



Appeal Decision

Site visit made on 20 March 2023

by Jonathan Edwards BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/U4610/W/22/3310075

Millburn Hill Road Street Works, Warwick CV4 7HS

- 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 GPDO).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Coventry City Council.
 - The application Ref TELO/2022/2318, dated 23 August 2022, was refused by notice dated 14 October 2022.
 - The development proposed is 5G 15m telecoms installation: H3G street pole and additional equipment cabinets.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 5G 15m telecoms installation: H3G street pole and additional equipment cabinets at Millburn Hill Road Street Works, Warwick CV4 7HS, in accordance with the terms of the application ref TELO/2022/2318, dated 23 August 2022, and the plans submitted with it.

Preliminary Matter

2. In light of the provisions of Schedule 2, Part 16, Class A of the GPDO, I have assessed the development solely based on its siting and appearance. The provisions do not require consideration of the development plan. However, the policies of the Coventry City Council Local Plan 2017 (LP) are material factors insofar as they relate to issues of siting and design. Also, I have had regard to the relevant parts of the National Planning Policy Framework (the Framework).

Main Issue

3. The main issue is the effect of the siting and appearance of the development on the character and appearance of the area.

Reasons

4. The development would be located on a grass verge with trees behind, roughly halfway along Millburn Hill Road. The area forms part of a science park where buildings and associated car parks tend to be set back from the road with intervening vegetation and grass. The landscape features provide a green and natural feel to the street scene. However, buildings are still visible from the

- road and lampposts, signage, a signalised crossing and pavements on both sides of the highway indicate the developed science park context to the site.
5. The installation would be on the edge of the verge and close to the pavement. As such, it would be forward of the nearby trees and it would be visible for a significant distance in either direction along Millburn Hill Road. However, in medium and long distance views the pole would be seen against the backdrop of the belt of mature roadside trees. As such, it would blend in with the vegetation behind so that it would not appear exposed or unduly prominent.
 6. The column would be clearly seen from the adjacent pavement and property to the rear as well as from the other side of the road directly opposite the site. It would obviously be taller and wider than the existing lampposts and other street furniture. Even so, given the nearby trees of similar height, the pole would not stand out as an overtly dominant feature. Also, it would not appear incongruous within the science park context where the presence of equipment and infrastructure that supports technological enterprises is to be expected.
 7. The proposed cabinets would be adjacent to the pavement and so they would also influence the street scene. However, they would be low key and there is a similar feature on Millburn Hill Road near to the signalised crossing. As such, the cabinets would not be out of character and would have no meaningful harmful effect on the visual qualities of the locality.
 8. For these reasons, I conclude the siting and appearance of the proposed development would not be detrimental to the character and appearance of the area. In these respects, it would accord with LP policies C2 and DE1, insofar as these are determinative on the issue.

Other Matters

9. The Council's refusal reasons include a concern that the proposal would harm the residential amenity of adjoining properties. However, the submissions fail to indicate which residences would be affected and from my observations it appears the nearby properties are in non-residential use. In any event, given the separation distance to the surrounding buildings, I am satisfied the development would not undermine the living conditions at any property.
10. Interested parties have raised concerns about potential effects on health. The appellant has provided a certificate to confirm that the proposal would comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The interested parties are critical of the ICNIRP certification process and suggest that there is limited knowledge on the effects of telecommunication masts on health. However, the Framework advises against the setting of health safeguards different to the ICNIRP guidelines. 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.
11. The development would be set away from the nearest trees and there is no substantive evidence to show it would cause harm to their well-being by reason of its siting. The pole and cabinets would not hinder pedestrian movement and they would not obstruct drivers' visibility.

12. The proposal would provide improved signal coverage to serve the surrounding area and so the search zone for alternative sites is restricted. In response to paragraph 117(c) of the Framework, the appellant has undertaken a desktop survey and physical inspection of the area and found no opportunities for the proposed equipment to be provided on existing buildings or structures. The Council has not sought to dispute this claim. In any event, the siting and appearance of the development would cause no identified harm and so there is no need to consider whether other feasible sites exist.

Conditions

13. There is no authority in this type of case to apply any conditions beyond those as set out in the relevant part of the GPDO. 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

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

Jonathan Edwards

INSPECTOR