



Appeal Decision

Site visit made on 21 November 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Appeal Ref: APP/P4605/W/23/3323480

Pavement South West Of Bell Lane/The Radleys Junction, Birmingham B33 0HS

- 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 GPDO).
 - The appeal is made by Cornerstone against the decision of Birmingham City Council.
 - The application Ref 2022/05044/PA, dated 22 June 2022, was refused by notice dated 6 December 2022.
 - The development proposed is the installation of a 17.5 metre monopole, accommodating 6 no antennas, the installation of 2 no ground-based equipment cabinets, along with ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 17.5 metre monopole, accommodating 6 no antennas, the installation of 2 no ground-based equipment cabinets, along with ancillary works at Pavement South West Of Bell Lane/The Radleys Junction, Birmingham B33 0HS, in accordance with the terms of the application ref 2022/05044/PA, dated 22 June 2022, and the submitted plans numbered 100 rev A pack issue D, 201 revision D pack issue D and 301 rev D pack issue D.

Preliminary Matters

2. The site address above is taken from the appeal form. It is different to that on the application form but it more accurately describes the site's location. Also, the description of development in the header and the decision above is taken from the appeal form. It reflects the amended plans that were submitted to the Council before the determination of the application. The Council has made its decision on a pole measuring 17.5m high and so no injustice would be caused by assessing this appeal on the same basis. For clarity purposes, my decision refers to the amended plans.
3. In light of the provisions of Schedule 2, Part 16, Class A of the GPDO, I have assessed the development solely on the basis of its siting and appearance. The provisions do not require consideration of the development plan. However, I am referred to policies of the Development Management in Birmingham Development Plan Document 2021 (DMBDP), the Birmingham Development Plan 2017 (BDP) and guidance in the Council's Telecommunications development: mobile phone infrastructure Supplementary Planning Document

2008 (SPD). These are material considerations as far as they relate to issues of siting and design. Also, I have had regard to the relevant parts of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effect of the siting and appearance of the development on (i) the character and appearance of the area, and (ii) the living conditions of occupiers of nearby residences in terms of outlook.

Reasons

Character and appearance

5. The development would be on the pavement at the junction where The Radleys meets Bell Lane. The nearby 2 storey residential buildings are set back from the pavement but are clearly visible from the highway. Grass verges along Bell Lane and The Radleys contain trees and lampposts. The trees nearest to the appeal site are noticeably higher than the surrounding buildings.
6. The monopole would be seen from Bell Lane when approaching from either direction, from The Radleys when looking towards the junction and from the nearby properties. Despite its prominent corner position, roadside trees would provide screening so the pole would not stand out in medium and long distance views from along the highways. Even when the trees are without leaf, their branches would provide a significant degree of concealment.
7. From nearby, the monopole would be more clearly visible and it would appear taller than surrounding buildings and lampposts. However, the appeal plans show the pole would be only slightly higher than the nearest trees. When seen alongside or against these trees, the pole would not look uncharacteristically tall or unduly dominant. It would have an utilitarian appearance but this is also the case for the nearby lampposts. Also, there is an existing monopole a short distance away on The Radleys. As such, the pole would not be unusual given the other street features with a vertical emphasis. The cabinets would be low key and similar to an existing feature on the corner and so they too would be compatible with the area.
8. Therefore, I conclude the siting and appearance of the development would not harm the character and appearance of the area. In these regards it would accord with DMBDP policy DM16 and BDP policy PG3 insofar as they are relevant to the determination of this appeal. Amongst other things, these policies seek to ensure communications infrastructure is sited and designed to minimise impact on the visual amenities of an area.

Effect on living conditions

9. The monopole would be seen from dwellings on the same side of the road. However, it would not be directly in front of main windows in these properties and it would be set away from the buildings. Also, the pole would be thin when compared to the wide canopies of the nearby trees. As such, it would not appear unduly obtrusive from these residences.
10. Moreover, the development would be directly in front of and seen from the main windows in houses on the opposite sides of The Radleys and Bell Lane. Nonetheless, the separation provided by the highways and the front gardens

would ensure the monopole is no more overbearing than the existing trees when viewed from these properties.

11. The SPD highlights that residential areas can be a very sensitive location for new telecommunication installations as they may cause significant visual intrusion for residents. At the same time, it is recognised that installations may need to be located in residential areas where no reasonable alternatives exist.
12. The potential for the proposal to be provided at an alternative site is fairly limited as the scheme would improve signal coverage for the immediate area. The appellant has considered other locations, including the existing mast and installing the antennas on local properties. These have been ruled out for various reasons such as lack of sufficient space, signal coverage shortcomings, being within the flight path from Birmingham Airport and structural complications of installing equipment on buildings. The evidence indicates that there is no other more appropriate location for the proposal that would be away from residences. As such, the proposal would not conflict with the SPD, particularly as it would have minimal impact on the nearest dwellings.
13. For these reasons, I conclude the siting and appearance of the development would have satisfactory effects on the living conditions of occupiers of nearby residences in terms of outlook. In these regards, it would accord with the parts of DMBDP policy DM16 and BDP policy PG3 that seek to ensure developments minimise impacts on residential amenity. Also, I find no conflict with the provisions of the SPD insofar as this is relevant to my assessment.

Other Matters

14. A certificate confirms the proposal would comply with guidelines published by the International Commission on Non-Ionizing Radiation Protection. Therefore, it would not harm public health. The development would not obstruct drivers' visibility as it would be away from the kerb. Also, it would not distract drivers so as to prejudice highway safety. It is suggested that the proposal is not required but paragraph 118 of the Framework explains the need for a telecommunications installation should not be questioned. None of these factors justify refusing approval and so they do not affect my conclusion.

Conditions

15. There is no authority in this type of case to apply conditions beyond those in the relevant part of the GPDO. These specify that the development must be carried out in accordance with the submitted details, begin within 5 years from the approval date 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

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

Jonathan Edwards

INSPECTOR