



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/24/3356587

Pavement opposite Oscott Social Club, 239 Witton Lodge Road, Short Heath, Birmingham, B23 5LX

- 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 Telecommunications Infrastructure Ltd against the decision of Birmingham City Council.
 - The application Ref is 2024/02616/PA.
 - The development proposed is the installation of a 17.5m M-Range V2 pole with 6nos antennas, 1no 300mm transmission dish, 3nos equipment cabinets, 1no meter cabinet and 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 the installation of a 17.5m M-Range V2 pole with 6nos antennas, 1no 300mm transmission dish, 3nos equipment cabinets, 1no meter cabinet and ancillary development at Pavement opposite Oscott Social Club, 239 Witton Lodge Road, Short Heath, Birmingham B23 5LX in accordance with the application 2024/02616/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 Issue

4. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the area.

Reasons

5. The appeal site relates to an area of grass located between a tarmac footpath and railing adjoining Witton Lodge Road. It sits close to a road crossing point providing pedestrian access between a slightly raised area of public open space to the north and Perry Common Meadows to the south which is also an area of public open space. The road gently climbs towards the east.
6. The area is predominantly residential in nature, although Oscott Social Club is a large flat-roofed building to the east. There are a number of trees located within the public open space and Perry Common Meadows, as well as street trees lining the road. Street lighting columns are spaced periodically along the road and are noticeably tall. On the provided plans these are stated as being around 10 metres high, which is not disputed by the Council. Other street furniture, including signage and traffic lights can also be found close to the appeal site.
7. The proposal would be a large structure and would be located at a focal point for pedestrians traversing the linked areas of open space. However, its siting would be such that it would be read in the context of other vertical street furniture, including street lighting columns, traffic lights and road signage. Furthermore, it would be located at a relatively low point topographically, and although unlikely to be wholly read against a backdrop of trees, it would nevertheless be read against both rising land and greenery to some extent, particularly given the number, maturity and proximity of street trees, as well as groups of trees within the public open spaces.
8. In this context, therefore, despite the profile and height of the proposal, it would not appear as unexpectedly prominent feature within the streetscene, nor introduce an unacceptable degree of clutter. The associated equipment and cabinets, situated away from the footpath, would also not be visually intrusive.
9. The public open spaces are, by their nature, less urban in character in comparison to the road which separates them and the surrounding land uses. However, the proximity of the proposal to existing traffic lights and lighting columns would mean that its effect upon the setting of these areas would not be any more harmful than the existing situation.
10. In conclusion, the proposal would not lead to harm to the character and appearance of the area by way of its siting and appearance. It would therefore be in accordance with Policy DM16 of the Development Management in Birmingham Development Plan Document, which seeks to ensure that telecommunication infrastructure is sited and designed in order to minimise impact on the visual and residential amenity and character and appearance of the area.
11. The proposal would also accord with guidance within the Birmingham Design Guide Principles Document, the Birmingham Design Guide Healthy Living and Working Place City Manual, and the Telecommunications Development: Mobile Phones Infrastructure Supplementary Planning Document. Amongst other things, these documents seek to ensure that proposals for telecommunications equipment are design to minimise visual impact.

Other Matters

12. As I have found that the siting and appearance of the proposal would be acceptable, it is unnecessary for me to consider the merits of any potential alternative sites. The appellant has indicated that there is a need for additional

equipment to provide effective service coverage and no substantive evidence has been provided to demonstrate otherwise. The proposal, which would contribute to the upgrade and expansion of high-quality electronic communications networks, would align with the National Planning Policy Framework ('the Framework') in this respect.

13. It is stated that the proposal would be an obstruction to park users, and would represent a visual obstruction to traffic, cyclists and pedestrians, however there is no substantive evidence before me to demonstrate that this would be the case, and the proposal would be located outside of existing tarmacked paths.
14. Concern has been raised in relation to the effect of the proposal upon existing trees, however there would be separation between the nearest tree and the proposal, with an existing lighting column located in between. The canopy of the existing tree is not of significant spread and there is no evidence before me that would indicate that the proposal would be likely to materially harm the health of this tree, or any other trees. Likewise, although concern has been raised in relation to the potential effects of the proposal upon wildlife, there is no evidence before me to substantiate such concerns.
15. Concerns have also been raised about potential effects of the proposal 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 in this instance.
16. Interested parties have stated that the appellant is not a company registered at Companies House. Regardless, of whether or not this is the case, I am not aware of any requirement for an organisation applying for prior approval under the GPDO to be registered in such a manner, in any event. The status of the organisation in question, is therefore, a matter which falls outside of the scope of this appeal.

Conditions

17. 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

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

C Harding

INSPECTOR