



Appeal Decision

Site Visit made on 13 October 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Appeal Ref: APP/P4605/W/21/3276432

Buckland End, Opposite Ayala Croft, Bromford Drive, Birmingham B36 8SN

- 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 GPDO).
 - The appeal is made by Cornerstone and Telefonica UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2020/09839/PA, dated 2 December 2020, was refused by notice dated 1 February 2021.
 - The development proposed is the installation of a 20m slim-line column supporting 6 no. antennas, 2 no. transmission dishes, a GPS module and 3 no. remote radio heads (RRHs) with 2 no. equipment cabinets at base and ancillary development.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 20m slim-line column supporting 6 no. antennas, 2 no. transmission dishes, a GPS module and 3 no. remote radio heads (RRHs) with 2 no. equipment cabinets at base and ancillary development at Buckland End, Opposite Ayala Croft, Bromford Drive, Birmingham B36 8SN, in accordance with the terms of the application Ref 2020/09839/PA, dated 2 December 2020, and the plans submitted with it.

Preliminary Matter

2. Within certain limits, Class A of Part 16 of Schedule 2 of the GPDO grants permission for the development of telecommunications equipment subject to a prior approval procedure. The relevant issues when assessing applications of this type are the siting and appearance of the proposal. There is no requirement to determine such applications in accordance with the development plan or the National Planning Policy Framework (the Framework). However, I have had regard to these documents in so far as they are relevant to matters of siting and appearance.

Main Issues

3. The main issues are the effect of the siting and appearance of the proposal on (i) the character and appearance of the area, and (ii) the living conditions of occupants of nearby residences in terms of outlook.

Reasons

Character and appearance

4. The development would be on a roadside verge in a residential area. Despite the nearby houses, the trees and lamp posts along the verges are the dominant features in the street scene. Also, a line of tall pylons carrying electricity wires are conspicuous in the vicinity of the site, although they are set back from the road.
5. Due to its height, the column would be visible from the surrounding area. However, it would be screened in some views by roadside trees, particularly from medium and long distances. As such, it would not be in an exposed position and it would not be unduly prominent.
6. Where visible, the lower part of the column would generally be seen against a backdrop of trees or houses although due to its height the upper part of the column would be seen against the sky. However, in these regards it would be similar to the lamp posts in the area which protrude above the skyline. The proposal would be taller and slightly wider than the lighting columns but it would be significantly shorter and narrower than the pylons. Given the range of vertical structures in the area, the column would not be incongruous
7. The proposal would have a functional appearance, typical of telecommunications equipment and other types of street furniture seen near the site and in urban areas generally. Its grey colour would make it stand out against any tree greenery but it would match the existing street lighting columns. The proposed cabinets would be similar to those that already lie along the road and so they would integrate appropriately in the street scene. The development would take up only a small part of the verge and so it would lead to no significant loss of openness or greenery
8. For these reasons, I conclude the siting and appearance of the proposal would cause no harm to the character and appearance of the area. In these regards, it would accord with policy PG3 of the Birmingham Development Plan 2017 (BDP) and saved paragraph 8.55 of the Birmingham Unitary Development Plan 2005 (BUDP), insofar as these are relevant to this matter.

Living conditions

9. The nearest property to the proposal would be 1 Tipperary Close (No 1). There would be no direct views of the development from the interior of this property as the facing side wall contains no windows. The column would be seen at an angle from No 1's front windows but it would not affect the main aspect towards a group of trees. While it would be seen, the column would not dominate the outlook from the gardens of No 1 and the attached row of houses as it would be set away from the properties and would be of slim-line design.
10. Views of the proposal from the front windows in 2, 4 and 6 Tipperary Close would be partly obscured by a wide canopy tree on the corner of the road. Also, given the separation distances and its narrow width, the column would not unduly impinge on the outlook from these windows.
11. The proposal would be visible from the houses across the road on Ayala Croft but separation distances would avoid any harmful overbearing effect. Also, separation distances and intervening trees would ensure the column does not

appear unduly dominant when viewed from the houses under construction on the same side of the road.

12. The Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 identifies that residential areas can be sensitive locations for telecommunication proposals. However, the development would not be immediately in front of habitable room windows and would not cause a significant visual intrusion for the above reasons.
13. As such, I conclude the siting and appearance of the proposal would not harm the living conditions of occupants of nearby residences in terms of outlook. In these regards, it would accord with BDP policy PG3 and BUDP policy 8.55.

Other Issues

14. The appellant's evidence shows that there is no realistic prospect of installing the proposed equipment on existing buildings or structures due to reasons that relate to inadequacies of the buildings, signal coverage or health and safety issues. There is no substantive evidence that challenges the rationale for discounting the alternatives. As such, the appellant has met the Framework's requirement to explore the possibility of installing the equipment on an existing building or other structure.
15. I am referred to a number of other sites where it is suggested the proposal would be more appropriate. Even if these were available and suitable, there is no requirement in the GPDO or planning policy for developers to select the best feasible location for telecommunications equipment where a proposed site is acceptable.
16. The evidence includes certification that the development would not exceed International Commission guidelines on non-ionising radiation protection when in operation. Such a statement is sufficient to demonstrate it would include appropriate health safeguards.
17. The development would be situated away from the road edge and off the pavement and so it would not obstruct the visibility of road users nor hinder pedestrian movement. I find no sound reason why the scheme would lead to anti-social behaviour.
18. There is no justification to dismiss the appeal for any of the above reasons. As such, the concerns raised do not override my conclusions on the main issues.

Conditions and Conclusion

19. There is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. For the reasons given above, I conclude that the appeal should be allowed.

Jonathan Edwards

INSPECTOR