



Appeal Decision

Site visit made on 6 December 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal Ref: APP/U3935/W/23/3322767

Area of Footpath, Mead Way, Bridgemead, Swindon, Wiltshire

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Cameron Wilson of CK Hutchison Networks (UK) Limited against the decision of Swindon Borough Council.
- The application Ref S/TC/22/1163/, dated 27 July 2022, was refused by notice dated 24 November 2022.
- The development proposed is described as 'proposed 5G telecoms installation: H3G 20m street pole with additional equipment cabinets'.

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 5G telecoms installation: H3G 20m street pole with additional equipment cabinets at Area of Footpath, Mead Way, Bridgemead, Swindon, Wiltshire in accordance with the terms of the application, Ref S/TC/22/1163/, dated 27 July 2022, and the plans submitted within it including 002 Site Location Plan issue A, 215 Proposed Site Plan issue A and 265 Proposed Site Elevation issue A.

Preliminary Matters

2. In the interests of clarity and correctness, I have taken the address of the appeal site from the appeal questionnaire as it is a more accurate description of the location. I am content that no party is prejudiced by me taking this approach. In addition, I have amended the description of development used in my formal decision from that set out in the banner heading above, which has been taken from the application form. The amended description leaves out 'proposed' as this word does not refer to an act of development.
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 principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the Order do not require regard to be had to the development plan. Nevertheless, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework)

only insofar as they are material considerations relevant to matters of siting and appearance.

Main Issue

5. The main issue is the effect of the siting and appearance of the proposal on highway safety.

Reasons

6. It is proposed that a street pole and associated equipment cabinets be placed at the back edge of a public footway besides a busy signal-controlled roundabout at one end of Mead Way. The street pole and equipment cabinets would be positioned close to street lighting columns, which are positioned on the grass verge immediately next to the rear edge of the footway. Traffic light columns are set further into the footway and nearer to the road, serving the roundabout junction.
7. During my site inspection, I observed a regular flow of traffic movements through the roundabout. It is important to note that the proposed installation would occupy a stepped back position within a wide footway next to the road. Moreover, it would be set back away from the line of traffic lights close to the appeal site. Consequently, further to my own on-site experiences and acknowledging the limited footprint and height of the cabinets and the diameter of the street pole, there is little potential for the proposed development to interfere with visibility for motorists when negotiating the roundabout. Any driver would have good visibility of the road and existing traffic light columns.
8. Even though the road is heavily trafficked, there is no clear evidence to suggest that the installation of the proposed development or its subsequent maintenance would be likely to prejudice highway safety. I also observed the existence of on-street parking opportunities close to the site that could seemingly be utilised safely by maintenance engineers. Whilst I note the Council's concerns regarding the potential need for safety barriers, there is very little before me that demonstrates that the appeal scheme would introduce a requirement for safety barriers. It has not been clearly demonstrated otherwise.
9. The proposed development would have the effect of narrowing the footway at the point of installation. Nevertheless, the footway is of a wide specification and surfaced to a high standard. Consequently, the development would not unacceptably impede pedestrians (including pushchairs, wheelchairs and cycles), force pedestrians into the path of motorists nor prejudice their safety.
10. The proposed development would be set apart from the pedestrian crossing on Great Western Way. It would be in a position where it would have little impact on the visibility of the signal-controlled crossing by existing highway users.
11. Consequently, the siting and appearance of the appeal scheme would not materially harm highway safety. As such with regard to the main issue, insofar as it is a material consideration, the proposal would not be contrary to Policy TR2 of the Swindon Borough Local Plan 2026 (adopted 2015). Amongst other things this policy requires that development does not have a detrimental impact on highway safety.

Conditions

12. Any planning permission granted for electronic communications apparatus 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 communication purposes and the land restored to its condition before the development took place.

Conclusion

13. For the reasons given I conclude that the appeal should succeed.

J White

INSPECTOR