



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: 21 October 2021

Appeal Ref: APP/P4605/W/21/3278859

Land at Weoley Castle Road, Birmingham B29 5QH

- 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 2021/01049/PA, dated 29 January 2021, was refused by notice dated 30 March 2021.
 - The development proposed is the installation of a 17.5 m slim-line column supporting 6 no. antennas, 2 no. transmission dishes, equipment cabinets and ancillary development thereto including a GPS module and 3 no. remote radio heads (RRHs).
-

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 17.5 m slim-line column supporting 6 no. antennas, 2 no. transmission dishes, equipment cabinets and ancillary development thereto including a GPS module and 3 no. remote radio heads (RRHs) at Land at Weoley Castle Road, Birmingham B29 5QH, in accordance with the terms of the application Ref 2021/01049/PA, dated 29 January 2021, and the plans submitted with it.

Preliminary Matters

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 GPDO states that the relevant issues when assessing applications of this type are the siting and appearance of the proposal.
3. Cases such as this are not required to be determined in accordance with the development plan, although planning policies may be relevant as material considerations. Reference is made in the submissions to an emerging Development Management in Birmingham Development Plan Document. This has been the subject of examination hearings but I have been provided with no information on whether policies are the subject of outstanding objections. As such, I attach limited weight to the emerging document.

Main Issues

4. 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 the occupiers of 179 and 187 Weoley Castle Road (No 179 and No 187) in terms of outlook.

Reasons

Character and appearance

5. The development would be on a pavement outside a parade of units including hot food takeaways and retail outlets. It would be near to Castle Square, a large roundabout with a public open space in the middle and shops and other commercial units around the outside. To the west of the site, Weoley Castle Road becomes a tree lined residential street.
6. By virtue of its height and position, the column would be seen from the surrounding area. In some medium and long distance views, trees would either fully or partially obscure sight of the proposal, particularly from the central open space area and from Weoley Castle Road. However, the general absence of trees around the north and west side of Castle Square means the development would not be screened from nearby pavements.
7. The column would be seen with other street furniture items around Castle Square. It would be taller and slightly wider than the lamp posts and would be of a different design to other telecommunication monopoles in the vicinity. However, the extent of these differences are such that the column would not stand out as an unusual feature. Instead, it would be seen as another vertical structure where similar items are common.
8. In some views, the lower part of the monopole would be seen against the row of buildings behind or with a backdrop of trees. Its upper part would be seen against the sky but in these regards it would be similar to the lamp posts and monopoles in the area which also protrude above the skyline. Within this context, the column would not be uncharacteristically prominent.
9. There is a significant amount of tall street furniture around Castle Square. However, such a cumulation of items is typical in urban areas, particularly at traffic roundabouts. Given its context, the proposal would not lead to an excessive clutter of vertical structures.
10. The Council refer to a dismissed appeal where cumulative impact was a factor in the Inspector's assessment of a telecommunications development. However, this relates to a site in Bournemouth and so the current proposal would be seen in a different context. As such, this previous decision fails to influence my views in respect of this main issue.
11. The cabinets would be similar in size and appearance to others nearby and so they would integrate appropriately with the street scene. Therefore, for the above reasons, I conclude the siting and appearance of the development 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 and saved paragraphs 8.55 and 8.55 A to C of the Birmingham Unitary Development Plan 2005 (BUDP).

Living conditions

12. Front windows in No 179 serve a first floor residential flat and would allow direct sight of the column from inside the apartment. In these regards, the proposal would go against the advice to avoid telecommunications development in front of habitable room windows as set out in the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008. Nonetheless, the scheme would be positioned away from No 179 and closer to the road. While it would extend significantly above the windows, the column would avoid an unacceptable overbearing effect or obstruction to views by virtue of its narrowness and separation from No 179.
13. The column would only be seen at an angle from the front windows to apartments at No 187. The main direct aspect towards the street would remain unaltered and so the scheme would avoid any significant detriment to views.
14. As such, I conclude the siting and appearance of the proposal would not harm the living conditions of occupiers of No 179 and No 187 in terms of outlook. In these regards, it would accord with BUDP paragraphs 8.55 and 8.55 A to C.

Other issues

15. The appellant claims there is no realistic prospect of installing the proposed equipment elsewhere due to technical and service coverage constraints. There is no substantive evidence that challenges the rationale for discounting the alternatives that have been considered and no additional locations are suggested. As such, the appellant has met the National Planning Policy Framework's requirement to explore the potential of installing the equipment on an existing building or other structure.
16. The pavement is wide and the proposal would be positioned near to a line of bollards. As such, it would not unacceptably obstruct the movement of people compared to the existing situation.
17. Reference is made to the presence of nurseries in the local area although no specific location has been identified and none were obvious at my visit. In any event, the development would be positioned a sufficient distance away from any property so as to avoid unacceptable effects on occupiers. Also, the submissions includes certification that the development would not exceed International Commission guidelines on non-ionising radiation protection when in operation. This is sufficient to demonstrate it would include appropriate health safeguards.

Conditions and Conclusion

18. 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 the appeal should be allowed.

Jonathan Edwards

INSPECTOR