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# Appeal Decision

Site visit made on 8 November 2022

**by Emma Worley BA (Hons) Dip EP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13th December 2022**

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**Appeal Ref: APP/P4605/W/22/3303938**

**Land at Oaklands Recreational Ground, Wash Lane, Birmingham B25 8FD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town & 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 2021/10358/PA, dated 1 December 2021, was refused by notice dated 15 February 2022.
  - The development proposed is the installation of a 20m monopole supporting 6 no. antennas, 2 no. transmission dishes, 2 no. equipment cabinets and ancillary development thereto including 3 no. Remote Radio Units (RRUs), 1 no. GPS module and grass crete.
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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 (the GPDO) for the installation of a 20m monopole supporting 6 no. antennas, 2 no. transmission dishes, 2 no. equipment cabinets and ancillary development thereto including 3 no. Remote Radio Units (RRUs), 1 no. GPS module and grass crete at Land at Oaklands Recreational Ground, Wash Lane, Birmingham B25 8FD in accordance with the terms of the application, Ref 2021/10358/PA, dated 1 December 2021, and the plans submitted with it.

## Preliminary Matters

2. The description of the development is taken from the Council's decision notice, which omits the reference to the fact the application was the resubmission of a previous application. I have determined the appeal on the basis of the evidence relevant to the decision.
3. As this is an application for prior approval, the provisions of the 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 this same basis.
4. 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 consideration of the development plan. I have had regard to the policies of the development plans, related guidance and the National Planning Policy Framework (the Framework) only in so far as they are factors relevant to matters of siting and appearance.

## **Main Issues**

5. The main issues are the effect of the siting and appearance of the proposal on i) the living conditions of occupiers of nearby residential properties having particular regard to outlook; and ii) the character and appearance of the area.

## **Reasons**

### *Living conditions*

6. Due to its height and siting, the monopole would be visible from surrounding properties, including from windows in the residential properties on the opposite side of the road. The equipment cabinet would also be visible but would be smaller in scale and height and therefore less discernible in views from the surrounding properties. The presence of the intervening trees would provide a degree of screening of the mast in views from the properties and mitigate its visual impact, albeit reduced during the winter months. Furthermore, the monopole would be a relatively slim structure and would be sited sufficient distance away from the dwellings so as to avoid any overbearing effect.
7. As such, I conclude the siting and appearance of the proposal would not harm the living conditions of the occupiers of nearby residential properties having regard to outlook. It would therefore accord with the high design quality aims of Policy PG3 of the Birmingham Development Plan 2017 (the BDP) and Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document 2021 (the DMB) which seek to safeguard amenity, in so far as these policies are determinative on the matter. The proposal would also reflect the aims of the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008 (the SPD) which sets out that telecommunications equipment in residential areas should be sited sensitively in order to avoid being intrusive.

### *Character and appearance*

8. The appeal site lies on the edge of an area of public open space at Oaklands Recreational Ground. A number of semi-mature trees are spaced out along the highway boundary on land which rises between the footpath and the open grassed area. The proposed monopole would be sited behind these trees, in close proximity to the 2 taller more mature trees to the side boundary of the site, which are about 14m high. The equipment cabinet would be positioned between the mast and the trees to the front of the site.
9. The appellant has indicated that the column is required to be of the height proposed so as to clear the trees and urban clutter in order to operate effectively. As a consequence of its height and siting, the monopole would be visible in views along the road, as well as from the open space to the rear. However, it would be likely to be reasonably well screened in part by the existing trees, particularly during the summer months. Even in winter, the branches of the trees would offer some screening. Furthermore, in views from the open space it would be seen against the backdrop of the trees, with only the uppermost part visible in the skyline. The ancillary works, including the cabinet would be low key features, not dissimilar in scale to other structures including the adjacent electricity substation, so would not appear incongruous in the context.

10. The proposed monopole would reflect the vertical emphasis of existing street furniture in the vicinity including lamp posts and telegraph poles, albeit greater in height. I note that it would occupy an elevated position in relation to the highway and nearby residential properties, and it would also project above the height of the adjacent trees. Nevertheless, given the siting, set back from the footpath, as well as the grey finish and slim design of the monopole, it would not appear as an unduly conspicuous feature in the street scene or when viewed from the adjoining open space.
11. I conclude therefore that the siting and appearance of the proposal would not harm the character and appearance of the area. It would therefore accord with Policy PG3 of the DP in so far as it seeks new development to be of high design quality and Policies DM2 and DM16 of the DMB which requires development, including new telecommunications development to have regard to the character and appearance of the surrounding areas. The proposal would also accord with the aims of the SPD which sets out that masts should not be prominent in the street scene and should appear as an unobtrusive addition.

### **Other Matters**

12. The Framework sets out that proposals for a new mast should be supported by the necessary evidence, including evidence that shows the possibility of erecting antennas on an existing building, mast or structure has been explored. The appellants' submissions indicate that a number of alternative sites have been considered but there are no suitable, available sites within the target coverage area.
13. The proximity of the site to a school and community centre would itself not preclude the siting of a mast in this location. Furthermore, whilst the proposal would result in the loss of an area of public open space, the footprint of the development is very modest in relation to the wider recreation ground. As such the proposal would not detract from the public use of the open space, including as a dog exercise area.
14. I note third party comments regarding the lack of a legal agreement to secure a payment towards the recreation ground. However, from the evidence before me I find no justification for a financial contribution to be secured as part of the development.
15. The suitability of, as well as management of the access through the recreation ground during construction and future maintenance of the development is not for consideration as part of this appeal which relates to the siting and appearance of the proposal.

### **Conditions**

16. Any planning permission granted for the development 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.

17. The Council has suggested conditions requiring commencement of the development within 3 years and relating to the colour of the monopole and cabinet be imposed should approval be granted. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions mentioned above. Consequently, I have not imposed those suggested conditions.

### **Conclusion**

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

*Emma Worley*

INSPECTOR