The Planning Inspectorate

Appeal Decision

Site visit made on 5 November 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/P4605/W/24/3349032
Grass Verge opposite No. 2 Crabtree Road, Birmingham B18 7HP

- 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 2024/00402/PA.
- The development proposed is the installation of a 17.5 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 2 no. equipment cabinets, and ancillary development thereto.

Decision

1. The appeal is allowed and 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 the installation of a 17.5 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 2 no. equipment cabinets, and ancillary development thereto at Grass Verge opposite No. 2 Crabtree Road, Birmingham B18 7HP in accordance with the terms of the application, Ref 2024/00402/PA, and the plans submitted with it including: DWG No. 100 Rev A; DWG No. 201 Rev A; and DWG No. 301 Rev A.

Preliminary and Procedural Matters

2. The provisions of 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 representation 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. In support of the appeal, further alternative sites were assessed by the appellant and reasons why they were discounted included within the Statement of Case. As this information was available to third parties and they have had the opportunity to comment on the additional sites I do not consider that any parties would be prejudiced by my taking it into account and therefore have considered the proposal on this basis.

5. The Framework was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the main issue of this appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Main Issue

6. The main issue of relevance to this appeal is the effect of the siting and appearance of the proposal upon the character and appearance of the area and the living conditions of the neighbouring occupiers 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 equipment would be on a roadside verge in an area that has a mix of residential and commercial buildings that vary in scale and appearance. The grass verge where the equipment is proposed has trees sporadically sited within it as well as two green painted cabinets. There are also grey painted streetlights along this section of the road as well as street signs.

8. The equipment would be located relatively centrally within the grass verge and the monopole would be around 17.5 metres tall. There would also be two green painted cabinets located next to the proposed monopole.

9. The grass verge where the equipment is proposed is located within a transitional area between commercial and residential development. As such, within this area there is a mix of smaller residential buildings and larger commercial buildings and behind the site is a tall commercial property which is significantly taller than the surrounding houses.

10. City Note LW-55 of the Birmingham Design Guide Healthy Living and Working Place City Manual, 2012 (Guide) identifies that telecommunications infrastructure should generally be located away from the 'most sensitive locations' and 'more sensitive locations' and towards 'less sensitive locations'. The 'most' and 'more' sensitive locations, generally includes sites near heritage assets, education and health institutions, residential areas and high-quality open spaces. Given that the site is located in a residential area it is in a 'more sensitive location'.

11. The appearance of the grass verge and the trees within it make a positive contribution to the area, softening the appearance of the commercial development and the urban street scene.

12. Given the limited height of the trees they would not provide screening of the top of the monopole although it would be seen alongside the trees where there is already an element of verticality from them, as well as from nearby streetlights.

13. From certain perspectives the monopole would be seen in the context of the large building to the rear of it, as well as the other commercial buildings which would provide a commercial backdrop to the scheme as well as provide some screening of the development from certain viewpoints. However, from other viewpoints such as from Crabtree Road and Clissold Street, the proposed mast

would be readily visible within the skyline due to the limited screening provided by the small-scale buildings and the height of the mast.

14. The appellant states that the proposed monopole would be designed to meet operational requirements while minimising visual effects and is the minimum height necessary to achieve the required service levels, including for 5G provision which is sensitive to signal interference. However, the monopole would be considerably taller than the existing streetlights and even when viewed alongside the building to the rear it would be a considerable presence in the area, particularly when the antennas and transmission dishes are taken into consideration. Additionally, the monopole would be significantly broader than the surrounding streetlights.

15. The nearby street furniture such as the streetlights and signage are generally much shorter than what is proposed. Whilst the grey painted monopole would be somewhat similar to the streetlights nearby it would still appear stark alongside the small-scale residential development. The green painted cabinets would help them to blend in with the grass verge, but this would not overcome the issues of the overconcentration of these cabinets within the grass verge leading to street clutter.

16. Whilst the site is located in a mixed commercial and residential area, the grass verge where it would be located acts as a transitional area between the uses. The proposed equipment would occupy a modest proportion of this area, alongside the existing cabinets and given its utilitarian appearance it would urbanise this grass verge and erode the softening appearance it contributes towards the area.

17. The area is not subject to environmental or other policy constraints and there was no objection that the proposal would meet an existing gap in coverage. However, the proposal would be a visually intrusive feature that would be starkly incongruous and contrast with the modest scale of the 'more sensitive' residential development around the site. Additionally, the development would urbanise this parcel of land that positively contributes towards softening the appearance of the commercial development and the urban street scene.

18. There is an existing monopole located next to Pitsford Street that is a similar height to that proposed, although this is located a considerable distance from the appeal site. The Pitsford Street site is also surrounded by commercial development and is not within a transitional grass verge between areas. As such, the utilitarian appearance of the equipment does not necessarily appear out of character within the immediate area.

19. I have been referred to several appeal decisions by the appellant[1]. In many of these cases the sites were located further from small-scale residential development than the appeal site and in others the equipment was not proposed to be sited in an area which softened the transition between a commercial and residential area such as the appeal site. Additionally, in other cases there was street furniture nearby that was similar in height to that proposed which would not be the case in this instance. On other sites there was no equipment nearby and, in those instances, it was determined that it

[1] Appeal References: APP/P4605/W/21/3270873; APP/P4605/W/21/3271840; APP/P4605/W/21/3276432; APP/P4605/W/21/3278859; APP/P4605/W/21/3283270; APP/P4605/W/23/3323480; APP/P4605/W/23/3325535; and APP/P4605/W/23/3329592

would not lead to the street scene appearing cluttered unlike the proposal before me.

20. Given the circumstances of each case are site specific, there are limited comparisons that can be drawn between this appeal and those referred to regarding siting and appearance. Whilst larger equipment was allowed elsewhere this would not justify a proposal that would lead to harm to the character and appearance of the area.

21. Near to the site are several dwellings including those on Crabtree Road and Clissold Street and the outlook of these houses is over the grass verge and out towards the commercial buildings beyond it. This outlook also includes the trees and existing street furniture around the appeal site. The large commercial building next to the appeal site partly encloses the outlook from these houses but other than this building the outlook from these houses is mostly unenclosed.

22. The proposal would introduce a tall monopole as well as low level cabinets within the grass verge which would add to the development visible from these buildings. However, given the limited bulk of the monopole compared with the large building next to it and the moderate distance between the scheme and the surrounding houses it would not appear significantly overbearing to the occupiers of those dwellings. For these reasons, the scheme would not cause significant harm to the living conditions of the neighbouring occupants.

23. Therefore, whilst the siting and appearance of the proposal would not harm the living conditions of the neighbouring occupiers it would harm the character and appearance of the area. Insofar as it is relevant, I have had regard to Policy PG3 of the Birmingham Development Plan, 2017, and Policy DM16 of the Development Management in Birmingham Development Plan Document, 2021, which amongst other matters, looks for ground-based telecommunications equipment to take advantage of backdrops to buildings and other screening and requires development to respond to the local area context and be sited in order to minimise impact on visual and residential amenity.

Alternative Sites

24. I have found that the proposed development, through its siting and appearance, would cause harm to the character and appearance of the area for the reasons given above. The other options that might be available are therefore an important consideration.

25. The Framework supports the development of a high-quality reliable communications infrastructure as this is deemed to be essential for economic growth and social well-being. Nonetheless, it requires sites to be kept to a minimum and encourages the reuse and adaptation of existing base stations. Paragraph 122 of the Framework expects evidence to be submitted to justify all applications. For a new mast or base station this includes evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored.

26. The proposal is required to provide 5G coverage. It has been demonstrated that the site is within an area with demonstrable need for an additional installation in the vicinity to achieve a full and appropriate level of coverage.

The coverage map has informed the appellant's search area for the new equipment and a sequential approach has been taken. In support of the application and now appeal, the appellant has undertaken an assessment of 42 alternative sites within the defined search area required to provide coverage for the target area. This included an assessment of several alternative sites that were identified by the Council.

27. The appellant has supplied a number of reasons as to why these sites should be discounted from the search including: concerns with upgrading the existing mast nearby, interference between masts, issues with the structural suitability and wind loading requirements of buildings in the search area and the impact the surrounding buildings and topography of the area would have upon signal transmissions. Certain sites were also discounted due to concerns with highway safety and the nearby railway line and underground services. Some sites were situated within residential areas or within parks close to trees that were covered by a Tree Preservation Order as well as concerns over the effect of the mast upon the character and appearance of the area which provided reasons to discount them.

28. An Arboricultural Survey was undertaken for the appeal site, and it was concluded that the proposed equipment would be located outside of the root protection areas for the nearest trees. The location of the proposed equipment would also ensure that it should not harmfully affect the canopy of the trees. In the absence of alternative substantive evidence, I see no reason to conclude otherwise.

29. Key Hill Cemetery is a Grade II* Registered Park and Garden is located in the wider area and as such I have had regard to the special interest or significance of the Registered Park and Garden.

30. The significance of the cemetery comes from the historic use of the site which incorporates several monuments throughout as well as the gardens and pleasure grounds. These have created notable features across the cemetery.

31. The setting of the cemetery includes the surrounding commercial buildings and the existing mast on Pitsford Street. As such, the glimpsed views of the mast would not appear out of character within this setting. Taking into consideration the considerable distance between the mast and the cemetery and the commercial setting around the cemetery, the proposal would not harm its setting and thus the contribution its setting makes towards its significance would be preserved.

32. To the east of the appeal site is the Jewellery Quarter Conservation Area (CA) which is located a considerable distance from the appeal site. The Framework requires an assessment of a proposals effect upon the significance of a heritage asset and the significance derives not only from its physical presence but also from its setting.

33. The significance of the CA comes from the historic generally brick built buildings that are connected with the areas historic jewellery making and metal goods manufacturing. This part of the CA's setting includes the surrounding commercial buildings and existing mast in Pitsford Street.

34. Whilst the mast would be relatively tall, given the distance and the intervening commercial buildings, there would only be glimpsed views of the mast from

within it. As such, the scheme would not harm the setting of the CA and thus the contribution the setting makes to the significance of the heritage asset would be preserved.

35. There were sites that were located closer to Key Hill Cemetery and the CA than the appeal site that were discounted due to the effect the mast would have upon the heritage assets.

36. Several of the alternative sites were located in the 'most' and 'more' sensitive locations as per the Guide. While the site is in a 'more sensitive location', the proposed equipment is required to be sited within the search area and the principal of such equipment is not in dispute. Taking into consideration the significant constraints identified for the alternative sites; existing buildings, masts, and other structures have been explored and reasonably discounted. Furthermore, comprehensive, and reliable evidence has been given for discounting other possible ground-based mast sites.

37. I conclude that the siting and appearance of the proposed installation would cause harm to the character and appearance of the area. However, based on the evidence before me, it is unlikely that there is a more suitable site within the search area that may reasonably be available. Therefore, any identified harm is outweighed by the need for the installation to be sited as proposed, taking into account the suitable alternatives.

Other Matters

38. Comments have been received by several interested parties which have been considered below.

39. Concerns have been raised with respect to effects on health. An International Commission of Non-Ionizing Radiation Protection (ICNIRP) certificate has been submitted in support and the Framework advises that health safeguards are not for the decision maker to determine.

40. Standard planning application consultation was undertaken during the determination of the application. Additionally, it would appear that pre application consultation was undertaken for a previously refused application for a similar scheme on this site. The Council also did not refuse the application on these grounds and based on the information before me I see no reason to come to a different conclusion.

41. Permission is granted with the land and not to the person or organisation that submits the application. Insofar as it is relevant to this appeal, whether or not the appellant is registered with Ofcom is a matter outside of the remit of this appeal.

Conditions

42. 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 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

43. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.



INSPECTOR