



Appeal Decision

Site visit made on 13 July 2021

by Samuel Watson BA(Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 23rd August 2021

Appeal Ref: APP/P4605/W/21/3270873

SWS on Eachelhurst Road, Birmingham B24 0NX

- 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 Telefonica UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/06990/PA, dated 28 August 2020, was refused by notice dated 28 October 2020.
 - The development proposed is for the installation of a 17.5m slim-line column supporting 6no. antennas, 2no. transmission dishes, 2no. equipment cabinets and ancillary development thereto including a GPS module and 3no. Remote Radio Units (RRUs).
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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) (GPDO) for the siting and appearance of a 17.5m slim-line column supporting 6no. antennas, 2no. transmission dishes, 2no. equipment cabinets and ancillary development thereto including a GPS module and 3no. Remote Radio Units (RRUs) at SWS on Eachelhurst Road, Birmingham B24 0NX in accordance with the terms of the application Ref 2020/06990/PA, dated 28 August 2020, and the plans submitted with it including drawing Nos 100A, 200A, 201B, 300A and 301B.

Preliminary Matters

2. The provisions of 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 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 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, related guidance 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. A revised Framework was published on 20 July 2021. I have determined this appeal in the context of the revised Framework, on which the parties have been given the opportunity to comment.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding street scene.

Reasons

5. The appeal site is located within the verge adjacent to Eachelhurst Road, a dual carriageway. Eachelhurst Road has some residential development fronting on to it but, opposite the appeal site, there is a car wash and used car dealer and, behind the site is a large parkland. I find the character of Eachelhurst Road to be varied but that in part it stems from its openness and the presence of tall vertical features such as lampposts, masts, service poles and trees.
6. By way of its siting, lack of screening and the general openness of the surrounding area, the proposed mast would be readily visible within the street scene, including against views of the sky. However, the form, bulk, and colour of the mast would be relatively simple, and comparable to the lampposts and existing mast nearby. Moreover, given the compact and organised appearance of the antennas at the top of the proposed mast, the lack of a cowl would not result in a jarring or bulky feature. While I am also mindful that the mast would be taller than the surrounding street furniture, this would not be to such an extent that it would be out of keeping with its surroundings. As such, and given the presence of similar features within the street scene, its siting and appearance would not be detrimental to the character and appearance of the surrounding area.
7. Moreover, from the submitted evidence I understand that the mast will be shared between two providers and as such would be in line with the aims of the Framework with regards to minimising installations. Whilst I note it would be close to an existing mast it would not be so close as to result in a cluttered or otherwise harmful effect on the street scene.
8. The associated cabinets are modest in scale and would also be similar to existing cabinets nearby. I find that they would not adversely affect the street scene and note that the Council did not raise any concern regarding them.
9. I have taken into account, and find the proposal would comply with, Policy PG3 of The Birmingham Plan 2031: Birmingham Development Plan and Policy 8.55 of The Birmingham Plan: Birmingham Unitary Development Plan which require that development is of a high design quality and situated so as to minimise visual impacts. It would also comply with the guidance on appearance and siting in the Telecommunications Development: Mobile Phone Infrastructure supplementary planning document, as well as the overarching aims of the Framework.

Other Matters

10. Given my findings above, with regard to the effect of the proposal on the character and appearance of the surrounding area, it has not been necessary for me to attribute weight to the benefit of the development to the telecommunications network.

Conditions

11. Any planning permission granted for the erection of telecommunications equipment, including a mast and cabinets 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). These 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.
12. The GPDO does not provide any specific authority for imposing additional conditions beyond those deemed conditions raised above. As such, while the Council and its consultees have suggested other conditions, namely regarding noise levels, relocation of a traffic sign and a permit to obstruct the highway, it is not within my powers to impose them. Nevertheless, given the scale and siting of the development I find that any likely noise or highway impacts would be limited, and as such the associated conditions would be unnecessary. Moreover, whilst the Council also suggested a time limit condition for the commencement of works this would conflict with the condition set out in the GPDO for this type of permitted development.

Conclusion

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

Samuel Watson

INSPECTOR