



Appeal Decision

Site visit made on 17 January 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/G4620/W/22/3306464

Area of Footpath, Harvest Road, Warley, Sandwell 400739, 287213

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref PD/22/02146, dated 20 May 2022, was refused by notice dated 11 July 2022.
 - The development proposed is the installation of a 15-metre monopole complete with wraparound cabinet at base and three additional equipment cabinets and ancillary works.
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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 a 15-metre monopole complete with wraparound cabinet at base and three additional equipment cabinets and ancillary works at Area of Footpath, Harvest Road, Warley, Sandwell 400739, 287213, in accordance with the application ref: PD/22/02146, dated 20 May 2022, and the plans submitted with it, including drawings titled 002 Site Location Plan, 100 Existing Site Plan, 150 Existing Site Elevation, 215 Proposed Site Plan and 265 Proposed Site Elevation, all of drawing no. SWL20302_SWL217_ 85281_ B1932_GA_REV A.

Procedural 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. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. The description in the banner heading above has been taken from the appellants Statement of Case as this more accurately describes the appeal proposal.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed installation on:
 - the future development of additional infrastructure for walking/cycling or junction improvement works; and
 - the character and appearance of the area.

Reasons

Future Development

6. The appeal site consists of a wide area of pavement situated at the junction of Harvest Road and Hurst Road. It is in a predominantly residential area and the wide pavement runs along Hurst Road, broken up in places with grass verges.
7. The Council's Transportation Engineer has objected to the proposal on the basis that "the proposed location would obstruct any possible future development of additional infrastructure for walking/cycling or junction improvement". However, no details of any planned junction improvement works are before me. Furthermore, no information or timescales for any alleged additional infrastructure for walking or cycling has been provided. Based on the evidence before me, I am therefore not convinced that the proposal would necessarily prejudice any future improvement works or additional infrastructure. There would remain a sufficiently wide unobstructed footway for pedestrian movement to not be significantly hindered.
8. A local resident has raised concerns regarding the 'crashes and accidents' on the existing road. However, no evidence has been presented to me to demonstrate that the existing highway or junction is inadequate or unsafe. The proposal would not significantly intrude on the sight lines of motorists travelling along either Hurst Road or Harvest Road. In the absence of other evidence to the contrary, I consider that the proposal would not cause harm to the safe and efficient operation of the highway.
9. In conclusion, there is no evidence that the siting of the proposal would prevent the future development of additional infrastructure for walking/cycling or junction improvement works.

Character and Appearance

10. The appeal site is in close proximity to a number of streetlights, which are approximately 8 metres in height. There are also telegraph poles and mature trees close by. Therefore, vertical structures are common in the street scene.
11. The Council's evidence is not clear in regard to their assessment of the impact of the proposal on the character and appearance of the area. I note that the Officer's report refers to the alternative siting of the proposal, stating that it would impact on the visual amenity of the area, to the detriment of the outlook of the surrounding residents. Nevertheless, as acknowledged by the Council, local residents have objected to the proposal on the grounds of the visual impact of the siting and appearance of the proposal.

12. Based on the evidence before me, given the presence of the existing vertical structures in the streetscene, I am not of the view that the proposal would appear alien or unexpected in such a context.
13. Due to its height, the monopole would be visible from the surrounding residential properties. However, the relationship of the proposal with the closest residential properties would be at a slight angle due to the properties corner positions, which would help minimise the impact on the outlook for the occupiers of these properties. The wide pavement would also provide some relief between the proposal and the closest residential properties. Furthermore, the proposed monopole would have a relatively slim nature when viewed from the first-floor level of the closest properties and would be finished in grey, minimising its visual impact. The visual impact of the associated cabinets would also be mitigated by their grey finish and would be appropriately sited parallel with the edge of the highway. For all of these reasons, the proposal would not unacceptably harm the outlook of the surrounding properties.
14. In conclusion, the proposal would not appear overly prominent or visually intrusive and would not cause harm to the character and appearance of the area.

Other Matters

15. Concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to residential properties. 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 would be justified.

Conditions

16. The Order 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

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

Laura Cuthbert

INSPECTOR