



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: 14 May 2024

Appeal Ref: APP/P4605/W/23/3324655

Opposite 199 Heathfield road, Handsworth, Birmingham B19 9JG

- 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 2023/0627/PA.
 - The development proposed is the installation of a 17.5m monopole comprising 6 no antennas and 2 no dishes with 2 no ground based cabinets 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 17.5m monopole comprising 6 no antennas and 2 no dishes with 2 no ground based cabinets and ancillary development thereto at Opposite 199 Heathfield Road, Handsworth, Birmingham B19 9JG in accordance with the terms of the application 2023/0627/PA and the details submitted with it including drawing Nos 100 A, 200 A, 201 B, 300 A, 301 B.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO, planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions. The provisions of the GPDO 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 the appeal has been made on this basis.
3. 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 policies of the development plan and related guidance 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; and

- the living conditions of the occupiers of 199 Heathfield Road (No. 199) with particular reference to outlook.

Reasons

Character and appearance

5. The appeal site comprises an area of pavement located adjacent to a small grassed area which is separated from a larger grassed area by a footpath. The larger section is fronted to the south and west by the flank walls of properties which face Wilson Road and Heathfield Road.
6. The area is characterised by two and three storey development primarily comprising traditional terraced and semi-detached properties with some detached buildings nearby. Surrounding streets are mostly residential, however a cluster of commercial uses exists in close proximity to the appeal site, mostly fronting Heathfield Road.
7. The proposed monopole and cabinets would be positioned at the back edge of the pavement, adjacent to a low retaining wall which borders the grassed area. The width of the pavement is generous meaning the equipment would be set well back from the road. Furthermore, the installation would be sited adjacent to open grassed areas and a relatively large junction. Therefore, it would not appear dominant within this relatively spacious context.
8. The proposed monopole would be located adjacent to an existing streetlight, and it would be seen in the context of various vertical features including other streetlights, telegraph poles and street signs. A group of mature trees is located within the grassed area to the east of the appeal site which would soften the appearance of the proposed development on approach. From most vantage points, the monopole would be experienced in the context of these features and against a back-drop of buildings. As such the development would not appear isolated. Although the monopole would be bulkier and taller than some of the nearby structures, it would be relatively slim in profile and would not appear as an incongruous feature within the area.
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 it is a material consideration the proposal would accord with Policy DM16 of the Development Management in Birmingham Development Plan Document (Adopted December 2021) (DPD). This seeks to ensure that communications infrastructure is sited and designed to minimise impact on the character and appearance of the surrounding area.

Living conditions

11. No. 199 is separated from the appeal site by Heathfield Road which is a two-lane carriageway with pavements to both sides. It has several windows on its south elevation from which the proposed structures would be clearly visible.
12. The proposal would undoubtedly introduce a new element into the views from these windows. However, there would be a generous distance between the windows and the equipment, the profile of the monopole would be relatively slimline, and the cabinets modestly scaled. As such they would not be imposing or overly dominant features in the outlook from within the property.

13. I therefore conclude that the siting and appearance of the proposal would have an acceptable effect on the living conditions of the occupiers of No. 199 with particular reference to outlook.
14. In so far as they are material considerations the proposal would accord with Policies DM2 and DM16 of the DPD. These seek to ensure that development does not result in unacceptable adverse impacts on the living conditions of neighbouring occupiers.

Other Matters

15. Existing network coverage for the area is provided via an existing roof-top installation. This does not have the capacity to introduce 5G coverage and because of its location on an existing building it would not be technically feasible to upgrade it. Several other buildings have been considered, however these are either too low to provide the required coverage or not capable of supporting the required equipment. An existing installation at Walsall Road is outside of the search area and as such would not be able to the required network coverage.
16. I am therefore satisfied that there are no realistic opportunities to erect antennas on existing buildings, masts or other structures.
17. As I have found that the siting and appearance of the proposed development would be acceptable it is not necessary for me to consider the alternative sites which have been assessed, or whether any other alternative sites may be available.
18. 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.
19. Concerns that the proposal would distract drivers, contribute to climate change, and cause damage to trees and harm to wildlife have not been substantiated and I have no reason to conclude that this would be the case.

Conditions

20. 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

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

E Pickernell

INSPECTOR