



Appeal Decision

Site visit made on 28 March 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P4605/W/22/3309879

Hagley Road West Streetworks, Hagley Road West, Harborne, Birmingham B17 8TQ

- 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 Birmingham City Council.
 - The application Ref 2022/05296/PA, dated 24 June 2022, was refused by notice dated 24 August 2022.
 - The development proposed is telecommunications installation: Proposed 15.0m Phase 9 slimline monopole and associated ancillary works.
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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 telecommunications installation: Proposed 15.0m Phase 9 slimline monopole and associated ancillary works at Hagley Road West Streetworks, Hagley Road West, Harborne, Birmingham B17 8TQ, in accordance with the terms of the application Ref 2022/05296/PA, dated 24 June 2022, and the plans submitted with it.

Preliminary Matters

2. The appellant claims the proposed equipment cabinets could be provided under permitted development rights without the need to apply for prior approval. Even so, these are shown on the appeal plans and so I have taken account of the cabinets in my assessment.
3. 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, I am referred to policies of the Development Management in Birmingham Development Plan Document 2021 (DMBDP), the Birmingham Development Plan 2017 (BDP) and guidance in the Council's Telecommunications Development: Mobile Phone Infrastructure Supplementary Planning Document 2008. These are material considerations as far 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

4. The main issue is the effect of the siting and appearance of the development on highway and pedestrian safety.

Reasons

5. The development would be on a grass verge at the side of Hagley Road West. The road is an urban dual carriageway with a vegetated central reservation. The appeal site is next to the side of the road carrying westbound traffic. To the west and just past the site, a residential street called Winchfield Drive meets the main road. Drivers can only turn left out of Winchfield Drive as there is no access over the central reservation to the other side of the carriageway. The Council's concerns relate to the proposal's effect on visibility to the right when exiting Winchfield Drive.
6. A submitted plan shows the development would be outside a visibility splay measuring 65 metres along the kerb line from the centre of the Winchfield Drive/Hagley Road West junction and with an x distance of 2.4m back from the edge of the carriageway. However, the appellant provides no explanation as to why a visibility splay of this size would be acceptable.
7. With reference to the Design Manual for Roads and Bridges (DMRB) and the 40mph speed limit on Hagley Road West, the Council contends that a splay of at least 120m by 2.4m is required for adequate visibility when leaving Winchfield Drive. The development would lie within this suggested splay. However, the Council does not refer to any specific part of the DMRB that explains why a 120m long visibility splay is necessary. Therefore, I am unconvinced the DMRB provides guidance that I am bound to follow in my assessment. Instead, the question as to whether the development would prejudice highway safety is a matter of planning judgment based on the facts of the case and my observations.
8. Roadside lampposts, signposts and sapling trees already interrupt sight of on-coming traffic when exiting Winchfield Drive, although gaps between these features provide partial views. Also, a left turn filter lane heading into Winchfield Drive provides significant space beyond the kerb line so that the road immediately to the right of the junction is clearly seen. As such, I am satisfied there is adequate visibility when leaving Winchfield Drive.
9. By virtue of their position and size, the proposed cabinets and lower part of the monopole would block a gap between posts and trees and so would obstruct views of on-coming traffic. From my observations, the development would affect medium and long distance views of the road. However, it would not impede the views of the stretch of road immediately to the right of Winchfield Drive. As such, the development would only marginally curtail visibility compared to the existing situation.
10. My visit can only provide a snapshot in time but I saw traffic speeds on Hagley Road West tend to be fairly slow as vehicles are travelling uphill. Also, a digital speed monitoring sign on the approach towards Winchfield Drive is likely to encourage slow speeds. While the main road is busy, I saw regular breaks in traffic movements due to the effect of a signalised junction to the east of the site. These interruptions in traffic flow provide frequent opportunities for drivers to pull out onto the main road without risk of collision.

11. Moreover, there is a filter lane to assist pulling out onto Hagley Road West to the left of Winchfield Drive. This allows drivers to merge with traffic at speed rather than from a halted position. Also, the main road has 2 lanes and so potentially drivers could move across to the right hand lane to enable easy entry onto the dual carriageway. Through a combination of these factors, I am satisfied that lengthy visibility splays are unnecessary to enable drivers to safely enter Hagley Road West from Winchfield Drive. Accordingly, the minor reduction to visibility because of the proposal would not prejudice highway safety.
12. The Council's refusal reasons refer to detriment to pedestrian safety, although no explanation for this concern is provided. I find no harm in these regards as the development would not obstruct pedestrian movement nor restrict visibility at a point where pedestrians are likely to cross the road.
13. Therefore, I conclude the siting and appearance of the development would not have a detrimental effect on highway or pedestrian safety. In these respects, it would accord with DMBDP policy DM14 and BDP policies PG3 and TP44, as far as they are relevant to the determination of this appeal.

Other Matters

14. The proposal would cause a small loss of openness to the grass verge but this would not meaningfully affect the visual qualities of the urban roadside location. The monopole would be seen with other vertical street features and while it would be taller than the nearby lampposts, it would be of a similar height to nearby trees. As such, it would not stand out as being unusually high.
15. The development would improve signal coverage to serve the surrounding area and so the search zone for 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 installed on existing buildings or structures. The Council has not sought to dispute this claim. In any event, there is no need to consider whether other feasible sites exist as the siting and appearance of the development would cause no harm.

Conditions

16. 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

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

Jonathan Edwards

INSPECTOR