



Appeal Decision

Site visit made on 9 November 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/P4605/W/22/3294052

Oak Tree Lane, Selly Oak, Birmingham B29 6HU

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone Telecommunications against the decision of Birmingham City Council.
 - The application Ref 2021/06527/PA, dated 21 July 2021, was refused by notice dated 2 September 2021.
 - The development proposed is the installation of a 20m height column supporting 6no. antennas, 2no. 0.3mm microwave dishes and the installation of 1no. equipment cabinet.
-

Decision

1. The appeal is allowed 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 the installation of a 20m height column supporting 6no. antennas, 2no. 0.3mm microwave dishes and the installation of 1no. equipment cabinet at Oak Tree Lane, Selly Oak, Birmingham B29 6HU in accordance with the terms of the application Ref 2021/06527/PA, dated 21 July 2021, and the plans submitted with it including: 100 A; 201 A; and 301 A.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. Consequently, I have taken into account the policies of the development plan and the National Planning Policy Framework (the Framework) as material considerations but only insofar as the policies relate to matters of siting and appearance.
4. The Council adopted the Development Management in Birmingham DPD after the prior approval was refused. As a result of its adoption, policies within the Unitary Development Plan referenced in the Council's reasons for refusal have been superseded. Therefore I have not made reference to those in this appeal

decision. Similarly, the Council adopted the Birmingham Design Guide SPD subsequent to refusal of the prior approval. As a result the Telecommunications Development SPD has been revoked and is not referenced in this appeal decision.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and the living conditions of the occupants of nearby houses, with particular regard to outlook.

Reasons

6. The site is located adjacent to a busy road that leads up to the junction with the A38 and A4040. At the time of my mid morning, weekday site visit there was a constant flow of traffic in both directions. The site is in front of a surface car park for the West Midlands Rehabilitation Centre (Rehabilitation Centre) which comprises part single storey and part two storey buildings. The two storey element is set back from, but facing onto the road. Metal railings are present across the top of the building and plant is also visible in brick enclosures on its roof. These add to the impression of its overall height. Substantial trees are visible behind the building and to the side, separating it from the adjacent school. Further along the road towards the A38, four storey flats are visible from the vicinity of the appeal site, fronting onto the road.
7. The appeal site is adjacent to an existing lamppost. These are regularly spaced along the road. Along with widely spaced mature street trees these create a vertical emphasis along the road edge. On the opposite side of the road to the appeal site are traditional two storey semi-detached houses positioned slightly above the level of the pavement. Consequently, the appeal site is located in a busy urban environment with a mix of residential, medical and school uses.
8. Although the Rehabilitation Centre is not a tall building, it has a substantial built form given its width and some prominence with railings and plant at roof level. Given its functional appearance and the presence of a large area of parking, the functional appearance of the proposed mast and cabinets would not appear wholly out of place. Whilst the proposal would be noticeably taller than existing lampposts and street trees, it would not appear isolated in the context of this busy, urban environment where buildings of varying heights and uses are visible in relatively close proximity. Moreover in that context, the proposal would not appear particularly unusual to drivers or pedestrians passing the site. The absence of other masts or similar equipment in the locality does not justify refusal of the scheme here. The mature trees that provide a backdrop to the Rehabilitation Centre and screen the school would also provide a soft backdrop to the proposal in some views.
9. The proposal would be visible from a number of houses on Oak Tree Lane. This includes the front windows of Nos 88 and 90. These windows currently overlook a large surface car park with the Rehabilitation Centre behind. The bus stop and lamppost also form smaller parts of those views, across the busy road. As such, their existing outlook is of a relatively urban and functional environment. Whilst wider than the existing lampposts the proposed mast would nonetheless appear as a relatively narrow, vertical feature. The antenna would add some bulk to the proposal at height but in this relatively busy, urban context would

not appear particularly out of place or unusual. Furthermore, the proposed mast would occupy only a small proportion of those views.

10. In addition, views from those properties would still be relatively open due to their position set slightly above the road and the topography which falls away towards the Rehabilitation Centre. The existing street tree immediately outside these houses would also provide a limited element of screening from some windows when the tree is in leaf. Notwithstanding that sites adjacent to health institutions may be considered more sensitive, given the separation distance between the proposal and the Rehabilitation Centre it would not appear unduly prominent in views from that building.
11. The Council highlights other appeal decisions that have been dismissed. With respect to the appeal at Priory Road, Birmingham (Appeal Ref APP/P4605/W/21/3287408) I note that the appeal site is described as being within a predominantly residential area with a wide central grass verge and spacious pavements. In addition, the service station building adjacent to the appeal site was an unobtrusive part of the street scene. Whereas I have found this appeal site to be within a busy, urban context with a mix of uses and buildings of varying heights. Consequently the site context of that appeal is not sufficiently similar to this appeal site to alter my reasoning.
12. With respect to the appeal decision at Alcester Road South (Appeal Ref APP/P4605/W/21/3281991), the proposed appeal site is described as being land that provided a welcome area of green and reads as part of a residential area. As such, the proposal was found to detract from the pleasant, informal and open character of the existing site. Whereas this appeal relates to a site in front of a surface car park and is in a more mixed use setting.
13. The Council also reference an appeal decision relating to Hollymoor Way, Longbridge (Appeal Ref APP/P4605/W/21/3285834). In that case the Inspector found that the mast would be in a prominent location and its dominant effect would be exacerbated by its proposed location in front of an area of grassed open space. Whereas I have found that this appeal site would not appear out of place or unduly prominent for passers-by or from nearby houses.
14. Noting that those schemes related to smaller masts than is proposed in this appeal, for the reasons given the context of those proposals is not sufficiently similar to alter my reasoning here. Therefore, I conclude that the appeal proposal would not harm the character and appearance of the area. Furthermore, in the particular context of this appeal site it would not harm the living conditions of occupants of nearby houses, including Nos 88 and 90, with particular regard to outlook. Accordingly, the siting and appearance of the proposal would be acceptable.
15. Insofar as it is a material consideration, the proposal would accord with Policy PG3 of the Birmingham Development Plan (January 2017). This generally seeks to ensure new developments are suitably designed, including reinforcing or creating a positive sense of place. In addition, I find no conflict with Policy DM2 of the Development Management DPD (December 2021). This seeks to ensure developments avoid unacceptable impacts on existing occupants, including with respect to outlook.
16. Similarly it would accord with Policy DM16. This relates specifically to telecommunications development and also seeks to ensure proposals minimise

impacts on the character and appearance of their surroundings, as well as residential amenity. Further, I find no conflict with the Birmingham Design Guide SPD (2022) which seeks to ensure telecommunications equipment is not prominent or obtrusive in the street scene and avoids significant visual intrusion from residential properties. Furthermore, in providing a new 5G solution the proposal would help deliver advanced, high quality and reliable communications infrastructure which is supported by paragraph 114 of the Framework.

17. Consequently, I consider that the siting and appearance of the proposal would be acceptable. As I have found no harm in respect of siting and appearance, it is not necessary for me to go on to consider the suitability of alternative locations.

Conditions

18. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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

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

Rachel Hall

INSPECTOR