



Appeal Decision

Site visit made on 20 March 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/P4605/W/23/3332997

Pavement at Mere Green Road, Mere Green, Sutton Coldfield, West Midlands B75 5BW

- 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 Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2023/03627/PA.
 - The development proposed is the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is allowed and prior 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 installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto at Pavement at Mere Green Road, Mere Green, Sutton Coldfield, West Midlands B75 5BW, in accordance with the application Ref 2023/03627/PA, dated 31 May 2023, and drawing nos 100A, 200A, 201B, 300A and 301A submitted with it.

Preliminary Matters

2. There is no dispute between the parties that the proposal satisfies the limits to permitted development set at Paragraph A.1 to Class A of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). Paragraph A.3 requires that before development can commence a determination be made as to whether prior approval will be required as to the siting and appearance of the development.
3. The Council have referred to a number of development plan policies in its reasons for refusal. Although 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, I have nevertheless had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.
4. The revised National Planning Policy Framework (Framework) was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area and, if harm would occur, whether this would be outweighed by the need to site the installation in the proposed location, having regard to the potential availability of alternative sites.

Reasons

Character and appearance

6. The appeal site is a wide section of the footway on the northern side of Mere Green Road opposite a supermarket car park entrance. The footway is adjacent to a landscaped strip, beyond which is a large car park serving another supermarket. The surrounding area forms part of Mere Green Local Centre.
7. Besides the two supermarkets and a variety of businesses along Mere Green Road, there is also a nearby primary school and nursery relatively close to the site. There are a variety of building styles in the area, ranging from large supermarkets to three storey buildings occupied by ground floor shops. There do not appear to be any residential properties within proximity of the site, which is therefore within a busy, predominantly commercial area.
8. This stretch of Mere Green Road is relatively open due to its straight alignment and the lack of taller buildings. Trees within the surrounding area, including those recently planted in the landscape strip, provide a sense of greenery. There are numerous items of street furniture nearby, including 12m high street lighting columns, traffic lights, road signs and equipment cabinets, together with a number of business advertisements including a large hoarding and supermarket totem signs.
9. The appellant proposes a new 17.5m high streetworks column with various antennas, together with associated equipment cabinets at ground level. I note that the column has been reduced in height from 20m since the previous application¹. The proposal would be positioned towards the back of the footway adjacent to the landscape strip, and is intended to provide improved coverage and capacity in terms of 2G, 3G and 4G services and new 5G coverage.
10. The streetworks column would be of functional appearance, typical of telecommunications equipment seen in urban areas generally. It would be seen in the context of other vertical features in the surrounding area, including the street lighting columns lining the road and large buildings, such as the supermarket on this side of the road. This would mitigate the visual effects of the proposal to some extent.
11. However, as indicated by the submitted photomontages, the streetworks column would be taller and wider than the street lighting columns and also higher than neighbouring buildings. It would be prominently sited and readily visible for some distance along Mere Green Road and from the various neighbouring business premises and associated car parks. From these vantage points the proposal would be an eye-catching feature which would be somewhat at odds with the character of the area. The nearby trees within the landscape strip are set well back from the footway and are of insufficient size to adequately screen or filter views of the proposal.

¹ Council Ref. 2022/07221/PA

12. The application documents indicate that the streetworks column and the associated cabinets would be finished in grey. Although I note that the appellant would be willing to amend the colour to black to match the street lighting columns on Mere Green Road, a grey colour would be more appropriate in this instance in that it would lessen the visual impact of the upper part of the column when viewed against the sky on a typical day.
13. I conclude that the proposal, by reason of the siting and substantial height of the streetworks column, would be a prominent and discordant feature which would be moderately harmful to the character and appearance of the area. I have taken into account Policy PG3 of the Birmingham Development Plan (2017), Policy DM16 of the Development Management in Birmingham Development Plan Document (2021) and guidance contained within the Birmingham Design Guide (2022) and the Framework. These seek, among other matters, to ensure that new development responds to the local area context and is sited and designed to minimise its impact on the character and appearance of the surrounding area. Given my conclusion on this main issue, the proposal would conflict with these policies and guidance.

Alternative sites

14. Applications for telecommunications development should be supported with the necessary evidence to justify the proposal in accordance with paragraph 121 of the Framework. The appellant has followed a sequential approach to site selection within this highly constrained cell search area.
15. There are three existing installations in the area. The evidence indicates that the two installations to the west of the appeal site are too far away to provide the required coverage. On the basis of the evidence before me, I have no reason to doubt the appellant's contention that the existing installation at the Pint Pot public house on Tower Road cannot be upgraded for the technical reasons set out in their statement. In particular that site does not appear to be capable of being upgraded to accommodate the additional antennas necessary for 5G coverage. Therefore, based on the evidence that is before me, I consider that there are no mast/site sharing opportunities within the intended cell area that would be capable of accommodating the proposed installation. The evidence does not suggest that there are other suitable buildings or other structures in the area which can accommodate the required apparatus.
16. A large number of alternative sites have been considered for a new ground based installation but all were subsequently discounted for a variety of reasons. Some would not provide the required level of coverage, whilst others have been discounted due to proximity to residential properties, narrow pavements, and potential effects on highway safety, parking and on designated heritage assets. The appeal site would avoid adverse impacts in these regards.
17. The Council have not suggested any alternative sites and there is no substantive evidence before me that challenges the rationale for discounting the alternatives that have been considered. The lack of suitable alternative options to deliver improved coverage and capacity is a consideration which weighs strongly in favour of the development. Thus, in this instance, I am satisfied that undertaking the proposed development is justified in order to achieve the economic and social benefits arising from the proposal.

Other Matters

18. There are two Grade II listed buildings in the area: St James' Church to the east and Old School House public house to the west. As both are a significant distance away and do not have a close relationship to the appeal site, I am satisfied that the proposed development would not affect the setting of the listed buildings or their significance.
19. Concerns have been raised by interested parties about the potential effects of the proposal on health, with particular regard to the nearby Mere Green Primary School and Nursery. 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). The Framework advises against the setting of health safeguards different to the ICNIRP guidelines. No substantive 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 in this instance.
20. I note the concern of an interested party about a lack of consultation. However, the Council confirm that the proposal has gone through the correct consultation process, with the neighbours having been notified and site and press notices displayed. I am satisfied that sufficient consultation has been undertaken.

Conditions

21. Development permitted under Class A, Part 16 is subject to standard conditions, including a time limit for implementation, a requirement that development is carried out in accordance with the submitted details, and that it is removed when it is no longer required for electronic communications purposes. It is unnecessary to impose any additional conditions beyond these.

Conclusion

22. Paragraph 118 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. The proposal would provide significant benefits through the upgrade to digital telecommunications in the area allowing for new and improved network coverage and capacity.
23. For the reasons set out above, I have found that the siting and appearance of the proposal would result in moderate harm to the character and appearance of the surrounding area. In this instance, having regard to the absence of more suitable alternative sites, the harm resulting from the siting and appearance of the proposal would be outweighed by the social and economic benefits arising from it, including the improved coverage and capacity for the local community.
24. For these reasons, I conclude that the appeal should be allowed and prior approval be granted.

M Ollerenshaw

INSPECTOR