



Appeal Decision

Site visit made on 26 November 2020

by J Gibson BUEP MP

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/P4605/W/20/3258818

Edgbaston Park Road, Edgbaston, Birmingham B15 2TX

- 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(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by MBNL against the decision of Birmingham City Council.
 - The application Ref 2020/05104/PA, dated 1 July 2020, was refused by notice dated 25 August 2020.
 - The development proposed is "prior notification for the proposed installation of a 20m Phase 8 monopole with wraparound cabinet at base and associated ancillary works".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The above description of development has been taken from the submitted appeal form and decision notice. This is considered to be the most accurate description of the development provided and reflects the process under which approval is sought. I note that the appellant refers to the proposal as a "replacement" installation on several occasions within their statement of case. However, the plans of development and the original application documentation clearly indicate that the proposal is for new installations and that the existing telecommunications infrastructure would remain. I have therefore determined the appeal on this basis.
3. On the 28 August 2020, after the Council had made its decision, Historic England reclassified the Barber Institute of Fine Arts, located opposite the appeal site, from a Grade II to a Grade I listed building. Accordingly, the Barber Institute of Fine Arts is now an asset of the highest significance as set out in Paragraph 194(b) of the National Planning Policy Framework (the Framework). I have determined the appeal on this basis.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A(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.

Planning Policy

5. The principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A(a) of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, related guidance and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

6. The main issues are:
 - the effect of the proposed development on the character or appearance of the Edgbaston Conservation Area (CA) and the setting of nearby listed buildings; and
 - whether there are other alternative sites available for the proposal.

Reasons

Character and appearance / Historic environment

7. The proposed development would be located along Edgbaston Park Road, within the pedestrian path running along the frontage of the King Edward's VI School (the School). The proposal would be located next to an existing telecommunications pole and associated cabinets, which will remain following the installation of the proposal.
8. Edgbaston Park Road is a wide and open environment with clear views along the street scene. The main visual intrusions within this space are the regular interval of streetlights along the University of Birmingham (The University) side of Edgbaston Park Road and the existing telecommunications pole fronting the School. Of note the streetlights and the existing telecommunications pole are of a comparable height and width and therefore maintain a consistent appearance within the street scene. This street scene is framed by a line of tall trees within a wide grassed verge on the University side of the road and some dense hedges and similarly tall trees, but at more sporadic intervals, within the School grounds.
9. The proposed monopole would be approximately double the height and have a distinctly wider circumference than the existing telecommunications pole to be retained and the streetlights throughout the street scene. The proposal would also extend well above the trees that frame both sides of Edgbaston Park Road. As such, the proposal would appear incongruous with its surroundings. The dominant scale of the proposal would be further exacerbated by its location on the bend of Edgbaston Park Road which would result in the proposal appearing prominently from several vantage points throughout the street scene. This combined with the general clutter that would result from the associated cabinets, along with the existing telecommunications equipment to be retained, would detrimentally harm the existing character and appearance of the area.
10. The appeal site is also located within the Edgbaston CA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of conservation areas, respectively. The significance of this portion of the CA is attributed to the built form characteristic of the

adjoining School and its expansive and green landscaped grounds. The proposal would similarly tower over the built form of the School and detract from the picturesque landscape qualities of the School grounds. It is therefore my view that the proposal would harm the significance of the Edgbaston CA.

11. The proposal would also be located within close proximity to several listed buildings associated with the University. To the north of the appeal site is the Grade II listed Ashley and Strathcona buildings, to the south is Grade II listed University House, and immediately opposite the appeal site is the Grade II listed Equestrian Statue of George I and the Grade I listed Barber Institute of Fine Arts. The significance of these buildings is derived from their own historic and architectural interests, but collectively are all deemed to be of group value given the quantity and proximity of listed buildings within the University campus. I note that Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, relating specifically to listed buildings, does not apply in this instance as the proposal seeks prior approval. Nevertheless, appropriate consideration can still be given to the provisions under Section 16 of the Framework in this regard.
12. There would be a high degree of visibility between these listed buildings and the appeal site with the proposed telecommunications equipment appearing prominently either in the foreground or background depending on the vantage point. As such, the proposal would appear visually disruptive within the setting of these listed buildings and consequently harm their significance. While the trees lining Edgbaston Park Road may offer a degree of screening it would not be to the extent that the proposal would appear appropriate within this setting, particularly given the height of the proposal above those trees and during periods of the year where those trees have no foliage.
13. The identified harm resulting from the appeal proposal would be visual in nature and would not amount to any physical harm to the described designated heritage assets. As such, I am satisfied that the proposal amounts to less than substantial harm to the Edgbaston CA and setting of nearby listed buildings. Great weight is attributed to this harm as per Paragraph 193 of the Framework.
14. Accordingly, the siting and appearance of the proposed development would harm the character of the surrounding area, with particular regard for the historic environment. It would conflict with Policies PG3 and TP12 of the Birmingham Development Plan (adopted January 2017), saved Policies 8.55 and 8.55 A-C of the Birmingham Unitary Development Plan (UDP) (adopted October 2005) and the Telecommunications Development: Mobile Phones Infrastructure Supplementary Planning Document (SPD) (adopted March 2008).
15. These policies and guidance recognise the need for modern and comprehensive telecommunications systems to support the community and economy, and in turn seeks to ensure telecommunications infrastructure is sensitively located and designed to minimise the visual impact on areas, particularly with regard to designated heritage assets and their significance.
16. Paragraphs 194 and 196 are considered relevant to the assessment of the proposal as identified by the Council's reason for refusal. Further consideration will be given to these provisions within the Planning Balance section below.

Location of development

17. The appeal proposal is located within the Edgbaston CA, within the setting of several listed buildings, and adjacent to multiple educational institutions. Such locations are considered to be sensitive locations for telecommunications equipment and should generally be avoided unless there are no other alternative sites available.
18. The appellant has set out in their representations the sequential process whereby a site is identified for new telecommunications installations. However, the evidence provided does not adequately demonstrate which alternative sites were considered, why they were ultimately deemed inappropriate and consequently why the appeal site was deemed necessary for the proposal. Furthermore, the appellant notes in their statement of case that “no other standalone new facilities have been investigated” and as such whether there could have been more appropriate locations for the proposal.
19. Based on the available evidence, and having regard for the sensitivity of the proposed location and identified harm, I am not convinced that there are no alternative sites where the proposal may be more appropriately located. It therefore conflicts with saved Policies 8.55 and 8.55 A-C of the Birmingham UDP and Telecommunications Development: Mobile Phones Infrastructure SPD.
20. The Council did not identify any specific conflicts under the Framework on this matter in their decision notice, so no further assessment is considered necessary in this regard.

Planning Balance

21. Paragraph 194 of the Framework states that any harm to the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 goes on to specify that where less than substantial harm to a designated heritage asset has been identified that this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
22. I note the suggested benefits of the proposal include the improved 5G mobile coverage for users of the EE and Three networks in the area, along with the economic and social opportunities that this may bring. Moderate weight is attributed to these benefits given the improved coverage would be limited to users of those networks and the broad scope of the suggest economic and social opportunities.
23. I note that the existing telecommunications infrastructure is to be retained to ensure there is no disruption to the Emergency Services Network, of which EE is the provider. However, this is an existing arrangement dedicated to the 4G network and would not therefore amount to a benefit resulting from the proposal. As such this is considered a neutral matter.
24. Similarly, whilst it is positive that the proposal has been designed to be utilised by multiple providers this is a neutral matter as it is a policy requirement to limit the number of separate installations. The appellant also suggests the proposed location is ideal as it is within an urban area and would not result in any harm to residential uses. However, the absence of harm is not considered a benefit but a neutral matter.

25. The appellant has also provided the relevant certification confirming that the appeal development is within the acceptable limits, both individually and cumulatively, of non-ionising radiation levels and will not harm human health.
26. Accordingly, the suggested public benefits of the appeal proposal would not outweigh the identified harm to the character or appearance of the Edgbaston CA and setting of nearby listed buildings, or the limited evidence demonstrating why the proposal could not be more appropriately located on an alternative site. It is therefore my judgement, on balance, that the identified harm and conflict with the development plan, relevant guidance and the Framework, as it relates to siting and appearance, is not outweighed by the other material considerations.

Conclusion

27. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR