



Appeal Decision

Site visit made on 7 August 2012

by R W Moon BSc MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 November 2012

Appeal Ref: APP/C3430/A/12/2172974

Oaktree Stables, Hatton Road, Cannock, Staffordshire, WS11 1RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Vodafone Ltd/Telefonica O2 UK Ltd against the decision of South Staffordshire District Council.
 - The application Ref 11/00919/TEL, dated 17 November 2011, was refused by notice dated 9 January 2012.
 - The development proposed is 'the construction of a 12-metre high telecommunications installation with antennae above, dishes, associated equipment cabinets and development ancillary thereto'.
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Decision

1. I allow the appeal and grant approval under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), in respect of development by a telecommunications code system operator for the construction of a 12 metre high lattice tower supporting three Vodaphone antennae, three Telefonica (O2) antennae, two dishes, and ground installations including a Vulcan enclosure, meter cabinet and development ancillary thereto at land at Oaktree Stables, Hatton Road, Cannock, Staffordshire, WS11 1RN in accordance with the terms of the application Ref 11/00919/TEL, dated 17 November 2011, and the plans submitted with it subject to the condition that:
 - 1) Prior to the installation of any antennae or dishes, the lattice mast shall be painted in a colour to be first agreed with the local planning authority and shall be maintained in that colour in perpetuity unless otherwise agreed in writing by the local planning authority.

Procedural Matter

2. The description of the proposed development in the application form, the Council's Decision Notice and in the Planning Appeal Form (stated to have been agreed as a modification by the Appellants) all differ. I will determine this appeal on the basis of the following description: 'the construction of a 12 metre high lattice tower supporting three Vodaphone antennae, three Telefonica (O2) antennae, two dishes, and ground installations including a Vulcan enclosure, meter cabinet and development ancillary thereto'.
 3. I have also noted the claim by the joint submission by the Hatherton Parish Council and the Hatherton and Longford Residents' Group (PC & RG) that the
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Certificate B accompanying the application is not accurate as regards the land owner. This is not a matter for me and the Council has accepted the application as valid.

Main Issue

4. The appeal arises from a decision of the Council not to give their approval for the siting or external appearance of a development that would otherwise be permitted under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The permission granted under the GPDO is equivalent to an outline planning permission and the Council's considerations of the matter are limited to the effects of the development arising from its siting or external appearance, not the principle of the development. Although the site is within the Green Belt, it seems to me, therefore, that there is no scope to consider whether the scheme represents inappropriate development in the Green Belt, or whether very special circumstances need to be demonstrated to justify the granting of approval for it. On that basis, the Council's first reason for refusal is outside the scope of the matters they were able to consider and should therefore be disregarded.
5. I am satisfied that the Appellants have followed the agreed procedures to consult and prepare their application for approval. This includes the early approaches to the Council and local consultees and a thorough assessment of urban based options. They have demonstrated the need for the improved 3G service in the locality and researched alternative locations for their mast, having regard to both amenity judgements and the ability to obtain landowner agreement to such a proposal. One site put forward by the Council did not meet technical requirements and was itself in the Green Belt. These alternatives have been part of consultations with the Council and no disagreement about their unsuitability has arisen. That leaves as the main issue the effect of the proposed mast, in terms of its siting and external appearance, on the character and appearance of the locality.

Reasons

Effect on character and appearance

6. The appellants have selected a lattice type mast, to be painted green, in order to minimise its reflectivity and therefore reduce its visual impact when seen against the mature trees to the north. The site is on the urban edge of the Green Belt where the growth of horse related activities and their associated structures and artificial field divisions have produced a landscape that is not without visual intrusions. The proposed siting of the mast would be behind the existing stabling and set close to high trees behind, albeit with some large gaps. The higher trees would have the effect of minimising the perception of its scale while the buildings would provide total screening for the proposed ground level installations. However when seen against the sky, as shown in some of the photographs provided by objectors, it would be more prominent.
7. The surrounding context is provided by the urban edge of Cannock to the east and some ribbon development extending to the north of the site along Sandy Lane with open countryside to the north-west, west and south. The hedgerow boundaries along Hatton Road and its junction with Poplar Lane have a few significant gaps from which views of the mast could be obtained. Similar views

would be available from some residential properties. Having walked the surrounding rights of way network, I found it hard to see positions from which the mast would be readily visible. Views from those to the north west, west and south are at some distance from the proposed site and from here any mast would be seen against the high trees or the urban backdrop of Cannock. I accept that some views may be different in winter months, as the objectors' photographs demonstrate, but I consider the screening effect of the boundaries would still be significant. My overall impression of the wider area is one where the field boundaries are sufficiently robust as a result of earth banks and/or hedging with trees to obscure many views of the proposed mast.

8. I accept that objectors are naturally concerned about their local countryside, and the Council about the need to protect the inner edge of the Green Belt, but for the reasons above I consider that the scheme would result in only moderate harm to the character and appearance of the area. In this respect, I accept that it would conflict with Local Plan policy BE26 which, amongst other things, requires development to be sympathetic to the character and appearance of the surrounding area. However, the same is likely to be true of any telecommunications infrastructure and the policy does not sit well with section 5 of the National Planning Policy Framework (NPPF), which supports high quality communications infrastructure.

Other considerations

9. It is clear from the maps provided, showing the areas where 3G services are deficient, that a considerable part of the built-up area of Cannock and an extensive part of the rural area to the north and west of the town is either without an adequate service or is not served by it at all.
10. It is Government policy that an advanced high quality communications infrastructure is essential for sustainable economic growth both for high speed broadband technology and other communication technology including multi-media applications and video telephony services. It is also accepted that the siting is more critical than for 2G services. The Government sets a high requirement for a strong, responsive and competitive economy to support growth and innovation in which new technology and the infrastructure to support it plays a very critical role. I attach considerable weight to this requirement.
11. The Council has relied on the argument that the search exercise does not mean that other more suitable sites do not exist. The only specific alternative location put forward by the owner of Hatherton Hall Farm to the north west of the appeal site would be too far away to satisfy the Appellants' needs to service the urban area to the east. Any other location to serve this area outside densely developed urban areas (which have already been considered and rejected) would be likely to be within the Green Belt where many of the same objections on loss of openness and visual intrusion would almost certainly arise. If it were not to be in the Green Belt it would quite likely come up against the added disadvantage of having to locate within the Cannock Chase AONB, the designated area of which lies just to the north of the site.

Other matters

12. I have taken into account the many letters of objection, the objection from Gavin Williamson MP and the submissions on behalf of the PC and RG. These include a suggestion that previously developed sites along the A5 and an elevated section of the M6 are within the desired area of coverage and could more easily be assimilated into the landscape. However, no specific sites have been identified and the technical case to support this assertion has not been made.
13. Some objections have been made concerning potential health risks. In accordance with paragraph 46 of the NPPF, this is not a relevant consideration because the Appellants have certified that the scheme meets the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines.
14. No other matters raised are of sufficient weight to affect my conclusions in this appeal.

Overall Conclusions

15. Although I have found that the scheme conflicts with policy BE26 of the Local Plan in terms of the effect of its siting or external appearance, I consider that other considerations, namely the economic and operational case put forward by the appellants and the objectives of national policy set out in the NPPF for supporting quality communications infrastructure, clearly indicate that the scheme should be permitted contrary to development plan policy. I conclude that the appeal should therefore succeed.

Conditions

16. I consider that a condition requiring agreement of the precise colour of the mast is necessary to minimise its visual impact. Conditions regarding the time for commencement of the development and adherence to the submitted plans are not necessary as these matters are covered in the relevant provisions of the Town and Country Planning (General Permitted Development) Order 1995.

R W Moon

INSPECTOR