



Appeal Decision

Site visit made on 19 March 2025

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/P4605/W/24/3356519

Land at Kitt's Green Road, West of Lea Village Junction, Birmingham B33 9SB

- 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 2024/03507/PA.
 - The development proposed is 17.5m street furniture style monopole mast with 6No. antennas (BS00A05 Grey), 2No. 300mm dishes (BS00A05 Grey), 2No. cabinets (1No. 1900x660x1750mm; 1No. 1050x660x1750mm) (RAL7035 Grey), all ancillary development
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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 17.5m street furniture style monopole mast with 6No. antennas (BS00A05 Grey), 2No. 300mm dishes (BS00A05 Grey), 2No. cabinets (1No. 1900x660x1750mm; 1No. 1050x660x1750mm) (RAL7035 Grey), all ancillary development at Land at Kitt's Green Road, West of Lea Village Junction, Birmingham B33 9SB in accordance with the application 2024/03507/PA and the details submitted with it.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) ('the GPDO'), under Article 3(1) and Schedule 2, Part 16, Class A Paragraph A.3(4) 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 this appeal has been made on the same basis.
3. I have been referred to development plan policies. However, 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 me to have regard to the development plan. I have had regard to the development plan policies only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issues

4. The main issues are:
 - the effect of the siting of the proposal upon the safe operation of Birmingham Airport;

- the effect of the proposal upon the living conditions of the occupiers of existing properties with particular regard to outlook;
- the effect of the siting and appearance of the proposal upon the character and appearance of the area, and;
- if any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Birmingham Airport

5. The appeal site lies within 3 kilometres of Birmingham Airport. Therefore, there is the potential that a vertical feature could affect Instrument Flight Procedures ('IFP') relating to the operation of the airport. I am aware that Birmingham Airport originally objected to the proposal on the basis that an IFP Safeguarding Assessment had not been carried out in order to evaluate any risk that might exist.
6. The appellant has provided an IFP Safeguarding Assessment which finds that the proposal would not impact the currently published IFPs for the airport. This document was provided at the outset of the appeal and both the Council and Birmingham Airport have therefore had opportunity to consider its content. Neither party would be prejudiced by me taking account of it.
7. The Council disagrees with the conclusion within the report, but there is no substantive evidence before me which would support this position. No representation in relation to the appeal has been received from Birmingham Airport. In the absence of any evidence to the contrary, I have no reason to doubt the findings of the report.
8. I therefore conclude that the siting of the proposal would not harm the safe operation of Birmingham Airport.

Living conditions

9. The proposal would be a substantial vertical structure located in a prominent position on the edge of a roundabout, and to the front of and opposite to existing commercial units, which are stated to comprise residential flats at first floor level. It is unclear precisely which upper storey units are occupied on a residential basis, and I noted at my site visit that some buildings appeared to be currently vacant. Taking a precautionary approach, I have considered this main issue on the basis that the occupation of the first floors of buildings addressing the roundabout may provide residential accommodation. Accordingly, the appeal proposal would be visible from the front elevation windows of nearby residential units, and in some cases, at relatively close proximity.
10. However, the design of the proposed mast would be circular and of limited diameter. It would not, therefore, even at close proximity, represent a structure that would be likely to unacceptably reduce levels of outlook available to occupiers of these properties, particularly given the otherwise largely open aspect of the area.
11. I therefore conclude that the siting and appearance of the proposal would not lead to harm to outlook for existing occupiers of nearby buildings.

12. I acknowledge that the proposal would be prominent within views from the buildings which surround the roundabout, and I return to the matter of the effect of the proposal upon the character and appearance of the area below.

Character and appearance

13. The roundabout forms a focal point, being addressed by commercial buildings and providing a small commercial centre within an otherwise predominantly residential area. Wide areas of hard-surfaced public realm and car parking exist to the front of the commercial buildings that address the roundabout.
14. Despite the presence of trees and street lighting columns of varying height in the immediate area, as a result of its height and location the proposed development would be a visually dominant feature in an area of buildings that are generally of two storeys in height. Furthermore, the commercial nature of the area surrounding the roundabout means that it is an area well used by pedestrians and drivers of vehicles, and the presence of a substantial vertical mast and accompanying cabinets within an otherwise relatively open area of public realm would be clearly discernible and not softened or screened to any extent. It would also be prominent structure when viewed from within nearby buildings which address the appeal site.
15. Overall, the proposal would be a significant and incongruous feature within the streetscene, drawing focus away from the buildings and public space that frame the roundabout. Consequently, its siting and appearance would be harmful to the character and appearance of the area.
16. I have had regard to the appeal decisions that have been presented to me in relation to this issue, however despite some similarities in terms of the proposals, and locations, none of the examples is so directly comparable to the proposal and locational circumstances which are before me so as to lead me to conclude that my findings on this issue would be inconsistent.
17. In particular, I note that in one notably similar instance¹ that the Inspector noted variations in topography and the presence of other telecommunications equipment as mitigating factors in this regard, which would not be the case in this particular instance.
18. I therefore find that the siting and appearance of the proposal would be harmful to the character and appearance of the area.

Suitable alternatives

19. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and, in this regard, there is a need to support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. The mast would introduce new 5G coverage to the area, where there is an identified gap in coverage.
20. While acknowledging the need for the proposal, given the harm I have found to the character and appearance of the area, other options that might be available are an important consideration. Paragraph 122 of the Framework requires, for a new mast, that evidence is provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.

¹ APP/P4605/W/21/3271311

21. While the Council considers that the approach to alternative sites has not been exhaustive, the appellant has provided evidence that a total of 30 alternative sites have been considered for the proposal and detailed reasoning for the dismissal of each provided. Having regard to technical and topographical constraints, as well as other matters such as the residential nature of the surrounding area, I consider that the sites within the search which have not been taken forward have been discounted with justification.
22. The Council has indicated that it considers a potential shared site at the corner of Lea Green Road and Hurstcroft Road has not been fully explored. However, the precise location of this site has not been provided, and I have been unable to locate Lea Green Road within the evidence before me.
23. There is an existing shared site on a building at the corner of Hurstcroft Road and Lea Village, which the appellant has included within the site search. This site is dismissed as additional 5G equipment in such a location would likely require a stub mast of substantial height in order to achieve appropriate technical performance and safety. It is also stated that it is unclear whether the host building could safely accommodate such additional loading. Overall, I consider that this site has been discounted with appropriate justification, and that there is no substantive evidence before me to indicate that there are any other more suitable alternative sites for the proposal.
24. The siting and appearance of the proposal would result in harm to the character and appearance of the area. However, the possibility of alternative sites has been adequately considered, and there is no evidence before me which demonstrates that the proposed site is not the best available, taking account of all technical and operational constraints. I afford this significant weight in favour of the proposal, having regard to the importance that the government has attached to supporting the expansion of electronic communications, as set out within the Framework.
25. I therefore consider that with no more suitable alternative sites being demonstrated, that the need for the installation to be sited as proposed outweighs the harm that would occur to the character and appearance of the area as a result of the siting and appearance of the proposal.

Conditions

26. The GPDO 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

27. For the reasons given above, I conclude that the appeal should be allowed.

C Harding

INSPECTOR