



Appeal Decision

Site visit made on 10 May 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Appeal Ref: APP/P4605/W/21/3283270

89401 – SW on Parsons Hill, Parsons Hill, Druids Heath, Birmingham B30 3QP

- 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 2021/00788/PA, dated 29 January 2021, was refused by notice dated 22 March 2021.
 - The development proposed is 20m height column supporting 6no. antennas, 2no. 0.3mm microwave dishes and the installation of 1no. equipment cabinet.
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Decision

1. The appeal is allowed and prior approval 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 proposed 20m height column supporting 6no. antennas, 2no. 0.3mm microwave dishes and the installation of 1no. equipment cabinet at 89401 – SW on Parsons Hill, Parsons Hill, Druids Heath, Birmingham B30 3QP, in accordance with the application Ref 2021/00788/PA, dated 29 January 2021, and the details submitted therewith.

Preliminary Matters

2. The Council adopted the Development Management in Birmingham Development Plan Document (the DPD) on 7 December 2021, after the start of the appeal. Saved Policies 8.55 to 8.55C of the Birmingham Unitary Development Plan (2005) were superseded on adoption of the DPD. The appeal process has afforded suitable opportunity for comment from the main parties on the implications of that policy change.
3. The principle of development is however established by the Town and Country Planning (General Permitted Development) (England) Order (2015) (GPDO) and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require development to be considered in accordance with the development plan. I have nevertheless had regard to policies only in so far as they are a material considerations relevant to matters of siting and appearance.
4. There is no dispute between the parties that the proposal satisfies the limits to permitted development set at Paragraph A.1 to Class A of Part 16 of the GPDO. Paragraph A.3 requires that before development can commence a

determination be made as to whether prior approval will be required as to the siting and appearance of the development.

Main Issue

5. The main issue is therefore whether the siting of the proposed development would be acceptable with specific regard to its effect on the living conditions of nearby occupiers, with particular regard to outlook and light.

Reasons

6. The appeal site is a grassed embankment adjacent to the footway on the north side of Parsons Hill, which is a relatively busy main highway, close to a roundabout with three other roads. Apartments on Parsons Mews and its car park are located to the north of the appeal site, with a McDonalds and its associated parking to the north east. The immediate area is otherwise generally residential in nature and is characterised principally by two storey semi-detached properties, such as those located on the southern side of Parsons Hill.
7. To the north east of the appeal site there are two existing masts. There are also numerous streetlighting columns, road signs and a set of traffic lights along the road. In between the appeal site and Parsons Mews is a timber fence, row of mature trees and shrub planting. Many of these trees are protected by a Tree Preservation Order (TPO).
8. The proposal is intended to provide new 5G network coverage to the residential area in and around Parsons Hill. The proposed development would be of functional appearance, typical of telecommunications equipment seen in urban areas generally.
9. Due to its height and elevated siting on the embankment, the proposal would be readily visible from various points along Parsons Hill, Parsons Mews and surrounding roads. Additionally, it would be readily visible from nearby residential dwellings and apartments. The Council are concerned regarding the impact of the proposed development on the outlook from the apartments to the north of the site.
10. Whilst the apartments are located close to the proposed development, any view would be partly softened by the intervening TPO'd trees. The upper section of the installation would rise above the trees, however neighbouring occupiers would view the proposal from a relatively close range, especially from their windows, where the proposal would be largely screened. I therefore consider that the occupiers' eye would not typically be drawn to its full height. Thus, the siting and scale of the structure would not detrimentally affect their outlook which in any event, would also involve being able to view land and space around and about what is a slim profile structure.
11. With regards to natural light, whilst this did not form part of the Council's reason for refusal this has been raised in their appeal submission. The proposed development would largely be screened by existing vegetation which itself would have some impact on the levels of light entering the windows of the nearby apartment. The narrowness of the proposed mast, whilst located in an elevated position and being 20 metres in height, would be such that, if there were to be any loss of light, this would be minimal and would not be detrimental to the occupiers of the apartments.

12. I therefore conclude, on this issue, that the siting of the proposal would not result in harm to the living conditions of nearby residential occupiers, with regards to outlook and light. In so far as it is material to the matters of siting and appearance, the proposal would accord with the visual and residential amenity requirements for telecommunication developments set out by Policy DM16 of the DPD.

Conditions

13. Development permitted under Class A Part 16 is subject to standard conditions, including a time limit for implementation, a requirement that development is carried out in accordance with the submitted details, and that it is removed when it is no longer required for electronic communications purposes. It is therefore unnecessary to impose the additional conditions suggested by the Council.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Tamsin Law

INSPECTOR