

Wolverhampton City Council

OPEN INFORMATION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date 31 st January 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)/	CHRIS HOWELL (Section Leader)	STEPHEN ALEXANDER (Head of Development Control and Building Control)
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Title/Subject Matter	PLANNING APPEALS	

1.0 Purpose of Report

- 1.1 To provide the Committee with an analysis of planning appeals in respect of decisions of the Council to either refuse planning or advertisement consent or commence enforcement proceedings.

2.0 Planning Appeals Analysis

- 2.1 The Appendix to this report sets out the details of new planning appeals, ongoing appeals and those which have been determined by the Planning Inspectorate in respect of the decisions of the Council to either refuse planning or advertisement consent or commence enforcement proceedings.
- 2.2 In relation to the most recent appeal decisions of the Planning Inspectorate i.e. those received since last meeting of the Committee, a copy of the Planning Inspector's decision letter, which fully explains the reasoning behind the decision, is attached to this report. If necessary, Officers will comment further on particular appeals and appeal decisions at the meeting of the Committee.

3.0 Financial Implications

- 3.1 Generally, in respect of planning appeals, this report has no specific financial implications for the Council. However, in certain instances, some appeals may involve the Council in special expenditure; this could relate to expenditure involving the appointment of consultants or Counsel to represent or appear on behalf of the Council at Public Inquiries or, exceptionally, if costs are awarded against the Council arising from an allowed planning/enforcement appeal. Such costs will be drawn to the attention of the Committee at the appropriate time.

**4.0 Equal Opportunities/
Environmental Implications**

- 4.1 None.

NEW APPEALS

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>42 Lower Prestwood Road, Wolverhampton</p> <p>Wednesfield North</p> <p>Mrs Jane Hammond Bood</p>	<p>Appeal against Enforcement Notice</p>	<p>Enforcement</p> <p>Written representation</p> <p>05.12.2011</p>	<p>Detrimental to neighbour amenity by way of unpleasant odours, excessive faeces. Neighbours are prevented from using their back garden in a reasonable manner.</p> <p>The notice required that the number of cats kept at the property was reduced to 5.</p> <p>The appeal is made on ground that there has not been a breach of planning control. Ground floor. That the steps required to comply with the notice are excessive and Ground g. That the time allowed is too short.</p>
<p>Midland Snacks, Bridge Street, Heath Town</p> <p>Bushbury South And Low Hill</p> <p>Midlands Snacks Ltd</p>	<p>11/00816/FUL</p> <p>Change of use to B2 and/or B8 Use.</p>	<p>Planning</p> <p>Written representation</p> <p>29.12.2011</p>	<p>Original application was refused on highway grounds due to the speculative nature of the proposals, the potential intensification of the site and the sub-standard access arrangements.</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Summary of Reasons for Refusal / Requirements of Enforcement Notice
<p>54 Linden Lea, Wolverhampton, WV3 8BD</p> <p>Tettenhall Wightwick</p> <p>Mr & Mrs Robert Gilham</p>	<p>11/00826/RP</p> <p>Retrospective application for retention of increased ridge height to accommodate roof dormer.</p>	<p>Planning</p> <p>Fastrack Householder Appeal</p> <p>03.01.2012</p>	<p>The increase in the ridge height of the roof has resulted in a dormer extension of a poor quality design, which is out of scale and detracts from the character and appearance of the property. The appearance of the dormer extension is detrimental to the visual amenity of the neighbouring properties and surrounding area.</p> <p>The development is contrary to retained UDP Polices D4, D6, D7, D8, D9 and adopted SPG No.4. The development is also contrary to adopted BCCS policy ENV3.</p>
<p>Penn Manor Medical Centre, Manor Road, Penn</p> <p>Penn</p> <p>Mr Nigel Ford</p>	<p>11/00181/FUL</p> <p>Construction of single storey extension to existing medical centre to form integrated pharmacy</p>	<p>Planning</p> <p>Written representation</p> <p>10.01.2012</p>	<p>The proposed extension would increase trip generation to the site and exacerbate the already poor parking facilities and is therefore contrary to highway safety and the free flow of traffic. The extension would result in the loss of the last significant green area at the site adversely affecting the spatial character and appearance of the street-scene.</p> <p>Contrary to BCCS polices ENV3 and UDP policies D4, D6, D9, AM12 and AM15</p>

ONGOING APPEALS

	<u>Appeal Site / Ward</u>	<u>Appellant</u>
1.	3 Long Knowle Lane Wolverhampton	Mr Surinder Kumar
	Fallings Park	
2.	Land At Front Ashmore Park Library Griffiths Drive	Vodafone Ltd & Telefonica 02 UK Ltd
	Wednesfield North	
3.	1 Carisbrooke Gardens Wolverhampton	Mr M Evanson
	Bushbury North	
4.	115 Wynn Road Wolverhampton	Mr Paul
	Penn	
5.	295 Great Brickkiln Street Wolverhampton	Mr M Zahiri
	Graiseley	

APPEALS DETERMINED SINCE LAST MEETING

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>Land Fronting Murco Filling Station, 60 Codsall Road, Wolverhampton</p> <p>Tettenhall Regis</p> <p>Cornerstone - 02 And Vodafone</p>	<p>11/00449/TEL</p> <p>Telecommunication - Vodafone/02 - installation of a 13.8m Streetpole enclosing 2 antenna and associated equipment and housing.</p>	<p>Planning</p> <p>Written representation</p> <p>13.09.2011</p>	<p>The development would result in unnecessary visual clutter, creating an undesirable visually prominent, obtrusive and incongruous feature, to the detriment of the skyline, visual amenity, street scene and locally. Contrary to UDP Policies D6, D7, D9, EP20, BCCS Policies CSP4, ENV3 and Interim Telecoms policy.</p>	<p>Appeal Allowed</p> <p>21.12.2011</p>
<p>Land On The Corner Of , Long Lake Avenue, Wolverhampton</p> <p>Tettenhall Wightwick</p> <p>Vodafone Ltd & Telefonica 02 UK Ltd</p>	<p>11/00657/TEL</p> <p>Telecommunication - Vodafone/02 - installation of a 11.8m streetpole and associated equipment and housing.</p>	<p>Planning</p> <p>Written representation</p> <p>13.09.2011</p>	<p>The development would result in unnecessary visual clutter creating an undesirable visually prominent, obtrusive and incongruous feature. As such the proposed streetpole would impact the skyline, have serious adverse effect on visual amenity and is detrimental to the streetscene and locality. Contrary to UDP Policies D6, D7, D9, EP20 and BCCS Policies ENV3, CSP and Interim Telecommunications Policy</p>	<p>Appeal Dismissed</p> <p>10.01.2012</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>Land On South Corner Of Mount Road, Penn Road, Wolverhampton</p> <p>Penn</p> <p>Vodafone Ltd & Telefonica 02 UK Ltd</p>	<p>11/00645/TEL</p> <p>Telecommunication - Vodafone/02 - installation of a 15m streetpole and associated equipment and housing.</p>	<p>Planning</p> <p>Written representation</p> <p>14.09.2011</p>	<p>The development would result in unnecessary visual clutter creating an undesirable visually prominent, obtrusive and incongruous feature. As such the proposed streetpole would impact on the skyline, have serious effect on visual amenity and is detrimental to the street scene and locally.</p> <p>Contrary to UDP Policies D6, D7, D9 and EP20</p> <p>BCCS Policies CSP4, ENV3 and the Councils Interim Telecommunications Policy.</p>	<p>Appeal Allowed</p> <p>19.01.2012</p>

Appeal Site / Ward / Appellant	Application No / Proposal	Type of Appeal / Date Submitted	Reasons for Refusal / Requirements of Enforcement Notice	Decision and Date of Decision
<p>Land Fronting The Westacres, Finchfield Hill, Wolverhampton</p> <p>Tettenhall Wightwick</p> <p>Vodafone Ltd & Telefonica 02 UK Ltd</p>	<p>11/00531/TEL</p> <p>Telecommunication - Vodafone/02 - Installation of 13.8m high Streetpole enclosing two antenna and associated equipment and housing.</p>	<p>Planning</p> <p>Written representation</p> <p>23.09.2011</p>	<p>The installation would result in unnecessary visual clutter creating an undesirable visually prominent, obtrusive and incongruous feature. As such the proposed street pole would impact on the skyline, have serious adverse effect on visual amenity and is detrimental to the streetscene and locality. Contrary to UDP Policies D6, D7, D9 and EP20 BCCS Policies CSP4, ENV3 and Interim Telecommunications Policy</p>	<p>Appeal Dismissed</p> <p>20.01.2012</p>



Appeal Decision

Site visit made on 12 December 2011

by K E Down MA(Oxon) MSc MRTPI MBS

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

Decision date: 21 December 2011

Appeal Ref: APP/D4635/A/11/2160731

Land Fronting Murco Filling Station, 60 Codsall Road, Wolverhampton, West Midlands.

- 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 (UK) Ltd/Telefonica O2 (UK) Ltd against the decision of Wolverhampton City Council.
 - The application Ref 11/00449/TEL, dated 30 April 2011, was refused by notice dated 9 June 2011.
 - The development proposed is a Vodafone/O2 12.5m Jupiter 811E streetpole in grey. U/S of Vodafone antenna @ 11.05m AGL. C/L of O2 antenna @ 11.7m AGL. Vodafone/O2 Vulcan radio equipment enclosure 1898 x 798 x 1648H in green. Vodafone/O2 meter pillar 378.5 x 182 x 872H in green.
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Decision

1. The appeal is allowed and approval is granted 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 siting and appearance of a 12.5m Jupiter 811E streetpole in grey, U/S of Vodafone antenna @ 11.05m AGL, C/L of O2 antenna @ 11.7m AGL, Vodafone/O2 Vulcan radio equipment enclosure 1898 x 798 x 1648H in green and Vodafone/O2 meter pillar 378.5 x 182 x 872H in green at land fronting Murco Filling Station, 60 Codsall Road, Wolverhampton, West Midlands in accordance with the terms of the application Ref 11/00449/TEL, dated 30 April 2011, and the plans submitted with it.

Procedural matter

2. For clarification, O2 is the UK trading name of Telefonica. Both terms have been used in the application and appeal documents but relate to the same appellant.
3. Although the Council's decision notice refers to a mast 13.8m high, the original application was and this appeal is in respect of a mast 12.5m high. Other aspects of the development, including the description of the antennae, are also the same as those in the original application.
4. The address given on the Council's decision notice more accurately describes the site location than that on the application or appeal documents. I have therefore used it above and in my decision.

Main Issue

5. There is one main issue which is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The proposed telecommunications mast and cabinet would be located in a prominent position at a five way roundabout junction and between the Codsall Road and Pendeford Road exits. They would be sited within the footway, which is wide enough at this point to accommodate them without causing an obstruction to pedestrians, and in front of a petrol filling station. The roads converging on the junction appeared to be busy suburban streets. However, they do not appear to be classified as main roads. Although the area is predominantly residential the junction has a mixed character, being dominated by the petrol filling station with its associated signage, advertisements and prominent canopy, and by a number of shops and commercial premises facing onto and close to the roundabout. The junction is lit by a number of street lights, each about 8m in height. In addition there is an array of low level signage, including street and direction signs, traffic signage on the roundabout and various items of street furniture, including a telephone kiosk and a number of services cabinets. Taken together these all contribute to a somewhat cluttered street scene.
7. The proposed mast would be noticeably bulkier than the street lighting columns, about 4.5m higher and would widen at the top to accommodate the antennae. The cabinet would be larger than the existing service cabinets. Both would be clearly visible in the street scene. Nevertheless, the mast would be a relatively simple and uncluttered structure and its position, in front of the petrol station, would limit its prominence. Likewise, the cabinet would appear of modest size in the context of the petrol station and its signage. Overall the proposed development, whilst noticeable, would not dominate the skyline or be incongruous or unduly overbearing in the street scene associated with the junction. Inevitably, any utilitarian structure such as the proposed mast would detract to some extent from the street scene, adding to the visual clutter. However, in this case the effect on the character and appearance of the area would not be materially detrimental. Moreover, the mast would be on the opposite side of Pendeford Road, and some 30m from the nearest residential properties, and whilst noticeable would not be dominant or overbearing in the outlook of residents.
8. The appellants have clearly demonstrated the need for the proposed height of the mast in order for the radio signals to effectively serve the gap in the 3G network coverage that exists in the area. The appellants have also set out the alternative sites that were considered and the reasons why they were not pursued. A number of apparently technically suitable locations were unavailable because the landowners were unwilling to agree to an installation. In other cases large trees surrounding the sites rendered them unsuitable or a much taller and more prominent mast would have been required. Third parties point out that guidance suggests that masts can be effectively disguised among groups of trees. However, this is a different situation to trees surrounding a more open site. In other cases buildings were considered but were found to be unsuitable or sites were considered to be more sensitive than the appeal site. Although third parties suggest alternative locations, some of these appear to be outside the search area and overall nothing I have seen or read would undermine the appellants' evidence

on these matters. The need for the installation and the lack of available alternative sites weighs in favour of allowing the appeal.

9. The proposal is for two operators to gain coverage from a single structure. When sites are shared the masts are larger than would be needed for a single operator. However, the impact of a single wider mast has to be balanced against the potential impacts of separate masts. Planning Policy Guidance 8: Telecommunications (PPG8), and Policy EP20 of the Wolverhampton Unitary Development Plan 2001-2011 (UDP) support the sharing of masts where appropriate and this matter carries significant weight.
10. The Highway Authority has raised no objection to the visual effect of the proposed development but has expressed concern regarding access to the site for servicing. However, there are a number of opportunities in the vicinity to allow for a service vehicle to park without affecting highway safety.
11. Residents express concern about the possible health risks from the development, especially to school children passing the site and residents living in the vicinity, and draw attention to recently published reports. PPG8 indicates that the planning system is not the place for determining health safeguards. It goes on to state that if a proposed mobile phone base station meets the ICNIRP guidelines, it should not be necessary to consider further the health aspects of the development and concerns about them. The appellant has confirmed that the proposed equipment would comply with the ICNIRP guidelines. From what I have seen and read, there is nothing unusual about this proposal either technically or in its relation to the nearby dwellings. There is nothing to indicate that there would be an actual health risk, nor is there evidence to outweigh advice in PPG8 on health considerations. The health fears of local residents do not therefore weigh significantly against the development.
12. Third parties have raised concerns regarding the proximity of the proposed mast to the petrol station and the potential risk of fire and explosion. However, this is not a concern raised by the Council or by any organisation connected with the petrol station, and I have seen no compelling evidence to suggest that such a location should be avoided or that there would be any material risk of harm.
13. Overall I conclude on the main issue that the proposed development would have no materially detrimental effect on the character and appearance of the area. In consequence there would be no conflict with Policy EP20 of the Wolverhampton Unitary Development Plan 2001-2011 or the Council's adopted Interim Telecommunications Policy which, taken together and in the context of more general policies, support the provision of telecommunications equipment subject to certain criteria being demonstrated, including that the development has been designed and sited to minimise its visual impact, no practicable alternative sites in less sensitive locations are available and there is no adverse effect on amenity sufficient to outweigh other considerations.
14. For the reasons set out above and having regard to all other matters raised, including the concerns of local residents, I conclude that the appeal should be allowed.

KE Down
INSPECTOR



Appeal Decision

Site visit made on 8 December 2011

by Mr J P Sargent BA(Hons) MA MRTPI

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

Decision date: 10 January 2012

Appeal Ref: APP/D4635/A/11/2160700

Long Lake Avenue, Wolverhampton WV6 8EY

- 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 Limited and Telefónica O2 UK Limited against the decision of Wolverhampton City Council.
 - The application Ref 11/00657/TEL, dated 30 June 2011, was refused by notice dated 9 August 2011.
 - The development proposed is a Vodafone/O2 11.8m CU PHOSCO MK3 Streetpole; C/L of proposed O2 antennas at 10.88m; U/S of proposed Vodafone antennas at 10.23m; proposed Vodafone/O2 Vulcan Radio equipment enclosure (1898mm x 798mm x 1648mm high) and a proposed Vodafone/O2 meter pillar (378.5mm x 182mm x 872mm high).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues with this proposal are
 - 1) its effect on the character and appearance of the area;
 - 2) whether it would cause any other harm and
 - 3) if harm would arise as a result of issues 1 or 2, whether this would be outweighed by the benefits to the telecommunications service.

Reasons

Character and appearance

3. This scheme would be on an area of hard-surfacing that is bounded by Long Lake Avenue on one side and School Road on another. Retail premises (the retail premises) are on the third side, across a small service road. The site is immediately adjacent to the Local Centre of Tettenhall Wood. A parade of shops is just to the south-east with more shops beyond, and 3 schools are also nearby. Otherwise the surroundings are characterised by houses and bungalows. Given the nature and scale of the Local Centre I would not describe the appeal site as being in a commercial hub. However, it is at a prominent focal location in this residential area.
4. The mast would be 11.8m tall, and this would include a shroud on the top that contained equipment for 2 operators. As such it would be significantly higher than the neighbouring houses, and would also exceed the taller ridge of the

retail premises. Moreover, although the mast could be coloured its appearance would inevitably portray a certain functionality.

5. When approaching the site along either School Road or Long Lake Avenue, the mast would be prominent and striking because of its height, its scale, its nature and its location. This impact would be especially pronounced when close to the structure, and from many locations a substantial element of the mast would be set against the sky. It would therefore constitute a discordant, incongruous and unsympathetic feature that would dominate this junction and be at odds with the predominantly residential nature of the surroundings. As such it would harmfully erode the character and appearance of the locality.
6. In coming to this view it is accepted that the Appellants said the mast would be similar to the street lighting along these roads. However, it would be nearly half as tall again as those 8m columns. It would also have a different arrangement at the top and the mast would be wider. As a result, in this instance any similarities between the proposal and the street lights would not be strong and would not be sufficient to integrate the structure into the streetscape.
7. It is also appreciated that, from certain angles, the mast would be seen in front of the taller retail premises behind. However, it would still project above the roof of that building and in any event these angles would be relatively few. Therefore to my mind the effect of these premises would not allay the mast's discordant nature. Finally, the Appellants said a mast 1.3m taller would be out of character with the area and would draw the eye. In my opinion what is now proposed would not be sufficiently lower to overcome these concerns.
8. The enclosure and pillar would not be particularly dominant because of their size, and so they would not have a harmful effect in this respect.

Other matters

9. Interested parties have raised objections and fears based on health grounds, drawing attention to the proximity of the site to schools, houses and food outlets as well as the impact of the apparatus on birdlife. These are material considerations that are relevant to the decision. However, the Appellants have confirmed that emissions from the mast would meet the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure to radio waves. In such circumstances Planning Policy Guidance 8 *Telecommunications* (PPG8) advises that it should not be necessary for the health aspects of the proposal to be considered further as part of the planning process. Given this, there was little objective evidence to support these fears or concerns, and so they are not sufficient to justify dismissing the appeal.
10. The equipment would not have a material effect on drivers' visibility at this junction. When I visited at 1500h I noted the area of hard-surfacing was being used for parking by people as they waited for children from the nearby schools. The scheme would reduce the amount of parking that could be available. However, the limited dropped crossings and its position at a road junction mean the use of this hard-surfacing for that purpose is not satisfactory. Therefore any impact on parking would not be unacceptable.
11. As the scheme would detract from the character and appearance of the area it is acknowledged that it would be unsightly when seen from adjacent houses.

Otherwise, given my findings on the health implications and fears, it would not have an unacceptable effect on the living conditions of surrounding residents.

12. Finally with regard to neighbouring property values PPG8 says the material question is not if a particular development would cause financial loss to owners and occupiers, but whether it would have a detrimental effect on the locality generally and on amenities that ought to be protected in the public interest. Any impact on the value of surrounding buildings is therefore not a reason to dismiss the scheme.
13. Consequently, as I am to consider only the siting and appearance of the development, I conclude that the other matters identified do not give rise to harm that would justify dismissing this appeal.

The benefits to the telecommunications service

14. The importance of good, fast, reliable and cost-effective communications is recognised. The Appellants contend that the equipment is necessary to achieve the required standard of network coverage, and this is the optimum siting in this cell when environmental considerations, site availability, technical need and policy are balanced. It is also appreciated that the proposal would allow mast sharing between 2 operators.
15. In line with Government policy the Council has not questioned the need for the mast. However, by saying it is the optimal siting the Appellants are accepting it is not the only site to achieve service delivery. While they have discussed alternative locations some of these have been discounted as unsuitable for subjective reasons that I have been unable to assess. Other sites have been discounted because they would require 2 masts to service the cell. While PPG8 recommends that the number of masts is kept to the minimum necessary for the efficient operation of the network, the use of 2 masts in this cell may produce equipment that would be less dominant and not as intrusive.
16. I have no reason to challenge the need for this apparatus. However, the Appellants acknowledge that when reaching a decision a balance has to be made between the need for the equipment and the effect on the surroundings. To my mind the harm caused to the character and appearance of the area by this stark, tall, prominent feature outweighs the benefits to the telecommunications service.
17. In considering this appeal the various other appeal decisions have been noted. However I am unclear as to the circumstances of those cases or the details that were presented to the Inspectors. As a result, the weight I afford them is not sufficient to mean my concerns are overcome.

Conclusions

18. Accordingly I conclude that the proposal would detract unacceptably from the character and appearance of the area, and in the absence of any benefit to outweigh this harm, it would be contrary to Policies DC6, DC7 and DC9 of the *Wolverhampton Unitary Development Plan* and national guidance in PPG8.

J P Sargent

INSPECTOR



Appeal Decision

Site visit made on 10 January 2012

by Roger Pritchard MA PhD MRTPI

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

Decision date: 19 January 2012

Appeal Ref: APP/D4635/A/11/2160800

Land at the south corner of Mount Road/Penn Road. Wolverhampton, WV4 5SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to give prior approval under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995, as amended in respect of permitted development by Telecommunications Code Systems Operators.
 - The appeal is made by Vodafone Ltd and Telefónica Ltd against the decision of Wolverhampton City Council.
 - The application Ref 11/00645/TEL, made by notification letter dated 29 June 2011, was refused by notice dated 2 August 2011.
 - The development proposed is the installation of a 15 metre streetpole and associated equipment and housing.
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Decision

1. The appeal is allowed and I grant approval under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995, as amended in respect of permitted development by Telecommunications Code Systems Operators, for the installation of a 15 metre streetpole and associated equipment and housing on land at the south corner of Mount Road/Penn Road. Wolverhampton, WV4 5SF in accordance with the terms of the notification letter, Ref 11/00645/TEL, dated 29 June 2011, and the Drawings Nos 100, 200, 300, 400 and 500 submitted with that letter.

Main Issue

2. I consider the main issue to be the effect of the proposed installation on the character and appearance of the neighbouring street scene.

Reasons

3. The proposed telecommunications streetpole and associated equipment would be sited on the east side of Penn Road immediately south of its junction with Mount Road. The proposed streetpole, with a height of 15 metres, would be shared by the two operators who have made the appeal. It would seek to improve 3G network coverage within the surrounding residential area and, particularly, to allow the full use of 3G internet services within buildings. Evidence has been submitted by the appellants demonstrating that existing coverage in the area falls well below the levels required by both operators. Although some local residents claim that existing reception is satisfactory, I note that the Council has not raised the issue of need in its reasons for refusing

the original application and I accept that the need for the installation has been demonstrated.

4. Penn Road is the main highway (A449) running south west from Wolverhampton City Centre. The proposed streetpole would be erected on a grass verge in front of The Mount Public House. There is a stand of mature trees immediately to the south, the height of which I estimate to be between 12 and 14 metres, i.e. slightly below that of the proposed streetpole. Although the surrounding area is residential, both Penn and Mount Roads have shops and commercial properties close by.
5. The appellants contend that the proposed site has emerged after a 'sequential' assessment that demonstrated that there were neither existing telecommunications installations nor suitable rooftops or structures in the area of search which could accommodate an additional facility. A new, freestanding ground-based site is, in their view, the only option. I note that the sequential, assessment process was fully shared with the Council and, again, I have no evidence to dispute this conclusion.
6. Planning Policy Guidance 8, *Telecommunications* (PPG 8) recognises the potential visual impact of telecommunications facilities and advises that priority should be given to protecting, '*...high quality landscapes and quality in urban areas.*' Policy EP20 of the adopted Wolverhampton Unitary Development Plan (UDP) identifies '*sensitive locations*' where telecommunications equipment will be acceptable only if there is demonstrable need, no practicable alternative sites are available and it has been designed and sited to minimise its impact on the appearance of the area. Transport corridors and predominantly residential areas are among the sensitive locations that Policy EP20 identifies. Policy EP20 is supplemented by an Interim Telecommunications Policy that the Council adopted as Supplementary Planning Guidance (SPG) in 2002.
7. The proposed site before me is a prominent one. It sits alongside a main road and the height of the proposed installation would make it the tallest structure in the immediate vicinity. I accept that it would become a distinctive feature in the local street scene. Nevertheless, the proposed site is not in a Conservation Area, which the appellants have deliberately avoided in their area of search.
8. Moreover, I accept that there are mitigating factors. The first is that the two operators, Vodafone and O2, would share the proposed facility. This would lead to a single, albeit slightly bigger structure but, given the alternative of finding locations for two structures in an area that has proved less than fruitful in this respect, I recognise that this provides for less overall impact and is in line with current Government advice. Secondly, although sited on a main road, the proposed location is probably as far from any residential property as could be found within the area of search. Thirdly, the trees immediately to the south provide significant screening. I visited the site at a time when screening would be at its least effective, but I accept that the trees would have a mitigating effect, especially when in leaf, when the site is viewed from the south west and would provide a backdrop that would reduce the harshness of the proposed structure when seen from other directions. Finally, although the area behind Penn Road is predominantly residential, the land uses around the site are mixed and there is already an amount of street furniture, lamp standards etc against which the proposed installation would be seen.

9. I therefore conclude that, on balance, any material harm to the visual appearance of the area is offset by the mitigating factors I have identified above, the need for the facility and the absence of any satisfactory alternative sites. In these circumstances, I conclude that the proposed installation meets Government advice and is compatible with the policies of the adopted UDP.

Other Matters

10. One local resident has suggested that the proposed installation would increase the risk to highway users turning right out of Mount Road. I accept that the A449 is reasonably heavily trafficked and that this manoeuvre, although with reasonable visibility in both directions, may be difficult on occasions. However, I concluded that the proposed installation would not materially affect visibility at the junction and I have given this argument no weight in my decision.
11. A number of local residents, although concerned about the same issues as caused the Council to refuse the original application, have raised two other matters which I consider I should not take into account in reaching my decision.
12. The first is the health risk that some local residents believe would arise from the installation of new telecommunications equipment. In addition, although not raised by the Council, concerns have been expressed about the proximity of a care home, nursery and schools. However, none of these facilities is adjacent to the proposed site. Although PPG 8 accepts that health considerations can in principle be material in determining planning applications, it also advises that it is the Government's firm view that the planning system is not the place for determining health safeguards. It also advises that Councils should not implement their own precautionary policies, for example by imposing minimum distances between new telecommunications development and other development.
13. PPG 8 advises that where a proposed mobile phone base station meets the standards set by the International Commission on Non-Ionising Radiation Protection (ICNIRP), it should be unnecessary further to consider health concerns. I note that the application is accompanied by a certificate showing compliance with ICNIRP standards, as required by Policy EP20 of the adopted UDP, and that the Council has not raised any concerns in this respect.
14. The second is that some local residents are concerned about the effect of the proposed development on property values. However, PPG 8 also advises that the planning system is not intended to protect the private interests of one person against the activities of another. The material question is whether a proposal would have a detrimental effect on the locality as a whole and amenities that ought to be protected in the public interest.
15. Neither of the above matters has therefore played any part in my decision.

Conclusion

16. For the reasons given above, and taking account of all the representations I have received, I conclude that the appeal should be allowed.

Roger Pritchard

INSPECTOR



Appeal Decision

Site visit made on 10 January 2012

by Roger Pritchard MA PhD MRTPI

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

Decision date: 20 January 2012

Appeal Ref: APP/D4635/A/11/2161192

Land fronting The Westacres, Finchfield Hill, Wolverhampton, WV3 9HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to give prior approval under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 as amended in respect of permitted development by Telecommunications Code Systems Operators.
 - The appeal is made by Vodafone Ltd and Telefónica Ltd against the decision of Wolverhampton City Council.
 - The application Ref 11/00531/TEL, made by notification letter dated 24 May 2011, was refused by notice dated 28 June 2011.
 - The development proposed is the installation of a 13.8 metre streetpole enclosing two antennae and associated equipment and housing.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the proposed development on the character and appearance of the neighbouring street scene.

Reasons

3. The proposed telecommunications streetpole and associated equipment would be sited on the west side of Finchfield Hill immediately to the north of its junction with Broadway. The proposed streetpole, with a height of just under 14 metres, would be shared by the two operators who have submitted the appeal. The installation would seek to improve 3G network coverage within the surrounding residential area of Compton.
4. Finchfield Hill is the northernmost part of the B4161 that provides a link between the A454 and the A449 avoiding Wolverhampton City Centre. The proposed streetpole would be erected on an area of highway land in front of The Westacres Public House. (Some local residents have claimed that The Westacres is a listed building. The Council has confirmed that it is not.) Adjacent to the site of the proposed streetpole are two mature trees, the height of which I estimate to be between 10 and 12 metres, i.e. below that of the proposed streetpole. Apart from The Westacres, the surrounding area is overwhelmingly residential.
5. Planning Policy Guidance 8, *Telecommunications* (PPG 8) recognises the potential visual impact of telecommunications facilities and advises that priority should be given to protecting, '*...high quality landscapes and quality in urban*

areas.' Policy EP20 of the adopted Wolverhampton Unitary Development Plan (UDP) identifies '*sensitive locations*' where telecommunications equipment will be acceptable only if there is demonstrable need, no practicable alternative sites are available and it has been designed and sited to minimise its impact on the appearance of the area. Transport corridors and predominantly residential areas are among the sensitive locations that Policy EP20 identifies. Policy EP20 is supplemented by an Interim Telecommunications Policy that the Council adopted as Supplementary Planning Guidance (SPG) in 2002.

6. I note that, although some third parties have questioned the requirement for the installation, the Council has not raised the issue of need in its reasons for refusal. I have no reason to disagree. The appellants also contend that the proposed site has emerged after a 'sequential' assessment that demonstrated that there were neither existing telecommunications installations nor suitable rooftops or structures in the area of search which could accommodate an additional facility. A new, freestanding ground-based site is, in their view, the only option. I note that the sequential, assessment process was fully shared with the Council and that it has neither disputed this conclusion nor suggested any alternative site. Although there is a substantial weight of local opinion suggesting that sites less close to residential properties and less visually prominent are available in the search area, no one has pointed to any particular location.
7. The proposed site would result in the installation becoming a prominent feature in the streetscene and the tallest structure in the immediate vicinity. The streetpole would dominate views from the south and east. It would also, despite the adjacent trees, draw the eye as one approached the site from the north. Only from the west would there be a degree of screening, though the top of the installation would come into view above The Westacres and the tree in the public house's forecourt. It would be visible from many neighbouring residential properties and would be especially significant when seen from the frontages of the houses immediately opposite the site on the other side of Finchfield Hill. There is, in my view, a substantial risk that the streetpole would be so visually dominant as to become a primary element in the character and appearance of the surrounding area.
8. Nevertheless, I accept that there are some mitigating factors. The two operators, Vodafone and O2, would share the proposed installation. This would lead to a single, albeit slightly bigger structure. However, given the alternative of finding locations for two structures in an area that has proved less than fruitful in this respect, I recognise that the single streetpole provides for less overall impact and is in line with current Government advice.
9. Nevertheless, I conclude, on balance, that in respect of this particular site the material harm to the visual appearance of this residential area is not sufficiently offset by the need for the installation and the mitigating benefits of two operators sharing it. In these circumstances, I conclude that the proposed installation is incompatible with the policies of the adopted UDP and contrary to the advice of PPG8 on siting. The appeal should therefore be dismissed.

Other Matters

10. Some local residents have suggested that the proposed installation would increase the risk to highway users using the junction of Finchfield Hill and Broadway. I accept that the B4161 is moderately heavily trafficked and that

there are visibility limitations to the north. However, I have noted that the Council's Highways Department has raised no objection to the proposed installation and, from my site visit, I concluded that it would not materially affect visibility at the junction. I have therefore given this argument no weight in my decision.

11. A number of local residents, although concerned about the same issues as caused the Council to refuse the original application, have raised two other matters which I consider I should not take into account in reaching my decision.
12. The first is the health risk that some local residents believe would arise from the installation of new telecommunications equipment. In addition, although not raised by the Council, concerns have been expressed about the proximity of a hospice and schools. However, none of these facilities is adjacent to the proposed site. Although PPG 8 accepts that health considerations can in principle be material in determining planning applications, it also advises that it is the Government's firm view that the planning system is not the place for determining health safeguards. It also advises that Councils should not implement their own precautionary policies, for example by imposing minimum distances between new telecommunications development and other development.
13. PPG 8 advises that where a proposed mobile phone base station meets the standards set by the International Commission on Non-Ionising Radiation Protection (ICNIRP), it should be unnecessary further to consider health concerns. I note that the application is accompanied by a certificate showing compliance with ICNIRP standards, as required by Policy EP20 of the adopted UDP, and that the Council has not raised any concerns in this respect.
14. The second is that some local residents are concerned about the effect of the proposed development on property values. However, PPG 8 also advises that the planning system is not intended to protect the private interests of one person against the activities of another. The material question is whether a proposal would have a detrimental effect on the locality as a whole and amenities that ought to be protected in the public interest.
15. Neither of the above matters has therefore played any part in my decision.

Conclusion

16. For the reasons given above, and taking account of all the representations that I have received, I conclude that the appeal should be dismissed.

Roger Pritchard

INSPECTOR



The Planning Inspectorate

v7.3

An Executive Agency in the Department for Communities & Local Government and the Welsh Assembly Government

Our Complaints Procedures

Introduction

We can:

- review your complaint and identify any areas where our service has not met the high standards we set ourselves.
- correct some minor slips and errors provided we are notified within the relevant High Court challenge period (see below).

We cannot:

- change the Inspector's decision.
- re-open the appeal once the decision has been issued.
- resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission.; we can only deal with planning appeal decisions.

The **High Court** is the only authority that can ask for the Inspector's decision to be reconsidered. Applications to the High Court must be made within 6 weeks from the date of the decision letter for planning appeals, and in most instances 28 days for enforcement appeals.

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held.

The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear,

straightforward language, avoiding jargon and complicated legal terms.

We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.

Who checks our work?

The Government has said that 99% of our decisions should be free from error. An independent body called the Advisory Panel on Standards (APOS) monitors this and regularly examines the way we deal with complaints. We must satisfy it that our procedures are fair, thorough and prompt.



Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary and Health Service Ombudsman, who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

“Can the decision be reviewed if a mistake has happened?” – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

“So what is the point of complaining?” – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

“Why did an appeal succeed when local residents were all against it?” – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

“What do the terms ‘Allowed’ and ‘Dismissed’ mean on the decision?” – ‘Allowed’ means that Planning Permission has been granted, ‘Dismissed’ means that it has not. In enforcement appeals (s.174), ‘Upheld’ means that the Inspector has rejected the grounds of appeal and the enforcement notice must be complied with; ‘Quashed’ means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

“How can Inspectors know about local feeling or issues if they don’t live in the area?” – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have made on the appeal.

“I wrote to you with my views, why didn’t the Inspector mention this?” – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

“Why did my appeal fail when similar appeals nearby succeeded?” – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

“I’ve just lost my appeal, is there anything else I can do to get my permission?” – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

“What can I do if someone is ignoring a planning condition?” – We cannot intervene as it is the council’s responsibility to ensure conditions are complied with. You could contact the council as it has discretionary powers to take action if a condition is being ignored.

Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see ‘Contacting us’). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or at www.apos.gov.uk

Contacting us

Complaints & Queries in England

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone: 0117 372 8252

E-mail: complaints@pins.gsi.gov.uk

Website www.planning-inspectorate.gov.uk

Enquiries

Phone: 0117 372 6372

E-mail: enquiries@pins.gsi.gov.uk

Complaints & Queries in Wales

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: Wales@pins.gsi.gov.uk

The Parliamentary & Health Service Ombudsman

Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0845 0154033

Website: www.ombudsman.org.uk

E-mail: phso.enquiries@ombudsman.org.uk

Please see Wales leaflet for information on how to contact the Wales Public Services Ombudsman.