it is clear that the siting of the proposed development in these other locations would not have any lesser adverse effect on matters of acknowledge planning importance. All sites are close to housing, with the alternative sites that were considered either just as near to housing as the appeal site, closer to even larger numbers of dwellings or located within road junction visibility splays. As a consequence, I am not persuaded that there is a better alternative location for the proposed scheme.
14. I have found that the siting and appearance of the proposed installation would have a moderate adverse effect on the character and appearance of the area and a limited adverse effect on the living conditions of neighbours. In this case, the operational need for the proposed installation in the locality and the lack of more suitable alternative locations outweighs the harm that would be caused.

Other matters

15. To address potential health effects, the Framework advises that a statement that self-certifies that the proposed development meets the International Commission guidelines on non-ionising radiation protection should be provided. As this has occurred, and no substantive evidence has been submitted indicating otherwise, the proposed development is acceptable in terms of health.

Conditions

16. Planning permission granted for the proposed installation 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

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

Ian Radcliffe

Inspector