



Appeal Decision

Site visit made on 23 November 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal Ref: APP/P4605/W/21/3278909

Staniforth House, Staniforth Street, Birmingham B4 7DN

- 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 MBNL against the decision of Birmingham City Council.
 - The application Ref 2021/03788/PA, dated 20 April 2021, was refused by notice dated 17 June 2021.
 - The development is proposed telecommunications rooftop installation and associated ancillary works.
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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) for a proposed telecommunications rooftop installation and associated ancillary works at Staniforth House, Staniforth Street, Birmingham B4 7DN in accordance with the terms of the application 2021/03788/PA, dated 20 April 2021, and the plans submitted with it: Prefix '1552880_BHM483_74270_B1241_M001'; Suffix: 002B; 003B; 004B; 005B; 100B; 150B; 200B; 250B; 301B; 305B.

Procedural Matters

2. The provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), 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 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 appearance of Staniforth House and the character of the area, and whether or not any harm caused is outweighed by the need to site the

installation in the proposed location, with reference to the need to improve digital communications.

Reasons

5. The appeal site is located in an area where the majority of residential property is flats, including high-rise like the appeal building. The locality is a mix of residential and commercial.
6. The appeal building is stepped in height, and is contemporary in appearance, built with modern materials. The proposals would see phone mast apparatus of various types on the rooftop.
7. The site has been subject to a previous application and appeal, both of which were refused and dismissed respectively. In order to address the main issues, the appellants have sought to mitigate the impact identified by the previous application by proposing to install Glass Reinforced Plastic (GRP) shrouding.
8. The rooftop equipment would be noticeable, even with the shrouding, given the lines and profile of the existing building, but is at an elevated level, not easily visible from normal viewpoints. The shrouding would mitigate some of the industrial nature of the proposal, and I find that there would still be a degree of harm caused by the apparatus, but certainly less than the original proposals. It is whether the harm that remains is outweighed by the wider benefits of the installation.
9. According to evidence supplied by the appellant, the need for a new location comes from a notice to quit at an existing site close by providing local coverage from another installation.
10. The purpose of the installation is to provide the appellant 5G coverage thereby facilitating significantly improved connectivity for the target search area. Chapter 10 of the National Planning Policy Framework (the Framework) supports the provision of high-quality communications. Paragraph 114 states that planning decisions should “support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections”. The proposal would result in the public benefit of improved connectivity in accordance with these objectives.
11. Paragraph 115 of the Framework encourages the use of existing masts, buildings and other structures and states where new sites are required, such as for new 5G networks, “equipment should be sympathetically designed and camouflaged where appropriate”. Paragraph 117 requires for a new mast or base station, evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored. This formed a reason for refusal on the original application but appears to have been overcome for the current submission, as the Council raised no formal objections on that basis.
12. In my judgement, the need for the facility in the immediate area and the benefits of improved digital connectivity would outweigh the harm arising from its scale and appearance with the modified approach including the GRP shrouding. The proposal would satisfy the Framework’s approach to balance visual impact with recognition of the objective to support high quality communications.

Conditions

13. Conditions are set out in the GPDO for approval granted under Article 3(1) and Schedule 2, Part 16, Class A. 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. In addition, it 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.
14. I cannot consider the condition requested by the Council beyond those specified in the GPDO, as relates to the GRP screening as there is no express provision in the GPDO enabling its imposition.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

Paul Cooper

INSPECTOR