Planning Inspectorate

Appeal Decision

Site visit made on 19 February 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

Appeal Ref: APP/P4605/W/24/3357531
Grass verge off Maypole Lane, Birmingham B14 4PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & 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 2024/02521/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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 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 off Maypole Lane, Birmingham B14 4PJ in accordance with the terms of the application, Ref 2024/02521/PA and the plans submitted with it, including drawing Nos 100 A, 200 A, 201 C, 300 A and 301 C.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (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. The appellant's statement of case contains photomontage plans 001A, 002A, 003A, 004A, 005A, 006A and 007A and a panoramic assessment plan. This does not represent an amendment to the scheme. The Council has had the opportunity to comment on these documents. On this basis, I do not consider that any party would be unfairly prejudiced. I therefore have had consideration to the submitted documents in determining this appeal.

Planning Policy

4. The Council has referred to development plan policies in its decision notice. 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 regard be had to the development plan. I have nevertheless had regard to these

development plan policies only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issues are the effect of the proposal on:

- the character and appearance of the area,

- the living conditions of the occupiers of nearby properties; and

- if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account the potential availability of alternative sites.

Reasons

Character and Appearance

6. The appeal site is an area of grass verge on Maypole Lane, a busy road which comprises predominantly 2-storey dwellings. The verge contains mature and recently planted trees and borders Daisy Farm Park, of which there are clear views from the road. This results in a green and verdant character to the area.

7. The proposal comprises a 17.5m monopole and associated equipment cabinets. The proposal is intended to replace coverage at Brookpiece House, which is due to be redeveloped. Due to demands placed on the network, the appellant has split what was previously a single cell area into 2 cells. The proposal would provide coverage for the eastern part of the coverage area.

8. Whilst it may be the case that the height of the monopole is the minimum to technically meet the appellant's needs and that the proposal would not result in harm to the mature trees which line Maypole Lane, it would nonetheless be significantly taller than these trees and would not be effectively screened by landscaping, in particular when the trees are not in leaf. The monopole would be noticeably taller and bulkier than the existing street furniture and would appear excessive in scale when viewed in relation to the surrounding predominantly 2-storey buildings. Even though the colour would not be overly obtrusive, and the site is not located in an area with a statutory designation for a particular protection such as for heritage purposes, the proposal would fail to visually integrate with its surroundings, appearing as an incongruous feature in street scene views and in views from the park.

9. For the above reasons, the proposed siting and appearance of the development would result in harm to the character and appearance of the area. Insofar as they are a material consideration, the proposal would conflict with those aims of policy PG3 of the Birmingham Development Plan (2017) (BDP) and policy DM16 of the Development Management in Birmingham DPD (2021) (DPD) which seek to ensure that proposals demonstrate high design quality and that telecommunications installations are sited and designed in order to minimise impact on the character and appearance of the surrounding areas.

Living conditions of the occupiers of nearby properties

10. The nearest residence to the proposal would be 167 Maypole Lane. Whilst there are windows in the side elevation of this property facing Maypole Lane, there

would be a generous distance between these openings and the installation, which would be offset from this property. Other residences on Maypole Lane and Benson Road are some distance from the site and the proposal would also be offset in views from these dwellings.

11. Therefore, the monopole would cause no meaningful obstruction to views from windows to these dwellings and the installation would have no significant overbearing effect. Given this, the proposal would not result in harm to the living conditions of the occupiers of nearby properties. In so far as they are material considerations, the proposal would accord with DPD policies DM2 and DM16 which seek to ensure that development does not result in unacceptable adverse impacts on the living conditions of neighbouring occupiers.

Availability of alternative locations

12. As I have found that the proposal would cause harm to the character and appearance of the area, the National Planning Policy Framework (the Framework) requires that evidence of alternative sites is provided to justify the proposed development. Where this is in relation to a new mast or base station, this evidence should include that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.

13. I have no reason to doubt that the cell search area is extremely contained. On the basis of the evidence before me, I am satisfied that the appellant has demonstrated that there is an identified need for the proposal to be located somewhere in the search area.

14. The Council suggests that there are more suitable locations nearby. However, the appellant has provided details of a number of alternative sites which were considered and discounted as part of the site selection process, including detailed supporting information to fully corroborate that an exhaustive search of all possible sites was undertaken. These sites were discounted for a number of reasons including proximity to residential properties and other buildings, impact on visibility splays and proximity to underground services. I am satisfied that there are no realistic opportunities to erect antennas on existing buildings, masts or other structures. I consider that the site selection process was robust and potential alternatives discounted on reasonable grounds and that the appellant has demonstrated that there are no clear alternatives which would be preferable. This carries significant weight in favour of the proposal.

15. The proposal would support high-quality infrastructure, an approach which is supported by Chapter 10 of the Framework. When balancing this benefit against the harm identified in relation to the first main issue, I consider that the benefits of the proposal would outweigh the identified harm to the character and appearance of the area.

Other Matters

16. Concerns have been raised about potential effects on health, including the effect on the electro hyper-sensitive. 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 is justified. For this reason, the potential effect on health is not a determining issue in this case.

17. Concerns regarding the effect of the proposal on highway safety are noted. The Council's transportation department raised no objections on highway safety grounds, and I have been presented with no evidence that the construction and maintenance of the proposal would cause an obstruction to the free flow of traffic or that the installation would cause a distraction to drivers on Maypole Lane.

18. I note concern expressed by interested parties regarding the effect of the development on biodiversity. However, the site is not identified as being of any particular biodiversity value and there is no substantive evidence to suggest that the proposal would have an adverse effect in that regard.

19. There is no particular evidence before me that the proposal would conflict with the Council's environmental and energy objectives. In any case my considerations are limited to the siting and appearance of the apparatus in accordance with the relevant legislation as set out in the procedural matters above.

20. Interested parties have stated that the appeal site is in Highters Heath, not Druids Heath as referenced in the submission. Whilst this is noted, my decision is based on the merits of the scheme before me.

Conditions

21. Development permitted under Class A Part 16 is subject to standard conditions, including a time limit for implementation, a requirement that development is carried out in accordance with the submitted details and that it is removed when it is no longer required for electronic communications purposes. There is no authority in this type of case to apply any further conditions beyond those as set out in the relevant part of the GPDO.

Conclusion

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

[redacted]

INSPECTOR