

# Report to the Planning Committee

**15 September 2021**

<b>Subject:</b>	Decisions of the Planning Inspectorate
<b>Director:</b>	Interim Director – Regeneration and Growth Tammy Stokes
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## **1 Recommendations**

- 1.1 That Planning Committee notes the decisions of the Planning Inspectorate as detailed in the attached appendices.

## **2 Reasons for Recommendations**

- 2.1 This report is submitted to inform the Committee of the outcomes of appeals that have been made to the Planning Inspectorate by applicants who were unhappy with the Committee's decision on their application.

### 3 How does this deliver objectives of the Corporate Plan?

		We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.
		Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
		Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities..

### 4 Context and Key Issues

- 4.1 Applicants who disagree with the local authority's decision on their planning application may submit an appeal to the Planning Inspectorate. An appeal may also be made where the local authority has failed to determine the application within the statutory timeframe.
- 4.2 Appeals must be submitted within six months of the date of the local authority's decision notice.
- 4.3 Decisions on the following appeals are reported, with further detailed set out in the attached decision notice:-

Application Ref No.	Site Address	Inspectorate Decision
PD/20/01624	Land At Hurst Road Smethwick B67 6ND	Allowed

## 5 Alternative Options

5.1 There are no alternative options.

## 6 Implications

<b>Resources:</b>	There are no direct implications in terms of the Council's strategic resources. If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.
<b>Legal and Governance:</b>	The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe
<b>Risk:</b>	There are no risks associated with this report.
<b>Equality:</b>	There are no equality implications associated with this report.
<b>Health and Wellbeing:</b>	There are no health and wellbeing implications associated with this report.
<b>Social Value</b>	There are no implications linked to social value with this report.

## 7. Appendices

Appendix 1 – Decisions of the Planning Inspectorate

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## Appeal Decision

Site visit made on 20 July 2021

**by C McDonagh BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 August 2021**

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**Appeal Ref: APP/G4620/W/21/3271293**

**Land at Hurst Road, Brinstall Fields, Oldbury B67 6LZ**

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Cornerstone and Telefonica UK Ltd against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref ADE/PD/20/01624, dated 12 November 2020, was refused by notice dated 11 January 2021.
  - The development proposed is a 17.5m monopole, together with the installation of ground-based equipment cabinet and ancillary development thereto.
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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 for the installation of a 17.5m monopole, together with the installation of ground-based equipment cabinet and ancillary development thereto at Land at Hurst Road, Brinstall Fields, Oldbury B67 6LZ in accordance with the terms of the application ref ADE/PD/20/01624, dated 12 November 2020, and the plans submitted with it, including: Detailed Site Location, Ref 100 Rev A; Proposed Site Plan, Ref 201 Rev B; Proposed South West Elevation, Ref 301 Rev B.

### Preliminary Matters

2. During the course of the appeal, the updated National Planning Policy Framework (July 2021) (the Framework) was published. Parties were provided with an opportunity to comment on the relevance of this, and I have taken any subsequent comments received into account in my consideration of this appeal.
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) 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.
4. The Framework supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of Schedule 2, Part 16 of The

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and subject to any relevant exception, limitation or condition specified therein, development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network is permitted development. Therefore, matters such as the need for the development are not at issue in this appeal.

5. While the appellant disputes the consistency of the relevant development plan policies and supplementary guidance with the Framework, the provisions of the GPDO do not require regard to be had to the development plan. Accordingly, I have had taken into account these policies and related supplementary guidance only in so far as they are a material consideration relevant to matters of siting and appearance.

### **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

### **Reasons**

7. The appeal site lies within a roughly triangular grassed area of land at the junction of Hurst Road, Salop Road and Broadmoor Avenue. There is an existing telecommunications mast within the same parcel of land which is approximately 12.5 metres in height which would be retained. The area is predominantly residential although there are commercial units and a community centre nearby. The appeal scheme proposes a new 17.5m telecommunications mast with ancillary equipment including ground cabinets to improve the existing mobile signal offering in the area and to provide a '5G' network.
8. Houses along Hurst Road are two-storey and set well back from the highway, while tree lined grass verges create a relatively spacious character. This opens up further when reaching the triangular parcel of land. Street furniture such as streetlights and telegraph poles, along with the existing mast, are notable features in the immediate locality.
9. The proposed mast would be significantly taller than any of these existing vertical elements, including the existing mast nearby. While I appreciate the proposed mast must be taller than other objects in the vicinity in order to 'see' over obstructions, the large size and utilitarian appearance of the proposed equipment would appear out of scale and overly prominent within its immediate residential setting. This is regardless of whether the appeal site is located within a designated landscape. The trees on the parcel of land would offer some screening and natural backdrop but not to sufficiently reduce the visual impact of the mast given its size.
10. I therefore conclude that the siting and appearance of the development would have a moderately harmful visual effect on the character and appearance of the local area. Insofar as they are material considerations, I have had regard Policy SAD TEL 1 of the Site Allocations and Delivery Development Management Document. This advises in considering proposals for telecommunication development for which the prior approval procedure is applicable, the siting and external appearance of apparatus have been designed so as to minimise impacts on amenity.

### **Other Considerations**

11. I have found that the siting and appearance of the proposal would harm the character and appearance of the local area causing moderate visual harm to the streetscene at this particular location.
12. Nevertheless, paragraph 114 of the Framework also recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.
13. There is clear need for, and importance of, the rollout of the 5G network. The proposed new infrastructure would provide coverage for local people in the coverage area. The proposed monopole is said by the appellant to be the minimum height and width possible to accommodate multiple-generation technologies, which cannot be placed on the existing mast nearby due to transmission issues. I further acknowledge that the height of the mast was reduced from 20m after a previous application was refused.
14. In this case, I conclude that the moderate harm to the character and appearance would, on balance, be outweighed by the substantial economic and social benefits that would stem from the proposed upgrade and on this basis the proposal is acceptable.

### **Conditions**

15. Planning permission granted for the appeal proposal under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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**

16. Having regard to the above, the weight that I attach to the substantial economic and social benefits of the proposal would be sufficient in this case to outweigh the harm that would be caused to the character and appearance of the area as a result of the siting and appearance of the mast. I therefore conclude that the appeal should be allowed.

*C McDonagh*

INSPECTOR