



Appeal Decision

Site visit made on 16 April 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/P4605/W/23/3329592

**Land off Walsall Road, Adjacent Tower Hill, Great Barr, Birmingham
B42 1LR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 2023/00518/PA.
 - The development proposed is the installation of a new 17.5m monopole accommodating 6no. antennas & 2no. microwave dishes, the installation of 2no. 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 Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a proposed installation of a new 17.5m monopole accommodating 6no. antennas & 2no. microwave dishes, the installation of 2no. equipment cabinets, along with ancillary works at Land off Walsall Road, Adjacent Tower Hill, Great Barr, Birmingham, B42 1LR in accordance with the terms of the application Ref 2023/00518/PA, and the plans submitted with it.

Preliminary Matters

2. The provisions of the GPDO under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3 require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking account of any representations received. My determination of the appeal has been made on the same basis.
3. The application form, appeal form and decision notice all refer to a slightly different site address. I have therefore taken the address in the banner heading above from the decision notice because this is a more succinct version of the address.
4. The Council raise concerns about the submission of a coverage map and alternative options as part of the appeal, which was not previously available during the determination of the application. However, it suggests that this information does not alter their conclusions on the proposal. I am satisfied that neither the Council nor interested parties have been prejudiced in this regard and I have taken the information into account in determining this appeal.

Planning Policy

5. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance, and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

7. The appeal site is located on a wide pavement alongside Walsall Road, within the local centre of Tower Hill. There is a row of shops on both sides of the road and the character of the immediate street scene is commercial with residential areas beyond.
8. The road is busy, in close proximity to two signalised traffic junctions. As a result, there is a significant amount of street furniture within the area, including street lighting columns, CCTV poles, litter bins, traffic signs and equipment cabinets. There is also a large bus shelter located on the pavement, with a street tree next to it.
9. The upper section of the proposed 17.5m high monopole would protrude above the adjacent two storey buildings. However, it would be viewed amongst the proliferation of street furniture in this part of the busy streetscape. In particular, it would assimilate amongst the large amount of tall street lighting columns and CCTV poles. Consequently, in this context, the proposal, despite its substantially thicker profile and taller height compared to the existing streetlighting columns, would not be visually prominent or be an unexpected feature in the street scene. It would also not result in an unacceptable amount of visual clutter within the area. On this basis, it would not be incongruous, nor would it be a visually dominant structure in this location, alongside the busy road.
10. In addition, the proposed equipment cabinets would be of a modest size and extent. As such, they would not result in visual clutter on the pavement or wider street scene.
11. I acknowledge that concerns have been raised that the local centre is dominated by tarmac and other similar telecommunication structures. However, I have not been supplied with compelling evidence to suggest how the proposal would further contribute to the perceived poor quality public realm in this area. In addition, the proposed development would still enable public realm to be improved by future regeneration proposals should they come forward. Therefore, I am not persuaded that the proposal would harm the future regeneration of the local centre. I am also satisfied that the proposal would not benefit from planting or green screening, in an effort to improve its visual appearance in this area.
12. The appellant has undertaken an exercise to assess alternative sites, including the possibility of erecting antennas on existing buildings, masts, or other structures in the area. A list of alternative sites has been submitted and having

visited many of these sites during my site visit, I have no reason to doubt the legitimacy of the reasons provided as to why they were discounted in favour of the appeal site.

13. In conclusion the proposal would not appear overly prominent or visually intrusive, and it would not cause harm to the character and appearance of the area. The proposal therefore complies with policy PG3 of the Birmingham Development Plan, policy DM16 of the Development Management in Birmingham Development Plan Document, policy NPP9 of the 3Bs Neighbourhood Plan, the guidance within the Birmingham Design Guide SPD, as well as the provisions of the Framework in so far as it seeks to support high quality, reliable communications infrastructure and achieving well designed places. Consequently, I consider that the siting and appearance of the proposal would be acceptable.

Other Matters

14. I am aware that the Council received many representations against the proposal from elected members and local residents, including a petition. In particular, a great degree of information has been submitted in respect of concerns raised about various potential effects on the health of humans and wildlife, including fear and anxiety. Notably due to the proposed monopole's proximity to residential properties, places of education, shops, and bus stops, in the heart of the community. 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.
15. Given the siting and design of the proposed development and its distance from nearby residential properties, the proposed development would not result in a harmful overbearing effect or harm outlook from nearby properties. In addition, the loss of a view from a property is not a material consideration.
16. There is a lack of evidence before me to indicate how the proposed development would prevent community events from taking place. The pavement is large enough to accommodate the apparatus whilst also allowing pedestrians to use the footway safely. It would also not prevent access to the bus stop.
17. Additionally, there is no substantive evidence before me to justify how the proposal would contribute to a threat towards climate change and national security. In any case, my considerations are limited to the siting and appearance of the apparatus in accordance with the relevant legislation, as set out in the procedural matters above.
18. The appellant has indicated that there is a need for a new base station to provide effective service coverage and no substantive evidence has been provided to demonstrate otherwise.

Conditions

19. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval 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

20. For the reasons given above, I conclude that the appeal is allowed, and prior approval granted.

N Bromley

INSPECTOR