Item: **11**

Reference: **11/00190/GDOT**

Applicant: **Vodafone UK & Telefonica O2**

Location: **Hinckley Road Burbage**

Proposal: **STREETWORKS MONOPOLE SUPPORTING ANTENNAS TO PROVIDE 3G RADIO SERVICE FOR VODAPHONE AND TELEFONICA O2 ALSO GROUND BASED EQUIPMENT CABINET**

Target Date: **4 May 2011**

Introduction:-

This prior approval application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a proposed development involving a telecommunications installation.

Application Proposal

This is a prior approval application for the erection of a telecommunications installation adjacent to Hinckley Road, Burbage. The installation comprises a 10.3 metre high galvanised steel pole with dual user shrouded antennas to a maximum height of 14.8 metres with an associated equipment cabinet with dimensions of 1.9 metres x 0.8 metres x 1.65 metres high, located to the northern side of the proposed pole. The application confirms that the finished colour is to be agreed.

This application is made under Part 24, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment)(England) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 and in accordance with the Electronic Communications Code under the Telecommunications Act 1984 Schedule 2 as amended by the Communications Act 2003. There is a statutory period of 56 days in which to determine the application, otherwise the applicant has the right to carry out the development. When dealing with these notifications, the Local Planning Authority can consider the siting and appearance of the installation but not the principle of the development or any other related issues as this has already been agreed by national legislation.

The Site and Surrounding Area

The site comprises a grassed strip of land on the western side of Hinckley Road adjacent to the Hastings High School playing field. The site is separated from the playing field by a mature hedge and semi mature trees. Along Hinckley Road to the south is a gas pumping station and bus shelter. On the opposite site of Hinckley Road are residential properties. Hinckley Road is one of the main routes into Burbage village but this part is mainly residential in character.

Technical Documents submitted with the application

The application has been submitted with a Design and Access Statement which states that the scale massing and height of the proposed development has been considered in relation to adjoining buildings, the topography, the general pattern of heights within the area, views, vistas and landmarks. It goes on to say that the structure has a specific functionality as a joint use telecommunications base station. Its function is reflected in its plain and simple form appropriate to a highway environment. The development needs to be of the height specified due to the effect of local tree cover. It states that the site is screened from the nearest house and that the closest dwelling is 15 metres distance. The monopole is proposed to be positioned in line with the southern gable end of the property so that views should be oblique. Properties in the Stocking Leys development should not generally be in direct line of sight.

Information submitted on behalf of the applicant confirms that all Vodafone and Telefonia O2 UK installations are designed to be fully compliant with the public exposure guidelines established by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Certificates of ICNIRP compliance have been included with the submission.

The application confirms that the applicant has had regard to the register of existing installations. A technical specification of the proposed installation with information on the current level of (3G) coverage provided by the Universal Mobile Telecommunications Services (UMTS) within the area has been submitted along with a joint statement from Vodafone and Telefonia O2 UK with general background information on Health and Mobile Phone Base Stations and on Radio Network Development.

Information submitted with the application confirms that pre-application advice has been sought and that the Highway Authority has been notified of the application. Further documentation submitted states that the Hastings High School building is located at a distance of 500 metres from the proposal. Other documents submitted include letters of consultation sent out by the company prior to submission of the application and letters of objection received from neighbours.

The supporting information refers to three sites which have been considered as potential alternative sites as follows:-

a) multi Industrial Doors, Sapcote Road Industrial Estate - discounted as owner did not wish to proceed
b) junction of Sapcote Road, Burbage Road and Hinckley - discounted as the low ground level would result in poor coverage
c) opposite 154 Hinckley Road - discounted likely harm to residential amenity and proximity to day nursery.

History:-

None relevant.



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Consultations:-

No objections subject to note to applicant received from The Director of Environment and Transport (Highways).

The Police Architectural Liaison Officer has confirmed that the police installations are at some distance from the proposal and therefore unlike to interference with their installations.

Site Notice displayed and neighbours notified.

One petition containing 346 names and 27 letters of objection received on the following grounds:-

a) health reasons
b) not in keeping with Burbage
c) Loss of amenity in residential area
d) visually obtrusive
e) oppressive effect on neighbours
f) dominant eyesore
g) spoil attractive area
h) mast is higher than trees
i) nearby trees are deciduous/more prominent in winter months
j) proximity to school and playing field
k) proximity to nursery
l) too close to residential dwellings
m) area is where children/elderly persons live
n) highly populated area

o) should be sited on industrial estate or in field
p) other sites have not been fully investigated
q) the application does not demonstrate that the mast is required in terms of coverage
r) suggests mast sharing on existing installations
s) loss in property value
t) will add to downturn in property market
u) raises Human Rights Article 8 concerns.

Policy:-

Central Government Guidance

Planning Policy Guidance Note 8 (published 2001) 'Telecommunications' states that it is the Governments aim to facilitate the growth of existing telecommunications systems whilst keeping the environmental impact to a minimum. The aim of telecommunications policy is to ensure that people have a choice as to who provides their telecommunications service, a wider range of services from which to choose and equitable access to the latest technologies as they become available. This document gives guidance on how this can be achieved through the planning system.

Local Policy

Local Development Framework Core Strategy 2009

No specific policy.

Hinckley and Bosworth Local Plan 2001

The site is within the Hinckley settlement boundary as defined in the Hinckley and Bosworth Local Plan.

Policy BE1 considers the siting of development with regard given to the character and features of the area and amenities of local residents.

Other Material Policy Guidance

Part 24, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001.

Code of Best Practice on Mobile Phone Network Development 2002 gives guidance to both Local Authorities and Code System Operators.

Electronic Communications Code under the Telecommunications Act 1984 Schedule 2 as amended by the Communications Act 2003.

Appraisal:-

The main considerations with regards to this application are whether it meets the criteria contained within Part 24, and whether the proposal is acceptable in terms of appearance and siting.

Criteria

Ground based apparatus such as a mast up to 15 metres in height above ground level (excluding any antenna) is dealt with by A.1. (a) Part 24, Schedule 2 of the General Permitted Development Order. The legislation states that radio equipment housing and ancillary works may be installed provided that it is ancillary to the telecommunications installation, not within a conservation area and the volume does not exceed 90 cubic metres (A.1.(I) ii of Part 24 of the Order.

In this case, the proposal consists of a 10.3 metre high galvanised steel monopole with dual user shrouded antennas to a maximum height of 14.8 metres. The radio equipment housing has a volume of 2.5 cubic metres. It is therefore considered that both the proposed monopole and equipment cabinet meet the criteria contained within Part 24.

As the application complies with the General Permitted Development Order, the local planning authority is restricted to expressing opinions on matters of siting and appearance only.

Appearance

The matters to consider concerning the appearance of the mast and ancillary equipment include materials, colour and design. This covers the dimensions, overall shape and construction.

PPG8 states that 'in seeking to arrive at the best solution for an individual site, authorities and operators should use sympathetic design and camouflage to minimise the impact of development on the environment. Particularly in designated areas, the aim should be for apparatus to blend into the landscape'.

The design of the pole in this instance is, as described within the application as 'functional'. It has an awkward shape within the 4.5 metre top section where the two shrouded antennas are located. The pole is constructed of galvanised steel, however the final colour can be agreed by a condition and the agent has suggested a matt mid green colour. However, even agreeing a suitable colour which could help to assimilate the mast to some extent into its surroundings, the proposal by virtue of its functional appearance is still considered unacceptable in terms of appearance.

The ancillary equipment is a modest cabinet, similar in scale and design to others used by various service providers. It is considered that the appearance will be in keeping with other street furniture and will not look unduly out of place.

Siting

The proposal is located on a strip of grass where there is some tree cover along the boundary with the playing field. However, the pole will be taller than the trees nearby and will be highly visible within the streetscene, with a clear view from both the south and north along Hinckley Road. There is other street furniture within the area therefore the cabinet will assimilate with others along Hinckley road. The 14.8 metres pole and antennas are considered to provide an incongruous feature in an otherwise pleasant residential area and as such the installation is considered to be inappropriate.

This proposal is for a shared mast containing two antennas for Vodafone and O2. It is not clear whether there are other suitable existing masts available where mast

sharing could take place. The applicant has considered three alternative sites within the local area but reasons for discounting the alternative sites have been given within the application information. One site was discounted due to ground level, one due to likely harm to residential amenity and proximity to a day nursery and one site was discounted because the owner was unwilling to proceed. However, it is not clear if there are other more appropriate locations for this proposal available or that other options have been fully considered.
The Borough Council's Arboricultural Consultant has been requested to comment on the proposal in terms of the potential affect on the trees located on the boundary with the school playing field and his comments will be reported as a late item.

Health

Local residents have raised concerns regarding health matters and have referred to children and elderly living within the residential area.

PPG8 refers to this issue and states that 'health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. In the Government`s view 'if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority in processing an application for planning permission or prior approval to consider further the health aspects and concerns about them'. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker (usually the Local Planning Authority) to determine what weight to attach to such considerations in any particular case.

The applicant has confirmed the development is in full compliance with the requirements of the radio frequency public exposures guidelines of ICNIRP (The International Commission on Non-Ionising Radiation Protection).

Whilst it has to be accepted that the health considerations are a material consideration, the proposal, as shown by the ICNIRP compliance certificate submitted with the application, meets the required guidelines for public exposure and should not need to be considered further unless specific justification had been made in an exceptional case.

Following the Independent Expert group on Mobile Phones (Stewart Report) published in April 2000, which advocated a precautionary approach to mobile phone masts, an independent Advisory Group on Non-Ionising Radiation (AGNIR) chaired by Professor A Swerdlow reported on the 15th January 2004 and concluded that "There is no biological evidence for mutation or tumour causation by RF exposure and epidemiological studies overall do not support any associations between exposures to RF and the risk of cancer, in particular from mobile phone use". Most recently, the independent Mobile Telecommunications and Health Research programme (MTHR), established in 2001 following the Stewart Report, published a report in 2007 describing research undertaken as part of its programme into widespread use of mobile phone technology.

The weight of evidence now available does not suggest that there are health effects from exposure to RF fields below guidelines levels, but the published research on RF exposure and health has limitations, and mobile phones have only been in widespread use for a relatively short time. The possibility therefore remains open that there could be health effects from exposure to RF fields below guideline levels; hence continued research is needed".

Clearly, members will need to consider carefully the weight given to public concern on the health issues. Bearing in mind recent emergent case law the planning system is not considered to be the appropriate forum for determining health safeguards.

Property Prices

Local residents have raised concerns that property values in the area will decline and that if this development goes ahead, it will result in further stagnation of the housing market in the area, this is not a material planning consideration when determining planning applications.

Other Neighbour Issues

Local residents have commented that the proposal is not in keeping with Burbage village and that further masts are not required. The local planning authority is not in a position to refuse to consider such proposals within the Burbage parish boundary and must determine the proposal as set out within the application. The application has been submitted with technical documents which provide justification that their current service needs to be improved.

A neighbour has referred to an infringement of their Human Rights in terms of Article 8 of the Human Rights Act 1998 by the proposal. Article 8 of the Convention states that ' Everyone has the right to respect for his privacy and family life, his home and his correspondence interference is justified however, if it is in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for its prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.' The European Court of Human Rights has recognised that, in the context of Article 1 of the First Protocol that 'regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole'. Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Similarly, any interference with Article 8 rights must be 'necessary in the democratic society' i.e. proportionate. In this case, it is considered that the proposal is unacceptable and is therefore recommended for refusal in terms of siting and appearance, but not in terms of the Human Rights Act, as its impact is not considered to be unreasonable in terms privacy, family life or the home of a particular resident or residents of the area.

Conclusion

PPG8 states that in order to limit visual intrusion, the Government attaches considerable importance to keeping the numbers of radio and telecommunications masts, and of the sites for such installations, to the minimum consistent with the efficient operation of the network.

It is recognised that telecommunications improvements are of benefit to the local community and economy, subject to visual impact of the proposal being acceptable. In this case, it is considered that that the proposal meets the criteria contained within Schedule 2 of Part 24, but is unacceptably because the proposed mast is of an unacceptable design sited in a highly visible location within the streetscene, contrary to the aims of adopted Policy BE1. Furthermore, the applicant has failed to demonstrate that the potential for mast sharing and alternative sites within the local area have been fully investigated.

RECOMMENDATION :- REFUSE, for the following reasons :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

1 The proposal would, by reason of its height, insufficient screening and poor design, result in the proposed installation being unacceptably prominent within the streetscene and, on the skyline resulting in an unsatisfactory visual impact, detrimental to the character and appearance of the area and neighbours amenity, contrary to the requirements of policy BE1 of the adopted Hinckley and Bosworth Local Plan.

2 Due to the lack of detail relating alternative sites and site sharing options, the applicant has failed to adequately demonstrate that he has undertaken a satisfactory investigation of other sites, which may be technically suitable and would have less impact on the surrounding area and streetscene, in accordance with the Code of Best Practice on Mobile Phone Network Development 2002.

Notes to Applicant:-

1 List of plans used in the determination of this application:- Drawings 100, 200, 300, 400 received on 10 March 2011.

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