



Appeal Decision

Site visit made on 24 June 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Appeal Ref: APP/V4630/W/25/3359674

Make a Wish SW, Land Adj Jct of Collingwood Drive & Hillingford Avenue, Pheasey, Walsall, Birmingham B43 7JW

- 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 Walsall Council.
 - The application Ref is 24/0703.
 - The development proposed is 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 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 siting and appearance of a 17.5m monopole, accommodating 6no. antennas & 2no. microwave dishes, the installation of 2no. equipment cabinets, along with ancillary works at land at Make a Wish SW, Land Adj Jct of Collingwood Drive & Hillingford Avenue, Pheasey, Walsall, Birmingham B43 7JW in accordance with the terms of the application Ref 24/0703 dated 7 June 2024 and the plans submitted with it including plan nos 100 Rev A (Site Location Maps), 201 Rev B (Proposed Site Plan) and 301 Rev B (Proposed Site Elevation).

Preliminary Matters

2. I have removed words not related to acts of development from the description of development in the banner heading above for clarity.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) requires the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. This appeal has been determined on the same basis.

Planning Policy

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

5. Appeal decisions relating to Land at Yardley Wood Road, Grass verge opposite Number 2 Crabtree Road and Grass verge at Maypole Avenue have been referred to by the appellant in their final comments. I am not satisfied that these appeal decisions would have been viewed by interested parties given their inclusion late within the appeal process. Consequently, in the interests of natural justice I have not considered these in this case as part of my determination of the appeal.

Main Issues

6. The main issues in this appeal are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and on the living conditions of neighbouring residents regarding outlook and, 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

Siting and Appearance

7. The appeal site is located in a predominantly residential area. The proposed location for the installation is on a relatively wide pavement and set within a mixed-use area that exists close to the junction of Collingwood Drive and Hillingford Avenue. There are commercial properties with residential accommodation at second floor, residential dwellings, a community centre and ecclesiastical property all adjacent to the appeal site.
8. The junction is relatively busy as are the surrounding carriageways which are served by buses. Adjacent to the appeal site close to the Beacon Church on Hillingford Avenue, is an extant telecommunications mast and there are various pieces of street furniture including street lighting columns, bus shelters and road signs.
9. There are limited landscaping measures before me to screen the low-level apparatus and whilst I appreciate that the mast would be coloured grey to blend in with the sky, in my judgement this would not mitigate for the considerable height and relatively prominent siting of the proposed mast. Therefore, given the appeal scheme would be significantly greater in height than nearby streetlights and buildings, it would, to my mind, appear as an incongruous feature within the street scape.
10. The proximity of the appeal scheme to residential accommodation/dwellings such as numbers 85,87,89 and 91 Robert Court as well as the second storey windows of 65 Collingwood Drive and the lack of adequate screening, it follows that the introduction of the proposed installation would be unacceptably visible from these dwellings. I acknowledge that a number of the views of the installation would be oblique, nevertheless, it would remain unacceptably visible in my judgement.
11. The proposed telecommunication monopole would also be visible from the immediate nearby commercial properties including 'Make a Wish' cakes at 118 Hillingford Avenue, especially given that there is limited mature vegetation around the site.
12. However, there is limited substantive evidence before me to demonstrate that its siting would result in unacceptable harm to the daylight/sunlight of nearby properties nor result in an unacceptable level of noise that would result in

disturbance for nearby residents. There is also limited substantive evidence to adequately demonstrate that the siting of the proposal would distract, be an obstruction or result in harm to safety for drivers or pedestrians in this case given its location on a wide pavement, nor that it would unacceptably harm the trade of adjacent businesses, result in antisocial behaviour, crime, fear of crime, an unacceptable level of noise or an increase in litter and general vandalism.

13. Appeal decisions concerning siting and appearance have been brought to my attention. These include appeals at Parsons Hill, Eachelhurst Road, Walsall Road, Wake Green Road and Buckland End. However, I do not have the full details of the circumstances and therefore cannot be certain that they are all wholly comparable to the appeal scheme before me. Nevertheless, each case is determined on its own merits and for the site-specific reasons given above, they do not lead me to a different conclusion.
14. Given all of the above, the proposed installation would appear overly prominent and therefore incongruous within the street scape. It would therefore result in harm to the character and appearance of the area due its height and siting as well as harm the living conditions of neighbouring residents regarding outlook. Overall, these matters carry moderate weight against the proposal. Insofar as they are a material consideration, the proposal would conflict with Saved Policies GP2, ENV32 and ENV38 of the Walsall Unitary Development Plan 2005 (online version) and Policies ENV2 and ENV3 of the Black Country Core Strategy 2011. These policies seek, amongst other things, to ensure that developments including telecommunications equipment are of a high design quality and assimilate with the local character of the area.

Alternative Sites

15. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being. Consequently, it supports the expansion of electronic communications networks, including 5G.
16. The appeal scheme would provide coverage in an area which has limited effective coverage. The lack of coverage would likely lead to a lack of/or very poor call set up, dropped calls and no capacity leading to no service. Consequently, to my mind, there is a demonstrable operational need for the proposed installation.
17. The appellant has provided a sequential approach to site selection in which approximately 35 sites were assessed. Many of the sites have been discounted due to, amongst other things, the presence of underground services and/or overhead lines, closer proximity to dwellings, greater visibility due to a lack screening and/or requirements of a taller mast due to lower typography, highway safety, as well as practical requirements to achieve International Commission on Non-Ionizing Radiation Protection (ICNIRP) certification. Various buildings and structures were also considered as part of the sequential approach however these were likewise discounted for practical reasons.
18. The proposed installation needs to be located as close to the existing base station sited adjacent to Beacon Church on Hillingford Avenue because there is a requirement to provide equivalent replacement coverage and capacity for the surrounding area. The existing telecommunications installation cannot be used to accommodate the proposed 5G equipment due to its slimline design and would

require significant redevelopment. Additionally, the appeal scheme would provide an effective coverage solution and meet demand for its services. Consequently, given all of the above, I am satisfied that the alternative locations highlighted by interested parties including the Queslett Road, at the Cat and Fiddle, Beacon Road, Aldridge Road, Chester Road and Birmingham Road would not likely be suitable.

19. Moreover, the Council has not provided any alternative sites as part of its submission. Appeal decisions in relation to Pinfold Health Centre Streetworks and Lucknow Road Streetworks have been brought to my attention. I do not have the full details of the circumstances regarding these decisions and therefore cannot be certain that they are wholly comparable.
20. Additionally, an interested party has suggested that there are no other existing comparable telecommunications installation in the local area in close proximity to either residential or mixed-use buildings. There is limited substantive evidence before me to adequately demonstrate this to be the case. Nevertheless, each case is determined on its own merits.
21. For the reasons given above, I am satisfied that the appellant has, in my judgement, adequately demonstrated that there are likely to be no other appropriate sites, including buildings and existing masts, than the appeal site and that there is a need for the proposed installation. I therefore attach significant weight in favour of the appeal as a consequence.

Health

22. Regarding the potential effect of the appeal scheme on human health, due to radiation emitted by the appeal scheme. 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 National Planning Policy Framework (the Framework) advises that decision makers should not set health safeguards different from the International Commission guidelines for public exposure. 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.

Other Matters

23. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who do and do not share a protected characteristic.
24. Disability and age are relevant protected characteristics to which the PSED applies. An interested party has outlined concerns that the proposal would result in harm to individuals with disabilities as well as the elderly and children. In addition, reference has also been made to the possibility of the proposed installation conflicting with resident's human rights regarding anxiety around health and wellbeing.

25. However, as outlined above, the proposed installation has been designed to comply with the ICNIRP guidelines which include substantial precautionary safety margins and are considered protective of the entire population. Additionally, the pavement is wide and consequently, there is limited evidence before me to adequately demonstrate that it would result in an unacceptable obstruction for individuals with disabilities who would wish to use the pavement. Therefore, I consider the proposal would not discriminate against persons with the protected characteristic or the other aims of the PSED stated above. As such, it would be proportionate and justifiable to allow the appeal.
26. I have outlined in my main issues the need for the appeal scheme and consequently there is limited substantive evidence before me to adequately demonstrate that there are other masts in the area which would provide the coverage proposed. Additionally, whilst I acknowledge that interested parties may experience adequate mobile signal in the area, this may relate to a different network and consequently does not result in a complete assessment of need or capacity in terms of building coverage or strength.
27. Interested parties have also raised concerns regarding the proposed installation interfering with other equipment and resulting in harm to wildlife. There is limited substantive evidence before me to adequately demonstrate either to be the case.
28. Concerns regarding property values and mortgage refusals are not significant material planning considerations in this case given that property values are a private interest, and the planning system is primarily concerned with the public interest.
29. The appellant has provided a plan indicating the proposed location of the appeal scheme as required by Schedule 2, Part 16, Class A, paragraph A.3(5) of the GPDO. Consequently, even if the development on the elevation plan slightly differs to the development on the site plan due to an angled view, this is not determinative for this case.
30. Regarding ownership, I am satisfied that the appellant provided the required Developers Notice as required by Schedule 2, Part 16, Class A of the GPDO. There is limited substantive evidence before me to adequately demonstrate that any problems regarding ownership could not be dealt with under legislation dealing with private legal rights regarding land ownership.
31. Finally, smart and small cell technologies are used to supplement the larger network and are generally used to boost capacity in high footfall areas. These technologies are not an alternative to macro base cell station developments because they provide street level cover rather than in building coverage. Consequently, smart and small cell technologies would not provide the same level of coverage as the proposed installation and to my mind, would not be a suitable alternative.

Conditions

32. 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

33. In conclusion, I consider the moderate harm the installation would cause to the character and appearance of the surrounding area would be outweighed by the benefits of a high-quality communications network facilitated by the proposed development and the lack of any more suitable alternative sites to provide this benefit.
34. For the reasons given above the appeal should be allowed and prior approval should be granted.

B Astley-Serougi

INSPECTOR