

Wolverhampton City Council

OPEN INFORMATION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date 2 nd October 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)/	STEPHEN ALEXANDER (Head of Planning)	
Telephone Number(s)	(01902) 555610	
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.

ONGOING APPEALS

	<u>Appeal Site / Ward</u>	<u>Appellant</u>
1.	53 Mount Road Tettenhall Wood Wolverhampton Tettenhall Wightwick	Mr P Stafford
2.	7 Park Avenue Whitmore Reans Wolverhampton Park	Mr H S Raikhy
3.	25 Benson Avenue Wolverhampton Blakenhall	Mr Chris Clacken
4.	Lidl Food Store 27 Blackhalve Lane Wolverhampton Fallings Park	Donna Commock
5.	Land At New Street Portobello Wolverhampton East Park	Vodafone/O2
6.	28 & 29 Stubbs Road Wolverhampton Graiseley	Mr & Mrs DJ M Bradley

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 The Firs PH, Windmill Lane, Wolverhampton</p> <p>Tettenhall Wightwick</p> <p>Vodafone Ltd & Telefonica O2 UK Ltd</p>	<p>11/00819/TEL</p> <p>Telecommunication - Installation of electronic apparatus including 12.5m column, antenna, cabinet and associated equipment.</p>	<p>Planning</p> <p>Written representation</p> <p>30.03.2012</p>	<p>The telecommunications equipment would be appear obtrusive, forming an incongruous feature in a visually prominent location.</p> <p>Contrary to UDP policies EP20, D6 and D9 and BCCS policies ENV3 and CSP4</p>	<p>Appeal Dismissed</p> <p>17.09.2012</p>



Appeal Decision

Site visit made on 16 August 2012

by R J Maile BSc FRICS

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

Decision date: 17 September 2012

Appeal Ref: APP/D4635/A/12/2172848

Highway verge at Castlecroft Road, Windmill Lane, Wolverhampton, WV3 8HG.

- 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 and Telefonica UK Ltd against the decision of Wolverhampton City Council.
 - The application ref: 11/00819/TEL, dated 15 August 2011, was refused by notice dated 27 September 2011.
 - The development proposed is the installation of a 12.5m high monopole mast, 6 shrouded antennas, equipment cabinet and electric meter pillar.
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Application for Costs

1. An application for costs was made by Vodafone Ltd and Telefonica UK Ltd against Wolverhampton City Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue in this case is the effect of the monopole and ground based equipment cabinet upon the character and appearance of the surrounding area.

Reasons

4. It is proposed to site the mast and equipment cabinet within a wide area of tarmac footway on the west side of the junction between Castlecroft Road and Windmill Lane.
 5. Windmill Lane is a local distributor route containing a range of street furniture, including a series of street lights approximately 9m in height. One of these is located to the north of the car park to The Firs public house, whilst to the southeast is another street light at the entrance to Castlecroft Road. That to the southeast is seen against a backdrop of trees, whilst those along Windmill Lane are shorter and have a narrow profile.
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6. I acknowledge that there is a proven need for 3G coverage in the area. The site has been chosen following an extensive and well documented search for a location to serve both the needs of Vodafone Ltd and Telefonica UK Ltd. Given the form of development in the area, the lack of available sites to share and the Green Belt designation of adjacent land, it has been suggested that the utilisation of street furniture may well represent the only alternative within the area of search.
7. The scheme before me would satisfy the needs of two operators, as advocated by "saved" Policy EP20 of the UDP¹ and paragraph 43 of the National Planning Policy Framework ('the Framework'). Nevertheless, given the nature of the appeal site and the size and height of the monopole, I question whether in this case a combined facility is the optimum solution.
8. The appeal site is devoid of buildings or trees, other than a modest fir tree approximately 6m in height. The monopole would project some 2.5m above the ridge of The Firs public house and is 3.5m taller and more bulky than the street lights along Windmill Lane and at the junction with Castlecroft Road. Given that the site is elevated above the junction between these two roads the monopole would be exceedingly visible in the street scene and not appear as an item of street furniture.
9. The mast would be especially noticeable to motorists travelling along Windmill Lane from the east and, given the open nature of the immediate surroundings, be seen by persons visiting The Firs public house, particularly those using the adjacent beer garden. It would also be apparent to pedestrians using the crossing in Windmill Lane and the residents of certain nearby properties.
10. Paragraph 65 of the Framework states that: "*Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design ...*" The standard monopole and equipment cabinet are not to a good design, in particular when considering their relationship with the surrounding townscape.
11. I therefore find on the main issue that development as proposed would harm the character and appearance of the surrounding area contrary to the objectives of "saved" Policies D6, D7, D9 and EP20 of the UDP, Policy ENV3 of the Black Country Core Strategy 2011 and paragraph 65 of the Framework.
12. In arriving at this finding I have taken account of "The Plan for Growth" report published in March 2011. I have also had regard to the advice at paragraph 14 of the Framework, which sets out a presumption in favour of sustainable development.

Other Matters

a) Appeal decision

13. My attention has been drawn to a recent appeal decision relating to a proposal at Chesterfield (ref: APP/A1015/A/11/2155051 dated 10 October 2011). That proposal can be differentiated from the scheme before me given the location of

¹ The Wolverhampton City Unitary Development Plan June 2006.

the site adjacent to a roundabout junction where there were numerous lighting columns of between 8m-10m in height within a prominent location (paragraph 5).

14. The particular circumstances of that case were clearly of paramount importance in the decision to allow the appeal, given that the monopole would appear as part of the overall street furniture (paragraph 7). In this instance, however, the monopole and equipment cabinet would appear as 'stand-alone' features within an otherwise open and highly visible location.

b) Risks to health

15. I note the concerns expressed by local residents as to the possible health risks of the installation.

16. The appellants confirm that the equipment will meet the ICNIRP guidelines for public exposure. Government guidance states that in such cases it should not be necessary to consider further the health aspects and concerns about them when dealing with an application for planning permission or prior approval.

Conclusion

17. I accept the need to provide additional 3G coverage in the area. Nevertheless, this need is insufficient to override my concerns as to the form of the detailed proposal before me and my findings as to the adverse impact of the installation upon the character and appearance of the surrounding area.

18. For these reasons, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R. J. Maile

INSPECTOR