



Appeal Decision

Site visit made on 31 May 2022

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/P4605/W/21/3289558

Grass Verge r/o The Court Oak PH, Court Oak Road, Harborne, Birmingham B32 2EH

- 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 against the decision of Birmingham City Council.
 - The application Ref 2021/06469/PA, dated 19 July 2021, was refused by notice dated 10 September 2021.
 - The development proposed is for the installation of a 20m column supporting 6 no. antennas, 2 transmission dishes, 2 equipment cabinets and ancillary development thereto, including 3 no. Remote Radio Units (RRUs).
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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 the siting and appearance of a 20m column supporting 6 no. antennas, 2 transmission dishes, 2 equipment cabinets and ancillary development thereto, including 3 no. Remote Radio Units at Grass Verge r/o The Court Oak PH, Court Oak Road, Harborne, Birmingham B32 2EH in accordance with the terms of the application reference 2021/06469/PA, dated 19 July 2021, and the plans submitted with it, including drawings: 100 Rev A, 201 Rev C, 301 Rev C, Arboricultural Layout, and Arboricultural Report.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation and there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies 8.55, 8.55A-C of the Birmingham Plan: Birmingham Unitary Development Plan 2005 (the UDP) and Policy PG3 of the Birmingham

Plan 2031: Birmingham Development Plan (the BDP) are material considerations as they relate to issues of siting and appearance. In particular, they set to ensure that telecommunications installations are suitably sited and do not adversely affect the sensitive areas or living conditions. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration and includes a section on supporting high quality communications.

Main Issue

5. Therefore, the main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

Reasons

6. The appeal site consists of a small area on a verge to the rear of Court Oak public house, a locally listed building. Surrounding the site and public house are a number of main roads and associated junctions which serve a predominantly residential area. There are also a number of mature trees and streetlights immediately adjacent to the site and on nearby verges. Although within a residential area, the site is primarily seen in the context of the highway network and the associated tall street furniture and trees.
7. The proposed mast would be a tall but narrow feature that extends above the height of the nearby buildings, streetlights and mature trees. Nevertheless, these surrounding features, especially the trees, would soften the prominence of the mast, allowing only a small section to be seen against the sky in limited views. Primarily these would be on the approach to the site from Court Oak Road with views from the front of the Court Oak public house being screened entirely. Furthermore, given the narrowness of the mast it would not appear as a visually intrusive or dominant feature against the sky. Given the above, and its distance from nearby houses, the mast would also not harm the appreciation of the character and appearance of the area from nearby dwellings.
8. As outlined above Court Oak public house is a locally listed building, it is a large, detached building with detail in the brickwork and around the windows. On the front elevation is a two-storey entrance porch with an ornate window featuring a tree. The roof has been finished in green pantile. I understand from my observations on site and the evidence before me that the significance of this building stems from its age and the extent to which its detailing is still intact. Given the distance of the proposal from this building, especially its façade, and that it would be screened in views from the front, I find that it would not harm the significance of this locally listed building.
9. I similarly find that the views of the mast from the Church of St Faith and St Lawrence, a Grade II Listed building, would also largely be blocked by the public house. Although glimpses may still be achieved, these would be at a distance and given the small scale of the development it would have a neutral impact on the setting of the Listed Building.
10. I note the nearby mast and I find it likely that in some views the tops of both the existing and proposed would be visible together. However, the distance between them and the intervening features, including the public house, trees

and boundary treatments, ensure that they would not cumulatively present a cluttered street scene.

11. In conclusion the siting and appearance of the mast and its associated features would not harm the character and appearance of the surrounding area. In reaching this decision I have been mindful of Policies 8.55, 8.55A-C of the UDP and Policy PG3 of the BDP as outlined above, and of the policies of the Framework.

Other Matters

12. Whilst the mast would be visible from nearby dwellings, as noted above, it would set away from them by some distance and be only a narrow feature within views. As such, I find that it would not be such an intrusive or overbearing feature as to cause unacceptable harm to the living conditions of neighbouring occupiers.
13. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advised that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
14. I note the concerns regarding the potential effect of the development on nearby trees, but the appellant has submitted arboricultural information which I find sufficiently demonstrates how the trees would be protected during development. I also note that the Council and their Tree Officer have not objected to the development.
15. There is a potential for vehicular traffic and mobile phone signals to be affected during the development works being carried out. However, I find that this would be temporary for a very short period of time given the scale of the development. Moreover, I have not been provided with any substantive evidence to demonstrate that any affects would be unacceptable.
16. All proposals must be considered on their own merits and therefore, although a previous scheme was recently refused, this does not preclude me from assessing the scheme before me or from reaching a different decision.

Conditions

17. Any planning permission granted for the erection of telecommunications equipment, including a mast and cabinets 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). 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, 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

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

Samuel Watson

INSPECTOR