



Appeal Decision

Site visit made on 19 April 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/P4605/W/21/3286328

**Land at Edgbaston Road near to junction with Cannon Hill Road,
Birmingham B12 9QA (406873, 284102)**

- 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 Cornerstone and Telefonica UK Limited against the decision of Birmingham City Council.
- The application Ref 2021/02360/PA, dated 16 March 2021, was refused by notice dated 7 May 2021.
- The development proposed is a 20m high Orion street pole supporting 6no antennas, together with 1no ground-based equipment cabinets and ancillary development thereto.

Decision

1. The appeal is allowed and prior approval is granted for a 20m high Orion street pole supporting 6no antennas, together with 1no ground-based equipment cabinets and ancillary development thereto at Land at Edgbaston Road, Birmingham B12 9QA, in accordance with the terms of application Ref 2021/02360/PA, dated 16 March 2021, and the plans submitted with it, including: Site Location Maps 100-A, Proposed Site Plan 201-A and Proposed Site Elevation 301-A.

Procedural Matters

2. Since the time of the Council's decision, amendments have been made to Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) relating to Communications. However, the amendments made under The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 (SI 2022/278) do not vary the requirements in relation to the prior approval for the development proposed.
3. The provisions of the GPDO 2015, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require that 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.
4. The principle of development is established by the GPDO and the provisions of Class A of Part 16 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.

5. The Council's Decision Notice refers to policies in the Birmingham Unitary Development Plan. Since the time of the Council's decision, these policies have been superseded by policies in the Development Management in Birmingham Development Plan Document [2021] (the DMB). Where appropriate, I have referred to the newly adopted document.

Main Issues

6. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the locality and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

7. The site consists of an area of the roadside footway to the northern side of Edgbaston Road, a busy orbital route linking routes into the city centre. Immediately to the north is a cricket ground and parking area bordered by high open mesh fencing. These facilities are separated from the Edgbaston Cricket Ground to the west by the River Rea. The fenced area is bordered by housing to the north and east. To the south of Edgbaston Road is Cannon Hill Park, a Grade II* registered historic park and garden (the Park) acknowledged for its historic significance and matured landscaping by a notable designer. In the vicinity, the landscaped parkland is enclosed by low walls and railings; a main entrance and lodge lie a short distance to the east.
8. The proposal seeks to erect a 20m monopole mast with open frame headset, including 3 antenna sets above two 300mm diameter microwave dishes. The pole and headset would be finished in grey. An associated cabinet set to the site of the mast would be finished in green.
9. The site lies between the open sports ground and the Park where built development is limited. Notwithstanding the large scale of the nearby Edgbaston Cricket Ground, the area has a substantially greater open character than the bordering housing areas. Consequently, the proposed location of the mast would be highly visible for users of the adjacent Edgbaston Road, the southern extent of Cannon Hill Road and residents in houses fronting the open sportsground.
10. In wider views, the mast would be seen in the context of the mature trees and flagpoles within the periphery of the Park and local vertical street furniture. An isolated tree of similar height to the mast sited close to the proposed location would offer limited screening or a partial backdrop when travelling along the adjacent road. Travelling west towards it, the mast would be seen against the backdrop of the high stands and floodlight structures of the main cricket ground. Nonetheless, notwithstanding the slender nature of the pole, the visual effect of the mast and sizeable scale of the associated combined cabinet would appear as a prominent and discordant feature by virtue of its significant height and utilitarian design.
11. In determining applications, the Framework requires me to have regard to the effect of development on heritage assets, including their setting. The proposed position on the opposite side of the road from the Park would provide a degree of visual separation. Whilst views from within the Park would be partially

filtered by the seasonal foliage, the overall height of the structure would give rise to a degree of visual prominence from within the nearest areas of the Park.

12. From the houses to the north, the mast would be viewed against the backdrop of the heritage asset. As a significantly taller and visually more impactful structure than nearby street furniture or the adjacent ball-stop fencing, the proposal would stand out as a prominent feature. Although its scale would be partially moderated by the wider panorama of the views, it would compete with the formal arrangements of flagpoles along the Park's Edgbaston Road frontage and appear stark against the greenery of the trees. This would detract from those views and the setting of the heritage asset.
13. The northern tip of Moseley Conservation Area (MCA) lies to the east of the site beyond the junction with Willows Road/Russell Road. The largely C19 suburb features a range of buildings from various periods with some notable Victorian and individually styled Arts and Crafts houses. However, sightlines from the northern and western fringes of the MCA would be largely obscured by trees and seen in the context of a broader cityscape backdrop. Accordingly, I find there would be no discernible effect on the character and appearance of the MCA.
14. According to the Council, Edgbaston Conservation Area (ECA) lies some 663m to the west. Although it includes a substantial area of suburban estates developed over a broad timescale, the large distance, intervening buildings and street trees would ensure its character and appearance were preserved.
15. I acknowledge that the location would be such that the proposal would be visible in some photographs or televised views of the Edgbaston Cricket Ground. However, it would not significantly impose on the principal view of the main entrance and would appear moderate within the context of the main stand. Any effect on its character and appearance would therefore be minimal.
16. Notwithstanding my findings in relation to the Conservation Areas, I find that the siting and appearance of the mast would cause a moderate level of harm to the character and appearance of the locality, including the setting of the registered Park.

Other Matters

17. Policy DM16 of the Development Management in Birmingham Development Plan Document [2021] promotes improved telecommunications. Amongst other things, it requires demonstration that opportunities have been explored for mast or site sharing and that there are no suitable alternative sites available to minimise impacts on visual and residential amenity, and the character and appearance of the surrounding area. This reflects the requirement at Paragraph 117 of the Framework for the proposals to be supported by the necessary evidence to justify the siting of the development.
18. The appellant has provided details of alternative sites that were discounted in association with selecting the appeal site. There is no dispute between the main parties that sufficient information was provided to demonstrate that alternative sites would not provide a better balance between the visual effects of the proposal and effects on the amenity of nearby residents. Having reviewed those submissions, I see no reason to disagree with that finding.

19. In support of the proposal, the appellant highlights the encouragement for high quality and reliable communications infrastructure (such as 5G) found in the Framework. The appellant also directs me to the social and economic benefits arising from enhanced system coverage and capacity arising from improved connectivity and reliability.
20. The proposal could facilitate a broad range of 'smart' applications including health and transport uses which would provide consumer and business benefits. It would provide for increased productivity, innovation and efficiencies with associated secure service delivery and potential environmental benefits through reductions in the need for travel. Such benefits are recognised in Paragraph 114 of the Framework and are matters that weigh in favour of the development.
21. Accordingly, given the appellant's stated technical restrictions, the location away from residential properties is not without some merit. The siting would distance the mast from the surrounding residential areas and the sensitive area close to the MCA. This would preserve residential amenity as sought in the Telecommunications Development Supplementary Planning Document [2008] (the SPD), a document which supports an appropriate balance between operational requirements and environmental considerations.
22. I note the Council's reference to other appeal decisions that have been dismissed. However, in the absence of the full circumstances of the individual cases, it is not possible to draw comparisons or otherwise to the case before me, a case I have considered on its own merits.
23. I acknowledge the concerns in relation to matters of accessibility resulting from the narrowing of the footway. However, the Council's highway advisors have not raised an objection in this respect. The proposal would maintain sufficient pavement width to allow users, including those reliant on mobility aids, to pass without having to wait for opposing users.

Planning Balance

24. I have found that the siting and appearance of the proposal would result in a moderate adverse impact on the character and appearance of the locality. It would conflict with Policy PG3 of the Birmingham Development Plan [2017] and the SPD as they seek to minimise the effects of development on the character and appearance of locations and create high quality environments with responsive design, including consideration of heritage assets.
25. I have also found that it would detract from the setting of Cannon Hill Park. In the context of the Framework, the extent of overall harm of the proposal would be less than substantial given the nature of the development. Subsequently, Paragraph 202 of the Framework advises that such harm should be weighed against the public benefits of the proposals.
26. As a location which provides a balance between minimising the impact on the visual and residential amenity, character and appearance of the surrounding area, I find the proposal is in broad alignment with Policy DM16 of the DMB. Moreover, I find that the public benefits arising from the siting of the mast and contribution to the continuity of the emerging network, and the advantages therein, would demonstrably outweigh the less than substantial harm to the setting of Cannon Hill Park and the moderate adverse impact on the character

and appearance of the locality. Accordingly, the proposal would be consistent with the aims and requirements of the development plan and the Framework read as a whole and as they seek to support high quality telecommunications.

Conditions

27. Any planning permission granted for the mast and works 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), which 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.

Conclusion

28. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to the standard conditions set out in the above referenced paragraphs of Part 16 of the GPDO.

R Hitchcock

INSPECTOR