



Appeal Decision

Site visit made on 17 June 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/P4605/W/23/3335102

Corner of Trittiford Road and Highfield Road, Yardley Wood, Birmingham B28 0DL

- 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) (GPDO).
 - The appeal is made by Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2023/03208/PA.
 - The development proposed is proposed base station telecommunications installation. Proposed installation of 20.0m High Hutchinson Engineering Orion SW Pole on new T9 root foundation together with 6No. antennas, 2No. 300ø dishes, 1No. GPS Module, 2No. cabinets and associated ancillary works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority, and therefore the Secretary of State, 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 the same basis.
3. The principle of development is established by 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. I have therefore had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.
4. It has been suggested by the appellant that the proposed cabinets should not form part of the planning appeal process as they are permitted development to support a telecommunications installation (without prior approval). Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.
5. The site location given on the decision notice is more precise than that given on the application form and thus I have used it within this decision. This address was replicated on the appeal form and as such I am satisfied that the appellant would not be prejudiced by this.

Main Issue

6. The main issue is the effect of the siting and appearance of the proposed installation upon the character and appearance of the area including the effect upon Four Arch Bridge and grounds and the setting of Sherwood Public House. If any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

7. The appeal site is located on a grassed verge that is next to a roundabout. The verge is located in the middle of a footpath and around the footpath are more grassed verges. The roundabout is located at a cross section within the Dingles Recreation Area (the Dingles) which spurs off in three separate directions and is based around the Chin Brook and the River Cole. As a result, the land around the appeal site and the roundabout is verdant grassland interspersed with trees. There are dense areas of trees around the brook and river as well as tree lined roads nearby. Furthermore, there are lampposts and street signage in the area, but the amount of street furniture nearby is limited. As such, whilst the site is located within a suburb of Birmingham the nearest buildings are a considerable distance from the site and the area has a semi-rural character.

Four Arch Bridge and Grounds

8. When within the Dingles, given the depth of the trees and hedges that bound it, there are times when the surrounding suburb is not visible, and parts of the park are appreciably disconnected from the wider area.
9. The Four Arch Bridge is a brick-built bridge that crosses the River Cole within the Dingles. The significance of the bridge derives in part from the architectural design of the bridge as well as its setting within the Dingles.
10. The Four Arch Bridge is located a considerable distance from the proposed installation. However, the Dingles is identified as part of its locally listed grounds and its significance comes from its semi-rural character due to its seclusion, despite being located in a suburban area. They are considered together in both the Conservation Officer's consultation comments and in the Officer's Report. Both the Officer's Report and the Decision Notice should be read together and as such, when the Decision Notice refers to the Four Arch Bridge, I have read it as the effect on both it and the grounds as a whole.
11. The proposed pole would be significantly taller than the surrounding trees and streetlights and as such it would be visible for a considerable distance from the appeal site. Whilst the pole is proposed to be relatively narrow, the proposal includes two cabinets which would introduce bulky apparatus at ground level. This would be sited in front of a notable vista around a gated entrance to the Dingles. This entrance is bound by a group of trees as well as the grassed verges in front of it.
12. Whilst the pole itself has been designed to be relatively narrow, this would add to the bulky modern equipment in this location and the harmful effect this would have upon the character and appearance of the area. Overall, the development would have an urbanising effect upon this site and given the significant height of the pole, this would be appreciated from a considerable distance, especially when viewed from within the park. This is evidenced by the

Zone of Theoretical Visibility figures provided by the appellant which shows the proposal would be visible from within much of the Dingles. The view of this modern apparatus would erode the disconnection between the park and the built form around it. Consequently, this would harm the contribution the Dingles makes towards its significance.

The Sherwood Public House

13. The Sherwood Public House is a large inter-war estate pub located on the corner of Highfield Road and Cole Valley Road. Next to the public house is a promenade of commercial two storey buildings. There is also vehicular parking in front of the commercial promenade and associated street furniture and highway signage. On the opposite side of Highfield Road is the car park for the Yardley Wood train station and on the opposite side of Cole Valley Road is residential development. As such, the immediate setting of the public house is a built-up area, although given the relatively low density of the development it has a suburban character.
14. The public house is located on a hill on a junction between two roads and as such the building is a focal point locally and there are clear uninterrupted views of the building for a considerable distance. The buildings prominence in this area positively contributes towards the setting of the building and its significance as a non-designated heritage asset. From the appeal site the public house's prominence comes from its scale and location with limited built form between it and the appeal site.
15. The public house is a dual aspect building and the entrance to the building faces towards the Dingles and the appeal site. Between the appeal site and the public house are the trees and hedges that bound the Dingles. Given the substantial size of the pole it would be clearly visible above the trees and the cabinets would be partly visible as well from the public house. However, from the building there are views over a substantial area of the Dingles and the proposal would account for a very small section of this outlook over the Dingles which also includes views of the development beyond it. It would also be seen alongside the streetlights that are between the public house and the appeal site.
16. Given the siting of the proposal, it would not harmfully screen views of the public house and the public house would remain the prominent feature in views from the roundabout and the surrounding area. Furthermore, given the suburban setting of the public house, the proposal would not harmfully urbanise this setting. As such, the setting of the public house and the contribution this makes towards its significance would not be harmed by the proposal.

Character and Appearance

17. Whilst the cabinets would be modest in height and depth they would be of a substantial width and extend across much of the grassed verge. This would introduce large bulky apparatus at ground level which would be seen in views of the park. Given that this would be at ground level this would be clearly appreciated by pedestrians, cyclists, and vehicular users.
18. Whilst there is street furniture in the area, there is nothing of the scale of the development proposed. Given its height the scheme would dominate the area

and it would be visible for a considerable distance. The design of this apparatus would be seen as an obtrusive piece of street furniture and appear unusual and incongruous within this semi-rural setting.

19. I have been directed to a number of appeal decisions related to similar proposals¹. Concerning the appeal near to the Hibernian Public House, the Inspector in that case came to a similar conclusion to myself on the effect of the proposal upon the setting of the Sherwood Public House. The appeal site at The Radleys / Bell Lane was located near to an existing monopole and other street furniture. In comparison, the cabinets and pole proposed would be uncharacteristic of the nearby area for the reasons given above. Additionally, the siting of the pole, in this instance, would be visible for a considerable distance unlike the scheme at The Radleys / Bell Lane.
20. Visual impact is to be considered on a site-specific basis, and the appeal sites referred to vary considerably from the appeal before me and as such I do not consider that the appeal decisions cited lend support to the proposal before me. Each case is distinct from the current proposal, in terms of the operational requirement, the development proposed and its context, and as such they are not directly comparable.
21. For the reasons set out above, I do not consider that the appeal proposal has been sympathetically designed as required by the Framework. Whilst the scheme would not harm the setting of the Sherwood Public House the siting and appearance of the proposal would be harmful to the character and appearance of the area and the Four Arch Bridge and grounds.

Alternative Sites

22. The proposed equipment would provide 5G coverage. The search area for the proposal is limited as the intention is to upgrade the existing capacity and it is linked to an existing site. This has informed the appellant's search area for the new equipment. On the basis of the evidence before me, I am satisfied that the appellant has demonstrated that there is an identified need for the proposed development to be located somewhere in the search area.
23. I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area and the setting of a non-designated heritage asset for the reasons given above. The other options that might be available are therefore an important consideration. In addition, paragraph 121 of the Framework requires that, for a new mast, evidence be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast, or other structure.
24. The supporting information refers to several discounted alternative options for the proposed development. Reasons are given as to why they have been discounted and these include insufficient space, proximity to housing and previously refused applications. However, the reasons are brief and unsupported by any further evidence to suggest why they would be more harmful than the appeal scheme, or are not viable.
25. Whilst the existing nearby mast site would not be suitable to be upgraded, limited detail has been provided setting out why the alternative sites would be

¹ Appeal Ref: APP/4605/W/21/3271840 and Appeal Ref: APP/P4605/W/23/3323480

more harmful to the siting and appearance of the area or the non-designated heritage assets. Limited substantive evidence has been provided to support the case that nearby buildings would not be suitable to support the telecommunications equipment.

26. The appellant states that the cell search area is extremely constrained and that the only viable option has been put forward. However, the map shows that the search area covers an area encompassing both built up and open spaces. In the absence of clear and persuasive evidence as to why alternative sites have been discounted, I am unable to establish that the appeal scheme is the most suitable in its siting and appearance.
27. For the reasons given above I am not satisfied that, based on the evidence, the appeal scheme represents the least harmful option, nor that the requirements of paragraph 121 of the Framework have been met.
28. In summary, the proposed development would cause harm to the character and appearance of the area and a locally listed building and grounds, and I am not satisfied that less harmful alternatives have been properly explored.
29. Insofar as they are a material consideration, the proposal would be contrary to the aims of Policies PG3 and TP12 of the Birmingham Development Plan as well as Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document. These seek, amongst other matters, to ensure proposals for telecommunications equipment be sited and designed in order to minimise impact on the character and appearance of the surrounding areas. Furthermore, it would be contrary to the aims of the Birmingham Design Guide insofar as it states the design, location and size are key considerations in relation to potential visual and physical impacts on the character of the surrounding area. It would also not accord with the Framework for the reasons set out above.

Other Matters

30. While I recognise that there are wider social and economic benefits, the GPDO 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). Therefore, in cases not involving designated heritage assets the wider benefits of the proposed development do not fall to be taken into account.
31. Concerns regarding the matter in which the planning application and pre-application process are considered to fall outside of the cope of this decision.
32. The appellant has assessed the proposal with regard to the Yardley Wood Railway Station which is a locally listed building. However, the Council did not conclude that the proposal would lead to harm to the setting of this building and given the siting of the building in relation to the proposal I see no reason to come to a different conclusion.

Conclusion

33. For the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR