



Appeal Decision

Site visit made on 21 February 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/P4605/W/23/3322467

Kings Heath Cricket Club, 247 Alcester Road South, Billesley, Birmingham B14 6DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Shared Access Limited on behalf of Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2022/09386/PA.
 - The development proposed is the installation of a 23.1 metre high monopole supporting 12 no. antennas together with equipment cabinets, transmission dishes and ancillary development thereto.
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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) (GPDO) for the installation of a 23.1 metre high monopole supporting 12 no. antennas together with equipment cabinets, transmission dishes and ancillary development thereto at Kings Heath Cricket Club, 247 Alcester Road South, Billesley, Birmingham B14 6DT in accordance with the terms of the application 2022/09386/PA and the details submitted with it including drawing Nos 100 D, 200 D, 201 D, 300 D and 301 D.

Preliminary Matters

2. The provisions of Article 3(1) and Schedule 2, Part 16, Class A of the GPDO, require the local planning authority to assess proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of the appeal has been made on this basis.
3. The Council referred to a number of policies of the Birmingham Development Plan (Adopted January 2017) (BDP), the Development Management in Birmingham Development Plan Document (Adopted December 2021) (DPD) and the Birmingham Design Guide Supplementary Planning Document (Adopted September 2022) (BDG) in its decision notice. The principle of development in prior approval applications is established through the grant of permission by Article 3(1) of the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. Accordingly, I have had regard to the development plan policies and the BDG only insofar as they are a material consideration relevant to matters of siting and appearance. They are not, in themselves, determinative.

Main Issues

4. The main issues are:

- the effect of the siting and appearance of the proposal on the character and appearance of the area;
- the effect of the siting and appearance of the proposal on the adjacent trees; and

Reasons

Character and appearance

5. The appeal site is a grassed area located towards the periphery of land associated with the cricket club. To the north and west of the appeal site are areas of hardstanding associated with a private members club and masonic hall which front Alcester Road (the A435). Alcester Road is a busy thoroughfare which is characterised by a mix of residential, community and commercial uses and primarily comprises two and three storey buildings. Two storey residential development exists to the northeast of the appeal site to the south and east of the wider cricket club site and in the surrounding area. The rear gardens of several dwellings and a development of retirement flats adjoin the cricket club site.
6. The proposal would be sited to the rear of surrounding development, a generous distance from nearby roads and pavements. It would be located adjacent to existing trees to the north and west. Due to the overall height of the monopole and the bulk of the headframe the structure would be visible above and between surrounding buildings from nearby streets. However, buildings or trees would partially screen the lower portions of the structure and the cabinets from most public vantage points. Even in the winter months, the trees would filter views of the site, thereby softening its appearance.
7. Because of the set-back position in relation to surrounding streets, there would be a considerable degree of separation between the structure and any passers-by. Uninterrupted, close-up views of the structure would not be readily available from public vantage points and consequently it would not be overly prominent and would not be visually intrusive or dominant in the street scene, despite its significant height.
8. From private viewpoints within properties and premises which adjoin the cricket club, and from the land associated with the club itself, fuller views of the structure would be experienced. The proposal would undoubtedly introduce a new element into the views from these locations. However, the loss of a private view and any consequential impact on property values is not a material consideration. The Council did not refuse the application based on the effect of the proposal on the living conditions of nearby occupiers and given the generous degree of separation between the appeal site and nearby properties I see no reason to disagree.
9. I therefore conclude that the siting and appearance of the proposal would have an acceptable effect on the character and appearance of the area.
10. In so far as they are material considerations the proposal would accord with Policy PG3 of the BDP, Policy DM16 of the DPD, the BDG and the Framework.

Collectively these seek to ensure communications infrastructure is sited and designed to minimise visual impact and intrusion. Policy DM2 is mentioned in the reason for refusal but this does not relate to character and appearance and therefore is not relevant to this main issue.

Trees

11. The appeal was accompanied by an Arboricultural Impact Assessment and Method Statement. This concludes that a nearby Scots Pine is dead but that the remainder of the trees could be retained, because the proposal maintains adequate separation distance from the trees with only a very minor incursion into the Root Protection Area of one tree. In light of this the Council is now of the opinion that the development would not result in an unacceptable impact on the adjacent trees and consequently does not intend to defend the third reason for refusal.
12. The evidence adequately demonstrates that the proposal would not result in the loss or damage of the adjacent trees, other than the removal of the dead Scots Pine and therefore would not result in harm to the local landscape.
13. I therefore conclude that the siting and appearance of the proposal would not have an unacceptable impact upon adjacent trees.
14. In so far as they are material considerations the proposal would accord with Policy PG3 of the BDP, Policies DM4 and DM16 of the DPD, the BDG and the Framework. Collectively these seek to ensure that developments do not result in harm to the local landscape.

Other considerations

15. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and, in this regard, there is a need to support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. The proposal would enhance 3G and 4G coverage for two operators and would have the capability to provide 5G in the future.
16. Although I have found that the siting and appearance of the proposed development would be acceptable, the BDG states that applications for telecommunications development in residential areas or open spaces should demonstrate that no reasonable alternatives exist in less sensitive locations.
17. Given the distance of existing telecommunication installations from the search area I am satisfied that it would not be possible to upgrade these to provide the required coverage. I am also satisfied that bearing in mind the height at which the equipment would be required to be sited to achieve the necessary coverage, there are no buildings within the search area which could realistically accommodate a roof-top structure which could fulfil these requirements.
18. Thirteen land-based options have been considered and discounted. These include car parks, footpath locations, areas of highway verge and alternative locations within the cricket club. Most of the alternatives assessed would be considerably more exposed than the appeal site and would be significantly more prominent in the street scene and others would be in closer proximity to residential properties than the appeal site. Other locations within the cricket club would either be disruptive to the activities taking place or would be closer

to residential properties. Having viewed the appeal site and the alternative locations I am not persuaded that there is a better alternative location for the proposed scheme.

19. I therefore conclude that the appellant has satisfactorily demonstrated that the proposed development is needed in this location to deliver significant network coverage improvements in the locality and that there are no suitable alternative sites where the equipment could be located.

Other Matters

20. Concerns have been raised about potential effects on health and wellbeing. 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 advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
21. In relation to effects arising from construction such as the use of the access lane and noise would realistically be limited and for a short duration only. Concerns that the proposal would contribute to climate change and flooding, would attract protestors, result in a loss of privacy and would impact upon wildlife have not been substantiated and I have no reason to conclude that this would be the case.

Conditions

22. 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). This specifies 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 and must begin no later than the expiration of 5 years beginning with the date on which the local planning authority received the application. It also specifies that the development 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

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

E Pickernell

INSPECTOR