Item: **13**

Reference: **11/00795/GDOT**

Applicant: **Vodaphone UK Ltd And Telefonica UK Ltd**

Location: **Hinckley Road Burbage**

Proposal: **PRIOR NOTIFICATION OF PROPOSED DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS FOR TELECOMMUNICATIONS INSTALLATION**

Target Date: **27 November 2011**

Introduction:-

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

Application Proposal

This is a prior application for the erection of a telecommunications installation on land to the west side of Hinckley Road on the highway verge opposite the junction between Stocking Leys and Hinckley Road. The installation comprises a 15 metre cornerstone dual user telegraph pole with associated equipment cabinet measuring 1.8 metres by 0.8 metres and a height of 1.6 metres.

The application is made under Part 24, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Oder 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 Document submitted with application

The application has been submitted with a range of supporting information. This includes details of existing and proposed coverage areas; technical information including, description of the site, description of the mast and equipment housing, reason why the site is required; and a list of five discounted alternative sites which are:-

a) Multi Industrial Doors, Sapcote Road Industrial Estate
b) Junction of Sapcote Road, Burbage Road and Hinckley Road
c) Opposite 154 Hinckley Road
d) ASP Electro, Sapcote Road
e) Field off Sapcote Road.

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.

History:-

11/00190/GDOT	Streetworks monopole supporting antennas to provide 3G radio service for vodaphone and telefonica O2, also ground based equipment housing	Refused	28.04.11

The above application was refused for the following reasons:-

a) 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.

b) 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.

c) In the opinion of the Local Planning Authority, the applicant has failed to demonstrate how the siting of the mast would not detrimentally harm the health of the trees which are considered to significantly contribute to the character and appearance of this section of the Hinckley Road contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Guidance Note 8 on Telecommunications.



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Consultations:-

No objection has been received from:-

Head of Community Services (Land Drainage)
Director of Environment and Transport (Highways).

Burbage Parish Council have objected to the proposal on the following grounds:-

a) close to the school playing field
b) the proposal is in a residential area
c) the proposal is out of keeping and would affect the streetscene
d) members question the size of the trees as shown on the plan and authenticity in relation to the size of the mast.

Site notice was displayed and neighbours notified.

Three letters of objection have been received raising the following concerns:-

a) considerable eyesore to residents and not in keeping
b) the trees will not screen the mast from residential properties and Hinckley Road
c) other sites have not been fully considered
d) would not compliment or enhance the surrounding area
e) would adversely affect occupiers of the neighbourhood
f) alternative sites are within 50m of each other
g) do not have a problem getting a signal and people use broadband from home for internet so does not believe mast is required
h) it is against the law to drive whilst on a mobile phone

i) contrary to Burbage Village Design Statement
j) would be a blight on the residential area and a daily reminder of health risks local residents are facing
k) mast would extend above the height of the trees and during the autumn months when the leaves fall off the trees the mast would be more visually prominent
l) agent has failed to demonstrate detailed knowledge of the area
m) agent has failed to demonstrate that there is a operational need for the mast
n) would create a road hazard as it is shown that an increase in street furniture confuses drivers
o) mast is visible from main habitable rooms resulting in a visual intrusion.

The consultation period remains open at the time of writing and closes on 7 November 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

At the time of writing the report comments have not been received from the Police Architectural Liaison Officer.

Policy:-

Central Government Guidance

Planning Policy Guidance Note 8- 'Telecommunications' states that it is the Governments aim to facilitate the growth of existing telecommunications systems whilst keeping the environmental impact to a minimum. This document gives guidance on how this can be achieved through the planning system.

The draft National Planning Policy Framework was published for consultation on 25 July 2011. The inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report. Officers will continue to advise on the progress of this consultation and update members on that progress.

Local Policy

Local Development Framework Core Strategy 2009

No relevant.

Hinckley and Bosworth Local Plan 2001

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

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

Supplementary Planning Documents

Burbage Village Design Statement- defines the different characteristics of Burbage and provides guidance for new development. The statement describes the Hinckley Road as the main route to the centre of Burbage from Hinckley. The statement continues 'the left side of the road is fully developed but on the right, between the houses, there is the open space of Hastings School Field'. Guidance Note 3 the Street Scene (3.13) states that 'Wherever

possible an improvement in the quality and a reduction in the quantity of the street furniture e.g. telecommunications terminal boxes, is encouraged throughout the village.'

Other Material Planning 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) (England) Order 2001 (GPDO)

Code of Best Practice on Mobile Phone Network Development 2002 gives guidance to both Local Authorities and Code Systems 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 area whether it meets the criteria contained within Part 24 of the GPDO, 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 GPDO. The legislation states that the 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 99 cubic metres (A.1.(l) ii of part 24 of the Order).

In this case the proposal consists of a 15 metre high telegraph pole with the antennas contained with the shroud. The equipment housing would have a volume of 2.3 cubic metres and it is therefore considered that both the proposed monopole and equipment cabinet meet the criteria within Part 24.

As the application complies with the GPDO the Local Planning Authority is restricted to expressing opinion on matters of siting and appearance only.

Appearance

The matters to consider concern the appearance of the mast and ancillary equipment including materials, colour and design. An application for a 10.3 metre high galvanised steel monopole with antennas resulting in a maximum height of 14.8 metres with an associated equipment cabin was refused in March. The first reason for refusal found the proposal unacceptable in terms of the height, insufficient screening and design resulting in unacceptable prominent scheme within the streetscene. The design of the proposal has been amended to look like a telegraph pole, with the antennas enclosed within the diameter of the pole.

It is considered that the proposed changes have resulted in a less utilitarian and functional appearance designed to integrate more into the streetscene.

Siting

The location of the proposal has not been revised under this application. The previous application was refused on the harm caused by the mast to the amenities of neighbouring

residents and impact on the nearby trees, caused in part by the siting of the proposed mast. As the location of the mast has not been altered, the reasons for refusal has not been overcome.

Consideration of other sites

The second reason for refusal on application 11/000190/GDOT refused the scheme on the basis that the applicant has failed to demonstrate that alternative sites have been satisfactorily investigated. The applicant has included a list of five alternative sites they have considered and a brief sentence giving the reason why the site was discounted. The list expands the sites considered and discounted under the previous application by two these being the site at ASP Electro, Sapcote Road, and Field off Sapcote Road discounted as the site is due for redevelopment and the site is significantly lower and therefore technically unsuitable respectively. No further information is provided to clarify why the previous sites were discounted to try and address this reason for refusal.

The applicant has confirmed that the small search areas are to provide a robust level of coverage not only for existing technologies but also looking towards the future and the fourth generation which will be introduced over the next few years. These technologies operate at higher frequencies and the higher the frequency the shorter the reach of the signals.

The Code of Best Practice on mobile Phone Network Development (the code) was jointly developed by representatives of Central and National Government and seeks to provide clear guidance and advice on the delivery of significantly better and more effective communication. Paragraph 27 of the code states that all potential sites within a search area have been considered 'The operator should produce a report detailing all viable site options with recommendations on the relative merits of each'…This should include a rating of each of these sites in line with the operators 'Traffic Light Model for Public Consultation'.

Whilst the traffic light model guides the scale of public consultation undertaken prior to an application being submitted, it provides a useful guide on the sensitivity of the location.

The applicant has considered 5 sites in total however the information submitted does not contain information on the relative merits of each nor any rating in line with the Traffic light model. This information has been requested and will be reported to committee as a late item.

Trees

The third reason for refusal on application 11/00190/GDOT concerns the possible impact of the proposed mast on nearby trees and the lack of information demonstrating that the proposal would not detrimentally harm the trees. This followed comments by the Councils Arboriculture Consultant that the siting of the mast would extend through the canopy of the trees possibly affecting the mast operation and therefore it was recommended that a tree survey and report should be undertaken and a management strategy demonstrating how clearance around the mast would be maintained.

No information has been submitted with this application demonstrating that the mast would not harm the trees adjacent to the proposed installation and overcoming this reason for refusal. It is therefore considered that the comments of the Councils Arboriculture Consultant and reason for refusal from the previous application still stand.

Health

Local residents have raised concerns regarding health matters. PPG8 refers to this issue and states that 'health consideration and public concern can in principle be a material

consideration 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 exposure guidelines for public exposure 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 special 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) reported on 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 guideline 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".

Members will need to consider carefully the weight given to public concerns on the health issues. However, bearing in mind the recent emergent case law the planning system is not considered to be the appropriate forum for determining health safeguards.

Other issues

Objections have been received referring to the proposal causing a distraction and resulting in a hazard to users of the highway. No objection has been received by the Director of Environment and Transport (Highways) and it is not considered that an additional pole and equipment cabin would distract drivers to the extent that the proposal would result in a danger to users of the highway.

Conclusion

Whilst the design and appearance of the mast has been altered in an attempt to assimilate the mast and antenna into the streetscene, it is still considered that this change does not overcome the reasons for refusal on the previous application. It is still considered that the siting and height of the mast would result in a prominent location within the streetscene within a predominantly residential area contrary to the objectives of adopted Policy BE1.

Although further alternative sites have been considered the information submitted does not overcome the previous reason for refusal. The application was not accompanied by any tree report or management strategy that addressed reason for refusal 3 attached to Planning reference 11/00190/GDOT.

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 and insufficient screening result in the proposed installation being unacceptably prominent within the street scene 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 to suitable alternative sites and site sharing options, the applicant has failed to demonstrate that he has adequately 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.

3 In the opinion of the Local Planning Authority, the application has failed to demonstrate how the siting of the mast would not detrimentally harm the health of the trees which are considered to significantly contribute to the character and appearance of this section of the Hinckley Road contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan and Planning Policy guidance Note 8 on Telecommunications.

Notes to Applicant:-

1 List of plans used in the determination of this application:- 100, 200, 300 received 3 October 2011.

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