



Appeal Decision

Site Visit made on 9 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2021

Appeal Ref: APP/P4605/W/21/3271311

Junction of Swanshurst Lane & Wake Green Road (outside Nos. 216-218 Wake Green Road), Moseley, Birmingham B13 0AW

- 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 Limited against the decision of Birmingham City Council.
 - The application Ref 2020/08437/PA, dated 23 October 2020, was refused by notice dated 14 December 2020.
 - The development proposed is a 20m height column supporting six antennas, two 0.3mm microwave dishes and the installation of one equipment cabinet.
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Decision

1. The appeal is allowed, and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a proposed telecommunications installation: a 20m height column supporting six antennas, two 0.3mm microwave dishes and the installation of one equipment cabinet at Junction of Swanshurst Lane & Wake Green Road (outside Nos. 216-218 Wake Green Road), Moseley, Birmingham B13 0AW in accordance with the terms of application Ref: 2020/08437/PA, dated 23 October 2020 and the plans submitted with it.

Procedural Matters

2. The application was submitted pursuant to Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The principle of development is established by the GPDO. The development is, however, subject to the developer firstly applying to the local planning authority as to whether prior approval will be required for the siting and appearance of the development.
3. I have had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.
4. As part of the appeal proceedings, the appellant has submitted some revised plans. I have had regard to these in my considerations given that the revisions refer to corrections to the locations of existing developments. Therefore, I do not believe this has caused prejudice to any party.

5. The address of the development utilised on the application form is 'SW on Swanshurst Lane, Moseley, Birmingham B13 9QP'. However, the Council's decision notice amends this to 'Junction of Swanshurst Lane & Wake Green Road (outside Nos. 216-218 Wake Green Road), Moseley, Birmingham B13 0AW'. The amended address has also been used by the appellant on the appeal form. I consider that the amended address represents a more concise description of the location of the proposed development and have proceeded on this basis.

Main Issues

6. The main issues in this appeal are:
- the effect of the development upon the setting of the nearby listed building;
 - the effect of the development upon the character and appearance of the surrounding area; and
 - the effect of the development upon the living conditions of the occupiers of nearby buildings, with particular regard to outlook.

Reasons

Setting of the Listed Building

7. The appeal site is near to the Grade II Listed Building of Sarehole Mill. For the purposes of this appeal, the significance of the Listed Building is, in part, derived from the presence of a traditionally designed building near to open space, including a mill pond, which indicates the former use of the Listed Building and its originally less developed surroundings. In consequence, the setting of the Listed Building contributes to its significance.
8. By reason of the height and siting of the proposed development, it would be viewable from the area of open space, including to the mill pond to the side of the Listed Building.
9. In addition, the proposed development would be perceptible, at least in part, alongside other more modern developments within the wider area. Therefore, the proposed development would have an adverse effect upon the Listed Building's setting given that it would represent a more modern built incursion into a traditional designed and landscaped area.
10. However, this harm would be minimised by reason of the distance that exists between the Listed Building and the associated areas to the side and the appeal site. Therefore, the proposal would be viewed as being part of the more suburban surroundings of the Listed Building site, rather than part of it.
11. Furthermore, the sections of the proposed development that would be viewable would be reduced by reason of the dense planting and trees that are located near to the Listed Building. Whilst such landscaping would not prevent views of the proposed development, the landscaping would, to a notable extent, obscure and diffuse such views. Therefore, the development would not be prominent when viewed from the area near to the Listed Building.
12. I acknowledge that, in time, the screening effect of the trees and other planting may change. However, such is the amount of planting currently in place that even if some were to be removed through ill health or other reasons, there still

would be a substantial screening effect in place, which would minimise the effects of the proposed development.

13. Whilst I have found that the effects of the screening offered by trees and planting and the separation distance between the appeal site and Listed Building would reduce the adverse effects of the development upon the setting of the Listed Building, they would not completely overcome it.
14. The development in this regard would conflict with Policies PG3 and TP12 of the Birmingham Development Plan (2017) (the Birmingham Plan). Amongst other matters, these require that developments conserve the city's heritage assets; and respond to site conditions, including heritage assets.
15. I therefore conclude that the proposed development would have an adverse effect upon the setting of the Listed Building. Therefore, in this specific regard, the proposed siting and design of the development would conflict with the requirements of the Framework.

Character and appearance

16. The appeal site consists of an area adjacent to the highway near to a number of buildings of varying proportions. The surrounding land uses are predominantly residential in nature. However, there are some commercial activities and open space nearby.
17. Owing to the varying designs of buildings, there are relatively few gaps in between buildings. This gives the area a relatively enclosed urban grain. In consequence, whilst higher than the surrounding buildings, this means that the mast would not be readily viewable from some distance away from the appeal site owing to the screening effect offered by the existing buildings. There are also some trees nearby, which provide supplementary screening.
18. The prominence of the development would also be diminished by reason of the topography of the surrounding area and the road layout, which includes some curves. This means that the appeal proposal would not be prominent. In result, the development would utilise existing screening and would not be an intrusive addition to the surrounding area.
19. The area surrounding the appeal site contains several structures close to the highway edge. This includes items such as streetlighting columns, bus shelters and equipment cabinets. There is also a further telecommunications mast nearby. This means that whilst the proposed installation would be visible, the development would be viewed against a backdrop containing many different structures and installations. In consequence, it would not appear discordant even though the existing structures are smaller than the appeal proposal.
20. This effect would be further minimised by reason of the relatively narrow proportions of the appeal proposal. This would reduce its effect on the wider area as it would not provide a strident mass. In addition, the colours of the development would ensure that the proposal harmonises with its surroundings.
21. This means that notwithstanding the height of the development, which would be taller than other developments within the surrounding area, the proposal would not be overly prominent.

22. Although the proposed mast and supporting equipment would be viewable from the areas of public open space nearby, the development would be seen against a backdrop of an urban, developed environment. In consequence, the proposed installation would not erode the prevailing character of the open space.
23. The development, in this regard, would be in conformity with Paragraph 8.55 of the Birmingham Unitary Development Plan (2005) (the Unitary Plan); Policy PG3 of the Birmingham Plan; and the Telecommunications Development Supplementary Planning Document (2008) (the SPD). Amongst other matters, these seek to ensure that new developments reinforce, or create, a positive sense of place; take account of the impact on existing landscape features and buildings; and minimise their visual impact.
24. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the surrounding area. Therefore, in this specific regard, the proposed siting and design would be in conformity with the Framework.

Living conditions

25. The appeal site is located to the front of buildings identified on the submitted plans as 216-218 Swanshurst Lane. These buildings feature windows on the front elevation, although the ground floor windows pertain to commercial activities. The appeal proposal would be separated from the front elevation by a parking area.
26. Whilst the appeal proposal would be visible from the front elevation windows of the nearby buildings, the proposed installation would have a relatively narrow width. This means it would not have a significant enclosing effect upon the windows of the nearby dwellings.
27. Furthermore, the development would be perceived as being a structure a notable distance away from the front elevation windows. In consequence, the proposed development would not be an overbearing feature when viewed from the front elevation windows of the nearby dwellings.
28. Views of the development would generally be made at an oblique angle from the existing windows. This would reduce the prominence of the proposed installation in views from the front elevation windows given that the development would not be readily apparent.
29. Owing to the pattern of development in the surrounding area, the proposed installation would be viewable against a backdrop of less developed features, including planting on the opposite side of the street. This means that the occupiers of the nearest residential dwellings would receive a varied outlook, including more open elements, necessary to maintain their living conditions.
30. Moreover, the proposed telecommunications mast, by reason of its siting and proportions would not lead to an erosion of the levels of light experienced by occupiers of the nearby dwellings.
31. The development, in this regard, would comply with the requirements of Paragraph 8.55 of the Unitary Plan; Policy PG3 of the Birmingham Plan; and the SPD. Amongst other matters, these seek to ensure that developments respond to site conditions; take account of the outlook from neighbouring properties; and avoid being intrusive.

32. I therefore conclude that the proposed development would not have an adverse effect upon the living conditions of the occupiers of neighbouring properties. Therefore, in this specific regard, the proposed siting and design would be in conformity with the Framework.

Other Matters

33. Concerns have been raised regarding the effect of the development upon health. However, the evidence before indicates that the proposal complies with the International Commission on Non-Ionizing Radiation Protection guidance. In consequence, I have no reason to believe that the health of local residents would be impinged by the proposed development.
34. Owing to the layout and siting of the proposed development, the development is unlikely to lead to an adverse effect upon wildlife.
35. I acknowledge concerns raised regarding the safety of the proposed installation. However, it is set back from the edge of the highway and therefore this location does not overcome my previous conclusions.
36. Although concerns have been raised regarding internet use, I have been directed towards Development Plan policies and sections of the Framework that relate to the effects of the development upon living conditions; the character and appearance of the surrounding area; and the historic environment. I have determined this appeal accordingly.
37. Although some alternative sites have been suggested, I have found that the development, in its current location, would not have an adverse effect upon the character and appearance of the surrounding area and the living conditions of the neighbouring occupiers. Therefore, the siting of the proposed development is acceptable in respect of these matters. It has also not been demonstrated that an alternative exists that would have a lesser effect on the listed building.

Planning Balance

38. The harm that would occur to the setting of the Listed Building would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
39. In this instance, the proposed development would provide 5G telecommunications coverage, in addition to enhance 2G, 3G and 4G coverage. This allows for improved connectivity to modern mobile telecommunications services. This would be of benefit to nearby residents in the surrounding in the undertaking of household and recreational activities.
40. In addition, the proposed development would be of benefit to businesses through the provision of an enhanced communications system. In consequence, the proposed development would offer some benefits by enabling increased amounts of economic activity to take place.
41. There is some debate as to whether the proposed development could be sited in an alternative location. However, it has not been demonstrated that there is an alternative site that could accommodate the proposed development without any adverse effect upon the Listed Building. In result, there is a likelihood that if the development were not to proceed, these benefits would be lost.

42. In consequence, I conclude that the proposed development would provide a significant level of public benefit in terms of the provision of an improved telecommunications system.
43. Therefore, when giving significant importance and weight to the special attention I must pay to the desirability of preserving or enhancing the character and appearance of the CA, I find that the harm that would arise from the proposal would be outweighed by its public benefits. Accordingly, there would not be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would have a clear and convincing justification.

Conclusion

44. There would be economic and social benefits associated with upgrading the existing infrastructure and against a wider objective of improving the communications network, these are aspects that weigh in favour of the development. This would outweigh the harm to the setting of the Listed Building. In addition, the development would not have an adverse effect upon the character and appearance of the surrounding area arising from its siting and design or the living conditions of the occupiers of neighbouring properties.
45. Therefore, I conclude that the appeal should succeed, and prior approval be given.

Benjamin Clarke

INSPECTOR