



Appeal Decision

Site visit made on 7 March 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

Appeal Ref: APP/P4605/W/23/3326117

GF on Lowhill Lane, West Heath, Birmingham B31 2GS

- 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, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO')
 - The appeal is made by Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2022/08917/PA.
 - The development proposed is the installation of a 22.5m monopole supporting 6 no. antennas and 2 no. dishes, the installation of 2 no. cabinets and associated ancillary equipment contained within a 2.1m fenced compound with access gate. compound with access gate.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As this is an application for prior approval, the provisions of the GPDO require the local planning authority ('LPA') 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.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and any related guidance and the National Planning Policy Framework ('the Framework') only insofar as they are a material consideration relevant to matters of siting and appearance.
4. The appellant's submissions refer to an additional drawing 'Plan 301 Amended Colour Scheme Spec'. This is not in the evidence before me. As such. I have determined the appeal on the basis of the drawings originally submitted with the application.

Main Issue

5. Although the LPAs decision specifies two reasons for refusal, I have distilled these to one main issue, which is, the effect of the siting and appearance of the proposal on the character and appearance of the area and, in the event that any harm is identified, whether that harm would be outweighed by the need to site the installation in the location proposed.

Reasons

6. In terms of siting, the proposed monopole would be located just inside the eastern edge of Cofton Park ('the Park'). The park is an area of public open space that incorporates informal and formal areas for recreation. More specifically, the appeal site is adjacent to and south of what is described as a maintenance vehicle entrance point located on the western side of Groveley Lane, opposite the Lowhill Lane / Groveley Lane junction. Because of its location within the Park, near an entrance and broadly opposite a junction, the appeal site is prominent and sensitive to change.
7. The height of the proposed monopole at about 22.5m, is based on technical requirements. Nevertheless, this would be appreciably taller than other surrounding features within the street scene, these include lighting columns and existing telecom apparatus.
8. In views from the adjacent highway and dwellings to the east, a large part of the proposed monopole, associated equipment and enclosure for this, would be located behind mature trees which form part of the boundary of the Park. Although at certain times of the year, leaf cover on the trees is likely to be reduced, because the trees along the majority of this boundary are mature and relatively close together, the trunks and branches of these would continue to provide a sufficient degree of coverage to filter views of the proposal from the east.
9. Part of the proposed monopole would project above nearby trees, which would be noticeable from the surrounding area. Despite this, against the skyline the headframe because of its generally compact design and grey finish would not appear unacceptably prominent. From other sections along the highway, the top of the monopole would be viewed in the context of nearby trees, street furniture and buildings and therefore would not be unduly intrusive. As such, the effects of the proposal beyond the boundary of the Park would not be unacceptably harmful.
10. Views of the proposal would be available from parts of the Park. Given its largely landscaped setting, the Park has a verdant and attractive appearance. These attributes contribute to its character and quality as an area of public open space. A key feature of the Park is its landscaped boundary, which effectively screens its otherwise generally semi-urban setting. Therefore, I disagree with the appellant's assertion that this is a very unremarkable setting.
11. A relatively slimline and simplistic design of monopole is proposed, in part, this and the equipment associated with it would be screened by a timber enclosure, which is an appropriate material given the site's parkland setting. Whilst the proposed enclosure would result in some encroachment, because of its proximity to trees and limited footprint, the effects of this on the openness of the Park would be negligible.
12. Nonetheless, and irrespective of its colour, the proposed monopole because of its substantial height, utilitarian form and appearance, and siting to the fore of established trees, would be an uncharacteristic and prominent feature within a parkland setting.
13. Consequently, and whilst I have had regard to the submitted photomontage, having visited the site, the proposal would appear as a prominent, isolated and

discordant feature within a parkland setting. In this context the proposal would be visually intrusive and highly visible. Consequently, the proposal would detract from and diminish the attractiveness of the Park. This impact would be compounded by the site's location next to the maintenance access, and the visual dominance of the proposal, as perceived by pedestrians and cyclists who also use this access.

14. Therefore, the siting and appearance of the proposal, would significantly undermine and harm the character and appearance of the Park and area.
15. In reaching my conclusion, I have taken account of the scheme allowed on appeal at Oaklands Recreational Ground. In this case although the site for the telecommunications apparatus lies on the edge of an area of public open space, the context of the location included a building, substation and palisade fencing. I am also aware that a proposal, broadly opposite the appeal site within Bromsgrove has been approved. Even so this was of a lower height and located outside the Park. As such, these schemes are not comparable to the proposal before me and do not alter my findings on this main issue.
16. Whilst not determinative, the proposal would also be contrary to the design aims of Policy PG3 of the Birmingham Development Plan 2017 and Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document, 2021. Amongst other things, these policies seek to ensure that development proposals are of a high quality design, to minimise impact on the visual and residential amenity, character and appearance of the surrounding areas.

Other considerations

17. Support for the delivery of advanced, high quality and reliable communications networks is afforded by the Framework, the development plan, and other documents as set out in the appellant's submissions. I also acknowledge that such networks bring significant social and economic benefits. I have also taken account of the sustainability, environmental, education and health benefits associated with improved telecommunications apparatus. Even so, the Order is clear that the only considerations should be the siting and appearance of the proposal. Those benefits have effectively been recognised by the grant of permission under Article 3(1) of the GPDO.
18. Paragraph 121(c) of the Framework outlines that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be submitted.
19. In this case, coverage is currently supplied by the appellant's nearby site, located on Groveley Lane, to the south east of the appeal site. Although this site currently provides a 2G, 3G and 4G coverage for two operators, based on the information before me, this site cannot be upgraded to provide 5G coverage. As such, the proposed site is required nearby for one operator to relocate to, allowing them to provide continued 2G, 3G and 4G coverage whilst establishing a 5G solution to network users in the Groveley Lane / Cofton Park area of southwest Birmingham. Therefore, the specific requirement for this proposal to provide coverage, the growing need for telecommunications infrastructure, as supported by various documents and publications referenced in the appellant's submissions is not disputed.

20. The appellant has also obtained prior approval for another site, nearby in Bromsgrove, but cannot build in this location due to conflict with underground services. The installation of a base station on a nearby community building has also been explored and discounted.
21. In addition to the above sites initially identified in the application submissions, other sites have also been considered and have been discounted for various reasons and constraints. The target area is also largely occupied by residential and recreational areas and is therefore constrained.
22. Overall, based on the appellant's submissions it would appear that having discounted other sites, a new ground-based installation is the only option. As such, this and the requirement to secure appropriate coverage attracts strong weight in favour of the proposal.
23. The appellant has referred me to a number of allowed appeals in respect of telecommunications apparatus, including sites within Birmingham City Council's administrative area. Whilst the appellant suggests that these are indicative of the LPAs general opposition to the development of street furniture style base stations in visible locations, this has not been conclusively proven. Irrespective, the decision on this appeal rests with me.
24. Nevertheless, I have had regard to the appeal decisions provided by the appellant. With the exception of the Havering appeal, the majority of the proposals relate to masts of a lower height than the scheme before me and not within a sensitive parkland setting.
25. Although the Havering appeal was for a taller 25m lattice mast, the Inspector found that: 'In all cases, the limited views obtainable would be seen in the context of the adjoining urban area, where buildings, structures and infrastructure of all kinds are relatively common features.' In the Parsons Hill appeal, the main issue related to the effect of siting and appearance on the living conditions of nearby occupiers.
26. As such, the circumstances and proposals relating to the allowed appeals are not sufficiently comparable to the proposal before me. Accordingly, these do not alter my findings.

Other Matters

27. Concerns have been raised about potential effects on health. 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 to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.

Planning balance and Conclusion

28. I have taken account of the potential public benefits of the proposal detailed by the appellant, and the support given elsewhere and by the Framework for high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.

29. Furthermore, whilst I attach strong weight to the locational need for the proposal, this does not outweigh the significant harm that I have found arising from the proposal due to its siting and appearance. I, therefore, conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR