Planning Inspectorate

# 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: 28th July 2025**

## Appeal Ref: APP/P4605/W/25/3359736
## Land at Timberley Lane, Shard End, Birmingham B34 7EP

- 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 2024/04837/PA.
- The development proposed is mast, antennas, dishes, cabinetry and all ancillary development.

## 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 mast, antennas, dishes, cabinetry and all ancillary development at Land at Timberley Lane, Shard End, Birmingham, B34 7EP in accordance with the application 2024/04837/PA, dated 22 July 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. 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) 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. This appeal has been determined on the same basis.

## Planning Policy

3. 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.

## Main Issues

4. 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 including the effect 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*

5. The appeal site is located on a grass verge on the eastern side of Timberley Lane and near to the junction with Bradley Road. The surrounding area is predominantly residential in character with a public house adjacent to the appeal site. Within the vicinity of the site are mature trees and hedgerows as well as street furniture including streetlights. However, the trees and hedgerows are set back considerably from the appeal site. The grass verges in the surrounding area including the appeal site are generally significant in depth and open in character.

6. Existing network services for the operator are currently supplied by a shared base station at Shard End Social Club, Brookbank Avenue. However, the base is unable to be upgraded for 5G purposes without the deployment of a large stub mast and a wide headframe.

7. 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 trees it would, to my mind, appear as an incongruous feature within the street scape.

8. Despite the efforts of the appellant to offset the proposed installation from direct frontages, it remains to my mind, that given the residential character of the surrounding the area and the lack of adequate screening, the introduction of the proposed installation would remain unacceptably visible from many of the residential dwellings adjacent to the appeal site on Timberley Lane, Turnley Road and Bradley Road as well as the public house.

9. Regarding appeal decisions at Buckland End, Eachelhurst Road, Parsons Hill, Weoley Castle, Junction of Swanshurst Lane and Wake Green Road, Heathfield Road, Bell Lane and Quinton Road, I do not have the full circumstances of these appeals. Therefore, I cannot be certain that they are wholly comparable. Nevertheless, each appeal is determined on its own merit and consequently, given in the appeal before me, the proximity of the dwellings, the overall character of the surrounding area and the lack of adequate screening, they do not lead me to a different conclusion.

10. There is limited substantive evidence before me to adequately demonstrate that the siting of the proposal would distract or be an obstruction for drivers or pedestrians and thus result in harm to highway safety in this case.

11. In conclusion, the siting and appearance of the proposed development would appear overly prominent and visually intrusive within the street scape. It would therefore result in harm to the character and appearance of the area due to its height and siting. Additionally, it is for the same reasons that it would result in harm to the living conditions of neighbouring residents regarding outlook. Overall, this matter carries moderate weight against the proposal. Insofar as they are a material consideration, the proposal would conflict with Policies PG3 and TP7 of the Birmingham Development Plan 2017 and Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document 2021. These Policies seek, amongst other things, to ensure that developments including

telecommunication developments, are of a high design quality and respond to their surrounding context.

12. The Council has not referred to the appeal site being located within the Green Belt in either its questionnaire or evidence. There is limited substantive evidence before me to adequately demonstrate that it is located within the Green Belt. Accordingly, whilst the decision notice refers to Policy TP10 of the Birmingham Development Plan 2017, this is not a material consideration in this case given that it pertains to the Green Belt.

*Alternative Sites*

13. 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.

14. The appeal scheme would provide coverage in an area which has no 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.

15. The appellant has provided a sequential approach to site selection in which approximately 32 sites were assessed. Many of the sites have been discounted due to, amongst other things, inadequate pavement widths, the presence of underground services and/or overhead lines, closer proximity to dwellings and/or education facilities, greater visibility due to both a lack of natural screening and/or requirements of a taller mast due to lower typography, proximity to access points, reduction in parking provision and /or visibility splays, as well as practical requirements to ensure no competition between the proposed 5G coverage and existing 3G and 4G cell areas and 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.

16. Given all of the above, in my judgement, it has been adequately demonstrated that there are likely to be no other appropriate sites, including buildings and existing masts, than the appeal site. I therefore attach significant weight in favour of the appeal as a consequence.

**Other Matters**

17. Interested parties have indicated concerns regarding the long-term effects of the appeal scheme upon the health and wellbeing of individuals and those with protected characteristics such as a disability.

18. Regarding the potential effect of the appeal scheme on human health as a result of 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 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.

19. 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.

20. Disability is a relevant protected characteristic to which the PSED applies. An interested party has outlined concerns that the proposal would result in harm to individuals with disabilities. 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. 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.

21. 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.

22. Concerns regarding property values 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.

## Conditions

23. 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

24. In conclusion, I consider the moderate harm the installation would cause to the character and appearance of the surrounding area and living conditions of neighbouring residents regarding outlook 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.

25. For the reasons given above the appeal should be allowed and prior approval should be granted.

[redacted]