



Appeal Decision

Site visit made on 23 February 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021

Appeal Ref: APP/P4605/W/20/3261081

Land at Walsall Road, Four Oaks, Sutton Coldfield, Birmingham B74 4RA

- 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 appeal is made by Cornerstone and Telefonica UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/03129/PA, dated 22 April 2020, was refused by notice dated 15 June 2020.
 - The development proposed is the installation of a 20m high column supporting 6 no antennas, 2 no. 300mm microwave dishes and the installation of 1 no. equipment cabinet.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal follows a decision by the Council not to grant prior approval for the siting or appearance of a development that would otherwise be permitted under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The principle of the development is therefore established, and the scope of this appeal is limited to the effects of its siting and appearance.
3. For telecommunications development, the provisions of the GPDO do not require regard be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are the effect of the siting and appearance of the development on:
 - The character and appearance of the locality
 - Highway safety

Reasons

Character and appearance

5. The site lies close to a local service centre within a predominantly residential area about the A454, a radial route serving the centre of Sutton Coldfield. The site forms part of a grassed roadside verge on a section where buildings are set well back from the main carriageway. In the immediate vicinity of the site, a public house is set behind the deep verge and a parking area. On the other side of the road, residential properties lie beyond a secondary parallel length of Walsall Road separated by a grassed verge and one end of a long hedgerow and tree line extending downhill to the northwest.
6. The proposal includes the erection of a light grey monopole with an open headset of antennas and microwave dishes extending to about 20m above the immediate ground level. A single green metal cabinet fronted by paving slabs would be sited close by.
7. The substantial scale of the mast and open utilitarian design of the headset would draw the eye primarily on account of its significant height over and above that of the surrounding buildings and highway structures. Although the presence of several trees in the locality would provide some seasonal screening to the lower part of the mast, the upper section would be prominent year-round over distance, particularly along the A454 corridor. Although it would not have the same prominence as an existing 5G mast closer to the junction of Walsall Road with Four Oaks Common Road and Crown Lane on account of the local topography, it would be clearly visible and constitute an obtrusive feature in the locality.
8. Moreover, the roadside verges in the area fronting the pub and nearby junction accommodate a regular line of streetlights, three existing telecoms masts with associated equipment cabinets, road signs, a bus stop and three trees of mixed age and stature. In addition, stanchions for lighting of the adjacent car park and signage structures associated with the pub lie close to the edge of the public highway.
9. The additional equipment would add to the significant amount of clutter within the verge area and adjacent car park. Additionally, although separate from the existing 20m mast, it would be viewed in tandem with it and existing smaller masts to be retained. This would highlight and exacerbate the visual dominance of both of the 5G structures to cause significant harm to the quality of the immediate streetscape and that of the townscape in longer views.
10. For those reasons, I find the effect of the siting and appearance would cause significant harm to the character and appearance of the locality.

Highway safety

11. The proposed location of the cabinet and mast would lie close to a vehicular access serving a parking forecourt at The Crown public house. Positioned almost centrally within the roadside verge, the height of the equipment would have some potential to cause a visual obstruction, particularly in driver exit views to the south east.
12. For the purposes of the appeal, the appellant has provided an incomplete plan suggesting that a slight revision in the siting of the cabinet would achieve a

visibility splay of 2.4 x 70m. This would exceed the Council's highway advisor's suggestion that a 2.4 x 43m splay would be necessary for safe egress with traffic speeds of 30mph.

13. No traffic speed information has been provided and the exact achievable visibility splay for the development in the proposed position remains unclear. However, I observed that the location of the cabinet and mast would enable views to the junction of Walsall Road (A454) with Four Oaks Common Road/Crown Lane and beyond. The visibility would be sufficient to provide safe egress despite some potential for increased vehicle speeds on the long straight downhill section of the main road and in a location where active speed reminder signs are present.
14. For the above reasons, I find that the effect of the siting on highway safety would be neutral.

Other Matters

15. Paragraph 113 the Framework seeks to minimise the number of installation sites and masts through use of existing masts, buildings and other structures. The appellant has provided technical reasons in relation to the proposed 5G coverage for wishing to depart from a shared facility between two operators. Although the proposed mast would accommodate earlier generation transmission, the existing mast would be retained for another provider.
16. Paragraph 115 of the Framework requires that applications for electronic communications equipment (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
17. In this respect, the appellant has referred me to a number of discounted alternative sites in the vicinity. However, in the substantial absence of comprehensive information and definitive detail of the search area and some locations referred to within it, it is not possible to firmly conclude as to whether or not they offer a better alternative to strike the most appropriate balance between operational requirements and environmental considerations. Although I have no reason to dispute their justification, I find there would be a conflict with the Framework's requirement for evidence that alternatives have been duly considered.
18. There is no dispute between the main parties in relation to the social, economic and some environmental benefits of improved telecommunications capacity and increased network speeds, particularly as highlighted by increased level of home working and digital socialising as a consequence of the Covid-19 pandemic. I acknowledge that the proposal would assist in meeting increased demand in locations where people live, work and socialise, and would align with some policy aspirations outside of the confined assessment of siting and appearance. It would also offer opportunities in relation to smart systems applications and wider existing and emerging functions including business, education and health/care opportunities.
19. In support of the development the appellant has referred me to a number of appeals allowed on the balance of benefits against harm, including sites

identified as sensitive areas for reasons of heritage, openness or landscape value. However, in the absence of full details of the circumstances of those proposals and their localities, it is not possible for me to draw comparisons to the case before me, a case which I have determined on its own merits.

20. I also acknowledge the appeal decision in favour of an installed upgraded mast close by, however, the circumstances of that case being a shared upgrade of an existing site are distinct from the proposal before me. Furthermore, as I have found in relation to the cumulative effects of the proposed close siting, it does not justify further similar development. Precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits.
21. I note the concerns of some third parties in relation to the health effects of electromagnetic radiation used in telecoms apparatus and potential violation of Human Rights in that regard. The appellant has certified that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The Framework confirms that in such circumstances, health safeguards are not a relevant planning consideration for a decision maker to determine.

Planning Balance and Conclusion

22. Although I have found in favour of the appellant in relation to highway safety, I have identified that the siting and appearance of the proposal would cause significant harm to the character and appearance of the locality. In this regard it would conflict with saved paragraphs 8.55 and 8.55 A-C of the Birmingham Unitary Development Plan [2005] and Policy PG3 of the Birmingham Development Plan [2017] as they seek to reinforce a positive sense of place, attractive streets and local distinctiveness through design that responds to the local context and minimises the impact of development on the visual amenity of an area.
23. Although I am mindful of the benefits that would arise from the proposed telecommunications infrastructure, in the absence of clear evidence demonstrating that the site provides the best available option for minimising the effect of the development, I conclude that the benefits highlighted do not outweigh the harm identified.
24. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR