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TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY VODAFONE (UK) LTD AND TELEFONICA (UK) LTD

PINS REFERENCE: APP/K2420/A/11/2166906/NWF
LPA REFERENCE: 11/00793/GDOT
APPELLANT REFERENCE: CS 18627/VF 81906/O2 049098

PROPOSED TELECOMMUNICATIONS INSTALLATION AT
THREE POTS ROAD, HINCKLEY,
LEICESTERSHIRE, LE10 2PB
(NGR: 443180, 291647)

14 FEBRUARY 2012

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1.0 INTRODUCTION

1.1 An application for Prior Approval for a telecommunications installation comprising an 11.3 metre high monopole supporting six antennae enclosed within a matching shroud to an overall height of 15 metres, with associated equipment cabinets plus ancillary works, was submitted to Hinckley and Bosworth Borough Council (the Council) on 3 October 2011. The Application was registered under reference 11/00793/GDOT.

1.2 The Council refused the application on 17 November 2011 for the following reasons:

The proposal would, by reason of its height, insufficient screening and poor design, 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.

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 street scene, in accordance with the Code of Best Practice on Mobile Phone Network Development 2002.

1.3 Section 2.0 of this statement describes the appeal site and its surroundings, making reference to the relationship of the site with other land uses and the physical characteristics of the area.

1.4 Section 3.0 outlines the background to the appeal, including details of the pre-application correspondence which took place and of the proposals contained within the application for Prior Approval.

1.5 Section 4.0 sets out the planning policy framework relating to the proposed development, including Planning Policy Guidance 8, the draft National Planning Policy Framework and advice contained within the Code of Best Practice on Mobile Phone Network Development, together with the relevant policies of the development plan.

1.6 Sections 5.0 and 6.0 explain the technical justification for the proposed installation and the alternative sites that were considered in this case. It will be demonstrated that the appeal site is the most appropriate in terms of providing the required level of coverage balanced with an acceptable degree of impact on the amenities of the locality.

1.7 Section 7.0 provides an assessment of the Council's reasons for refusing the application. An evaluation of the impact of the proposal will be provided along with matters contained within the relevant development plan policies.

1.8 Our conclusions, contained in section 8.0, will confirm, inter alia, that the proposal will not have an adverse impact on the amenity of the locality and will meet the criteria of the relevant national and local planning policy.

2.0 THE APPEAL SITE AND ITS SURROUNDINGS

2.1 This appeal relates to the proposed installation of an 11.3m high brown 'telegraph pole' styled monopole, supporting six antennae within a matching GRP shroud to an overall height of 15m, a green steel equipment cabinet measuring 1.898m x 0.798m x 1.648m and a green steel electrical meter pillar measuring 0.379m x 0.171m x 0.872m, plus ancillary works, on land at Three Pots Road, Hinckley. The design and siting of the proposal was indicated on the drawings submitted to the Council in support of the application.

2.2 The site is located on an area of grass verge, on the southern side of Three Pots Road, to the east of its junction with Wolvey Road. To the rear of the site there is an area of open land adjoining the busy B4109 Rugby Road. The site therefore lies at the edge of what is a densely developed residential area.

2.3 A mature hedge and tree are located to the rear of the site which, together with street lighting columns and a bus shelter, provides a visual context for the installation.

3.0 BACKGROUND TO THE APPEAL

3.1 Telefónica (UK) Limited has entered into a network sharing agreement with Vodafone Limited, pursuant to which the two companies plan to share network equipment on a number of sites across the UK. A joint project team called Cornerstone has been created, comprising Vodafone and Telefónica employees, to oversee these arrangements.

3.2 This agreement allows both organisations to consolidate the number of base stations required through sharing, which is in accordance with Government policy, and therefore significantly reduce the environmental impact of network development. The Appellants' approach of facilitating mast sharing by operators, thereby minimising the proliferation of such installations, has been acknowledged as desirable in recent appeal decisions relating to proposals similar to that currently under consideration.

3.3 The Appellants are seeking to enhance the provision of 3G mobile phone coverage to both current and potential customers across the UK. The proposal subject of this appeal would provide high quality 3G coverage to an area of Hinckley that currently has a coverage deficiency. A full search of the area of coverage deficiency was undertaken in order to find the most suitable option in terms of providing the required level of coverage, having a willing site provider and minimising impact on the character and amenity of the area.

3.4 Following the initial search, and the refusal of a Prior Approval application for a site on the opposite side of Three Pots Road, it was considered that the proposed siting of the installation subject of the appeal would be the most appropriate option in terms of addressing the above constraints.

3.5 The Appellants submitted rollout information to The Council during October 2010 and no specific issues were raised as a result. Site-specific consultation was then carried out with the Council in August 2011. In response the Council indicated a desire to consult directly with Ward Members and the Parish Council, but offered no comments on the merits of the proposal. However, the reasons for refusal of the previous application were taken into account in seeking an appropriate siting and design for the appeal proposal.

3.6 Additional community consultation was also carried by the Appellants. There are no schools within the vicinity of the site, but a voluntary site notice was posted inviting comments from local residents and other stakeholders. No responses were received to this consultation. The application subject of this appeal was submitted to the Council on 3 October 2011. The decision notice was issued on 17 November 2011.

4.0 RELEVANT PLANNING POLICY

General Permitted Development Order

4.1 As licensed Telecommunications Code Systems Operators, the Appellants benefit from certain permitted development rights as set out in Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, which was amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 (GPDO). Development that exceeds the limitations or conditions set out within this legislation would be subject to a full planning application. The proposal subject of this appeal would benefit from permitted development rights, subject to the Council granting Prior Approval for its siting and appearance, or determining that such Approval would not be required.

Planning Policy Guidance 8: Telecommunications

4.2 Published in August 2001, Planning Policy Guidance 8 (PPG 8) provides a national planning policy framework for development connected with telecommunications and the growth of the telecommunications industry. PPG 8 also provides advice on taking account of health considerations when making planning decisions on telecommunications development.

4.3 Paragraph 1 of PPG 8 explains that the Government's policy is to facilitate the growth of new and existing telecommunications systems, whilst keeping the resultant environmental impact to a minimum. Material considerations include the significance of the proposed development as part of a national network and authorities should not question the need for the telecommunications system that the proposed development is required to support.

4.4 Paragraph 7 states that each telecommunications system has differing antenna types, siting needs and characteristics and that Local Planning Authorities should have 'regard to any technical constraints on the location and proposed development'. The proposal subject to this appeal seeks to provide 3G coverage to the surrounding area as detailed in Section 5.0 of this statement.

4.5 Paragraphs 19 to 21 are concerned with mast sharing and state that, in order to limit visual intrusion, the Government attaches considerable importance to keeping the numbers of radio and telecommunications masts, and of sites for such installations, to a minimum. As detailed in Section 6.0 of this statement there were no suitable existing masts within the search area for the installation of equipment for the Appellants. However, the Appellants' dual-user approach to this proposed site will

mean that only one mast will be required to provide coverage for both operators in this area.

4.6 Paragraphs 24 to 28 address the promotion of innovative design solutions. In particular paragraph 24 notes 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.' In this case, the proposed monopole and cabinet design are similar to other forms of street furniture, such as traditional telegraph poles, commonly seen in such roadside locations, including close to the appeal site in Wolvey Road.

4.7 Paragraph 53 advises that Local Planning Authorities should have regard to any technical constraints and the need for the development in making their decision as the significance of the proposed development as part of the national network can be a material consideration. The Appellants' lack of existing coverage in this area would mean that the proposal subject of this appeal would form a significant part of their network. Previous appeal decisions have acknowledged the benefits that can arise from the establishment of an effective telecommunications network.

4.8 Paragraph 64 relates to environmental considerations and comments that masts and antennae often require particular operating heights which allow signals to clear urban clutter and to work effectively. Such is the case at the appeal site where the antennae are required to be at the proposed height in order to provide adequate coverage across the target area.

4.9 Paragraphs 12 and 13 of Annex 1 to PPG 8 provide guidance regarding the siting and appearance of telecommunications facilities. Factors the Council should consider when assessing applications for ground based masts include:

- the height of the site in relation to surrounding land;
- the existence of topographical features and natural vegetation;
- the effect on the skyline or horizon;
- the site when observed from any side;
- the site in relation to areas designated for their scenic or conservation value;
- the site in relation to existing masts, structures or buildings, including buildings of a historic or traditional character;
- the site in relation to residential property; and
- any other relevant considerations.

Code of Best Practice

4.10 The Code of Best Practice on Mobile Phone Network Development (the Code) was published in November 2002 and produced jointly by all mobile phone network operators and representatives of Central and Local Government. The Code provides clear and practical advice to ensure the delivery of effective communication and consultation between operators, local authorities and the local community.

4.11 Paragraph 122 of the Code recommends that the design and layout of an installation must be informed by its context and this should also inform the character and identity of the development. Paragraphs 140 to 145 identify general design principles, in which camouflaging or disguising equipment is considered appropriate. In reducing the environmental and visual impact of a ground based installation, the Code promotes the use of simple and uncomplicated designs.

4.12 Paragraph 148 is relevant to the erection of new ground based masts and explains that there will be instances where there is no feasible alternative to a freestanding mast, and there are many means by which the environmental and visual impact of a ground based mast can be greatly reduced. These means would include:

- placing a mast near to similar structures for example industrial and commercial premises, road signs, lamp posts;
- placing a mast within an existing group of trees;
- using simple and unfussy designs; and
- appropriate colouring.

4.13 The Code highlights that there are many factors other than planning and environmental considerations affecting the suitability of a site for a telecommunications installation. The principal other factors involved in assessing the suitability of a site are:

- Access: Required for both construction and subsequent routine maintenance;
- Electricity supply;
- Technical suitability: Each site is developed to perform a specific task, such as filling a gap in existing coverage. Each site therefore needs to be located where it can perform its specific required task;
- Health and Safety: All sites must be designed to ensure compliance with ICNIRP public exposure guidelines;
- Agreement with property owner: The operator must reach agreement with the owner before installing any equipment on their land or property.

Development Plan Policies

4.14 Section 38(6) of the Planning and Compensation Act 2004 requires that planning decisions should be made in accordance with the development plan for the area, unless material considerations indicate otherwise. The development plan should therefore be the starting point for assessing a proposal's suitability in planning terms. The relevant development plan in this case is the Hinckley and Bosworth Local Plan (Adopted in 2001).

4.15 The relevant Local Plan policy, cited in the Council's reason for refusal, is Policy BE 1. This policy is not telecommunications-specific but rather aims to promote good qualities of design for all types of development.

4.16 Omitting those criteria that are only relevant to residential development, Policy BE 1 states that:

The Borough Council will seek to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development:

a. complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;

b. avoids the loss of open spaces, important gaps in development, vegetation and features which contribute to the quality of the local environment;

c. has regard to the safety and security of both individuals and property;

d. incorporates design features which reduce energy consumption, encourage recycling and minimise the impact of the development on the local environment;

e. incorporates landscaping to a high standard where this would add to the quality of the design and siting;

f. to which the general public would have access, has regard to the needs of wheelchair users, other people with disabilities, elderly people and those with young children;

g. ensures that there is adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors, and manoeuvring facilities;

h. is not adversely affected by activities in the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development;

i. does not adversely affect the occupiers of neighbouring properties; and

j. the development of the site is not prejudicial to the comprehensive development of the larger area of land of which the development forms part.

4.17 Whilst some of the criteria listed in Policy BE 1 do not apply to this proposal, the development will complement the character of the surrounding area with regard to scale, layout, density, mass, design and materials and architectural features and avoid the loss of open spaces, important gaps in development, vegetation and features which contribute to the quality of the local environment, and will not adversely affect the occupiers of neighbouring properties.

National Planning Policy Framework

4.18 Although still in draft form, the emerging National Planning Policy Framework (NPPF) is a material planning consideration in determining this appeal. Paragraphs 96 to 99 refer specifically to telecommunications development.

4.19 The NPPF advises that advanced, high quality communications infrastructure is essential for economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. The Government's objective for the planning system is to facilitate the growth of new and existing telecommunication systems in order to ensure that people have a choice of providers and services, and equitable access to the latest technology.

4.20 The NPPF advises specifically that Local Planning Authorities should not question whether the service to be provided is needed nor seek to prevent competition between operators, but must determine applications on planning grounds.

5.0 TECHNICAL JUSTIFICATION

5.1 The installation is required to provide high quality 3G services to a predominantly residential area, and will also provide coverage to the local highway network.

5.2 The proposed site will allow the Appellants to offer 3G high speed data access and 3G video telephony services to customers in these areas. In addition to voice services, 3G technology enables the Appellants to offer high resolution video and multi-media applications. Among other things this enables office services, virtual banking, e-retailing, video conferencing and high quality broadband internet access to be provided to users at home and on the move.

5.3 Ofcom's most recent annual report on the Communications Market, published in August 2011, indicates that the take up of mobile voice telephony is now greater than that for fixed-line services in all parts of the UK.

5.4 Due to the increased data transfer, the siting of 3G base station sites is even more critical than the 2G system. Base stations must be located where local demand exists in order to provide the required levels of service; otherwise the network will not function.

5.5 General Information on the technical issues surrounding the development of telecommunications networks was submitted with the application subject of this appeal, as were a set of site-specific coverage plots, which illustrate the need for an installation at this location, in order to provide 3G coverage to the surrounding area. Separate plots illustrate the existing levels of 3G coverage for each operator in the area, with further separate plots providing a comparison by showing the levels of coverage that each operator would achieve from the proposed installation.

5.6 These plots clearly demonstrate the improvement to the 3G coverage network that would arise from the appeal proposal and, furthermore, illustrate that the proposed coverage would fit in well with the appellants' existing 3G coverage in the surrounding area. The plots are colour-coded in order to illustrate varying qualities of existing and predicted coverage.

5.7 The pink and orange colouring indicates areas that benefit from high quality 'dense urban' and 'urban' 3G coverage. The absence of this colouring in the 'existing' plots indicates that the majority of the target area for the proposed installation currently only benefits, at best, from an 'in car' or 'outdoor' quality of coverage for O2 customers (illustrated by the green and yellow colouring), and no coverage at all for Vodafone customers. This low level of coverage will not allow people to make use of the 3G

network when they are inside buildings and will not have capacity to allow a large number of users to access the 3G network at one time.

5.8 The installation subject of this appeal would provide high quality 'dense urban' and 'urban' coverage to the area immediately around the site (including the M69 motorway to the south) and 'suburban' coverage quality to surrounding areas beyond. This would also link into existing 3G coverage, thereby supporting continuous coverage across this part of Hinckley and minimising the need for further infill sites. It is noted that the Council's refusal notice does not question the need for the proposed site, or the technical justification provided. The Council therefore evidently accepts there is such a technical need in this case.

5.9 The antennae at the top of a telecommunications installation need to be positioned at a greater height than the physical and natural features surrounding it. This greater height is essential in order to avoid the coverage from the site being blocked or clipped by those surrounding features, which would result in gaps in coverage to the target area and a consequent impact on the technical justification for the installation for the site. This principle has been established in previous appeal decisions.

6.0 SITE SELECTION

6.1 The Appellants' site selection strategy is to keep overall environmental impact to a minimum and reduce the proliferation of mast sites. The Cornerstone concept allows mast sharing to be considered in all cases, as indeed is the case with the current proposal. However, even in cases such as this, new sites for a shared installation are only progressed where there are no viable or accessible alternatives, or the Local Planning Authority has indicated a preference for this approach.

6.2 Prior to the identification of Greenfield sites, the sequential approach to site selection commences with a review of existing operators' sites that could be upgraded, then an assessment of other operators' installations that could be shared, before tall buildings or structures within the search area are investigated as to their availability and technical and practical suitability. Efforts are made to identify the least intrusive solution and wherever possible to avoid buildings and land subject of landscape or heritage designations.

6.3 In the case of streetworks installations, there are a number of criteria that need to be considered when identifying a suitable location for a site. These criteria have a direct influence over the locations at which an installation can be sited, and if any one cannot be fulfilled then the location will be unsuitable. These criteria are set out below:

- Land Ownership: It is necessary to obtain the agreement of a landowner prior to installing equipment on their land. Most land immediately adjacent to a highway will have been adopted by the Local Highway Authority. However, this is not always so and in other cases it would be necessary to seek the consent of the landowner;
- Underground Services: The presence of underground services (such as water and gas pipelines or electricity and telecommunications cables) restricts the siting of an installation due to the requirement for the foundations to avoid these services. Furthermore, it is necessary for the utility companies to maintain access to these services;
- Overhead Services and Street Lighting Columns: Siting of an installation can be restricted due to the presence of overhead cables and the proximity of existing lighting columns, as sufficient vertical and horizontal separation is required to allow the proposed antennae to comply with ICNIRP requirements;
- Footpath Width: Once the equipment is installed, sufficient space must remain to allow pedestrians (including those with pushchairs) and wheelchair users to pass safely, without having to move in to the adjacent road;

- Access Requirements: Equipment must not obstruct access to driveways, cycle lanes and pedestrian crossings;
- Visibility Splays: Equipment must be sited in a manner that does not have a detrimental impact upon the visibility splays of traffic emerging from road junctions and other access routes.

6.4 In the case of the appeal site the Appellants undertook an inspection of the area of search, in accordance with PPG 8 and the Code. The search area covers a predominantly residential area, where there are few significant areas of other land use or tall buildings or other structures where an installation could be sited.

6.5 In support of the application details were submitted to the Council demonstrating that other options were considered in this case but there were none available that would result in a better balance between the Appellants' coverage requirements and environmental considerations.

6.6 The alternative sites considered and discounted were as follows:

Streetworks on north side of Three Pots Road (NGR: 443171, 291668)
An application for Prior Approval for an installation in this location was refused by the Council, for similar reasons to those cited in the refusal of the appeal proposal. In comparison, the appeal proposal is located further from residential properties, benefits from an improved natural backdrop and has been redesigned as a replica 'telegraph pole', which is lower in height and considered more appropriate in this urban edge environment.

Adjacent to Texaco Garage (NGR: 443219, 291192)
There is insufficient space available to accommodate an installation here.

Harvester Inn, Watling Street (NGR: 443173, 291639)
There is no opportunity for screening in this location and, in any case, there is insufficient space available to accommodate an installation here.

Pylon to south of Watling Street (NGR: 442960, 290880)
This pylon is located outside the search area and an installation here would not provide the required coverage to the target area.

Land south of Watling Street (NGR: 443087, 291285)
This land (principally within the jurisdiction of Rugby Borough Council) is designated as Green Belt and thus the selected site is considered preferable in planning terms.

6.7 Following the refusal of the application subject of this appeal, consideration has also been given to the following additional options:

Hinckley Island Hotel
This existing T-Mobile site is outside the search area and an installation here would not provide the required coverage to the target area.

Land south of Three Pots Road
Trees around this land would be likely to interfere with coverage unless a taller, bulkier and therefore more intrusive mast was installed. Furthermore, ground conditions appear to be such that access to, and construction of, an installation might not be possible.

6.8 Having reviewed all the options it is considered that, given the extent of surrounding residential land use, the appeal site remains the most appropriate available in terms of minimising impact on the character and visual amenity of the surrounding area, whilst also providing the required level of coverage.

6.9 Notwithstanding the above, the purpose of considering alternative sites is to limit harm by seeking to identify less detrimental locations in circumstances where an adverse effect is outweighed by the need for the proposed development. However, where there is an absence of harm, as is the case with the appeal proposal, this purpose is nullified and the question of availability of other sites does not therefore arise.

7.0 COMMENTS ON THE REASONS FOR REFUSAL OF THE APPLICATION

7.1 As noted in paragraph 1.2, the Council's contention is that the proposal would be contrary to Policy BE 1 of the Hinckley and Bosworth Local Plan and would not accord with the Code of Best Practice on Mobile Phone Network Development.

7.2 The Council's view is that the proposal would, by reason of its height, insufficient screening and poor design, 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.

7.3 This conclusion is in direct conflict with the Council Officers' professional opinion, as stated in the report to Members on the appeal proposal: 'The appearance of a mast designed as a telegraph pole is considered in keeping with the character of the area and whilst the height of the mast would be greater than that of a standard pole, this in itself is not a reason for refusal'.

7.4 In the further opinion of the Council, the Appellants have failed to demonstrate that they have adequately undertaken a satisfactory investigation of other sites that might be technically suitable and would have less impact than the appeal proposal on the surrounding area and street scene. This is again in conflict with the Council Officers' professional opinion, this time as stated in the addenda to the report to Members: 'It has been satisfactorily demonstrated that alternative sites have been considered'.

7.5 As noted above, the site is located to the north of an area of open land adjoining the busy B4109 Rugby Road. The site therefore lies at the edge of what is a densely developed residential area.

7.6 Mature trees located to the rear of the site will provide screening and a backdrop to the installation when it is viewed from various directions. Furthermore, the siting of the installation is such that it will be viewed within the context of other vertical features, such as street lighting columns and a bus shelter. The cabinets are of a relatively small size and are of a design similar to that of other items of street furniture commonly seen in such urban roadside locations, including within the vicinity of the site.

7.7 The fact that a development is visible does not mean that it is automatically detrimental. In this case the existing vegetation and street furniture would provide a visual context to the proposal, as well as

providing screening and a backdrop when the installation is viewed from various angles.

7.8 The proposal is of a simple and clean design and will not appear unsightly or intrusive. The mast is of a relatively slender, simple and uncluttered design and would have a similar finish to a traditional 'telegraph pole', which would assist in assimilating the installation with its environment. The equipment cabinets will be of an unobtrusive size and painted green to minimise their visual impact. The proposal therefore reflects the design of traditional street furniture, an approach that is by now widely accepted in urban areas.

7.9 Whilst any new structure will have a degree of impact on the visual quality of its surroundings, the proposed installation will not appear incongruous within the context of an urban-edge roadside. Moreover, the mast will be located on the opposite side of the road to residential properties and would not appear dominant or overbearing in views from these dwellings.

7.10 It is acknowledged that the antennae at the top of the proposed installation will be at a greater height than many of the physical and natural features surrounding it. As noted in paragraph 5.9, this is essential to avoid the coverage from the site being blocked or clipped by these features.

7.11 This would result in gaps in coverage to the target area and a consequent impact on the technical justification for the installation for the site contained in Section 5.0. Paragraphs 64 and 74 of PPG 8 acknowledge that masts and antennae can require a particular operating height, which allow signals to clear trees and urban clutter and thus fulfil the role of the installation within the wider network.

7.12 The Appellants' dual-user approach is supported by paragraph 66 of PPG 8, which 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. The sharing of masts and sites is strongly encouraged where that represents the optimum environmental solution in a particular case'.

7.13 In accordance with paragraph 77 of PPG 8, the operators have utilised an innovative design solution in that the shape, materials and colouring of the mast resemble that of other street furniture commonly seen in such urban roadside locations, inclusion within the vicinity of the site.

7.14 The Officer's Report to Members on the appeal proposal concludes: 'It is considered that the design, reduction in height of the mast and re-siting of the proposal...overcomes the reasons for refusal' of the previous scheme.

This is also the view of the Appellants and supports their contention that the siting and appearance of the appeal proposal is acceptable in terms of amenity. The proposal clearly follows the principle of using innovative designs to reflect the appearance of existing vertical features within the local street scene.

7.15 As set out in Section 6.0, a range of alternative options have been investigated by the Appellants and were discounted for valid and sustainable reasons. Information regarding these options was provided to the Council at both submission stage and in response to a request for further information during the application process.

7.16 Notwithstanding this, it is in any case contended that it is not necessary to consider alternative options as a material planning consideration, but rather it may be appropriate as a method towards seeking to identify the best environmental solution. The assessment of alternative options is only necessary if the proposal under consideration is unacceptably harmful in amenity terms. The relevance of any alternatives is limited if the selected option is broadly acceptable in environmental terms. The latter is the case with the appeal proposal and (as noted above) this has been acknowledged by Council Officers.

7.17 This principle is clearly set out in R (Scott Jones and Thomas Howell) v North Warwickshire Borough Council (Court of Appeal) 2001:

'Consideration of alternative sites would only be relevant to a planning application in exceptional circumstances. Such circumstances would particularly arise where the proposed development, though desirable in itself, involves such conspicuous adverse effects that the possibility of an alternative site lacking such drawbacks necessarily becomes, in the mind of the reasonable local authority, a relevant planning consideration.'

7.18 The principle has also been upheld in a previous planning appeal decision relating to an installation in Formby (PINS reference: APP/M4320/A/09/2097656):

'One of the Council's reasons for refusal relates to concerns that the Appellant did not undertake an adequate assessment of alternative sites. The purpose of such a consideration is to limit harm by seeking to identify less detrimental locations in circumstances where an adverse effect is outweighed by the need for the proposed development. However, where there is an absence of harm, as in this case, the purpose is nullified and the availability of other sites is not therefore a factor that weighs against the current proposal.'

7.19 Both the Appellants' approach of facilitating mast sharing by operators, thereby minimising the proliferation of such installations, and the use of designs that imitate traditional street furniture have been acknowledged as desirable in recent appeal decisions relating to proposals similar to that currently under consideration.

8.0 CONCLUSIONS

8.1 Without the installation subject of this appeal, there would be a significant gap in 3G coverage in this area. The significance of the development within the 3G network is a material consideration as the site is required in order to contribute towards the Appellants' national network.

8.2 The proposed installation is certified as meeting the ICNIRP guidelines for public exposure and it is not therefore necessary to further consider health aspects, concerns or fears in determining the suitability of the proposal in planning terms.

8.3 A full and exhaustive search of the locality was undertaken before the proposal at the appeal site was progressed. The Appellants have therefore demonstrated that there are no more appropriate alternative sites available within or close to the proposed area required for 3G coverage, and the Appeal has been submitted by a professional planner under the normal duty to act with competence, honesty and integrity.

8.4 The proposal would not result in a form of development that would be unacceptably prominent within the street scene and on the skyline, cause an unsatisfactory visual impact or be detrimental to the character and appearance of the area or neighbouring amenities.

8.5 The report of the Council's professional officers indicated that the issues associated with the previous refusal of telecommunications development in this locality have now been satisfactorily overcome and, accordingly, recommended approval of the appeal proposal. Whilst Members exercised their democratic right to overturn this recommendation, the reasons behind this decision are in direct conflict with the officers' advice and have been shown to be unsustainable.

8.6 The proposal fully accords with PPG 8, the Code, Local Plan Policy BE 1 and the NPPF. The Council's reasons for refusal of the application cannot therefore be justified and the Inspector is respectfully requested to uphold this appeal and grant approval for the proposed installation

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22nd February 2012

Dear Sirs

Appeal Ref APP/K2420/A/11/2166906/NWF – Phone Mast Three Pots Road Burbage

I am writing as a Borough Councillor for Burbage (Sketchley & Stretton) Ward to oppose the above appeal which concerns a site in the ward. The appellant has been active in trying to erect phone masts in the area for over 12 months, and on 22nd March 2011, I arranged and chaired a public meeting to consider proposals, which at that time included a mast on the other side of Three Pots Road and also one in Rugby Road. Although the appellant and consultants attended the meeting, I was disappointed that they failed to explain to the satisfaction of residents the need for these masts, or to justify the positions that they were proposing. The meeting was attended by about 150 residents and they were united in opposing the siting of both masts. The position of the one at Three Pots Road has now been moved to the opposite side of the road, but from my conversations with residents, this in no way reduces their opposition to the proposed mast. I spoke at the hearing of this application at the Borough Council's Planning Committee against this application, which was refused by the Committee. I would be grateful if my comments in this letter could be included in the written representations to be considered by your Inspector in connection with this appeal.

My first ground of objection concerns the appearance of the proposed mast and its effect on those living in proximity to the site. It will be on a corner where two busy roads meet and which is opposite the Post Office and shops which are a focal point for this community. At 15 metres in height it will dominate this area and will in my opinion be visually obtrusive for all visitors to the area, but particularly for the residents of houses in Wolvey Road and Briarmead. The appellants claim that there is increased tree cover on this side of the road, but the bushes immediately to the south of the site are only about 7 metres in height with one tree to the south east being just below the height proposed for the mast. All are deciduous and in no way obscure or reduce the impact of the proposed mast which will be clearly visible from three sides. It is also likely to distract motorists using this junction. The equipment box will also be unsightly, being more than five feet in height, which will dwarf any other items in the vicinity.

In addition I believe that the Appellant has failed to consider alternative sides sufficiently. 5 sites have been investigated and rejected. At least one of these requires reconsideration as the verge on the A5 outside the Harvester Inn is no more prominent in the street scene than the appeal site. The appellant states that the Three Pots Road site is the only suitable location in Burbage, but I strongly disagree. As far as I can see, the appellant has not defined the area of search but based on the sites he has investigated and rejected, I would suggest the following :-

1. Layby on the west side of Rugby Road (B4109) between junctions with Three Pots Road and A5.
2. Layby on the east side of Rugby Road as above.
3. Electricity pylons to the east of Rugby Road as above.
4. Barcelo Island Hotel – already used by other mobile phone companies.
5. The island at the junction of the M69 and the A5.
6. The north end of the Sketchley Fields industrial estate.

7. Sketchley Grange Hotel.
8. The railway embankment to the north of Burbage and industrial premises adjacent thereto.

These are by no means exhaustive but any of these would provide less intrusion into residential areas than the proposed site.

Finally, I find it difficult to understand exactly what the appellant is trying to achieve. He has not produced any evidence that mobile phone coverage in the west of Burbage is in any way unacceptable. In many years of being active in local politics, I have not received any complaints that mobile phone coverage in the area is in any way defective. I use T Mobile and find their coverage to the above address presumably from the Barcelo Island Hotel mast to be fine. At the public meeting in March 2011, the appellant's representatives seemed to indicate that the additional coverage was required for new technology and for motorists passing through the area. If this is true it means that residents are to be penalised for the benefit of casual visitors. The appellant has made various other applications in the Burbage and Hinckley areas which have been refused and not pursued If it is felt that Cornerstone's coverage in the area is inadequate for the new services that are emerging, they should discuss this with the local planning authority and the other major mobile phone providers to ensure that as few masts as possible are erected, and that these are as far as possible provided adjacent to motorways or trunk roads or in commercial areas. A proper co-ordination of services would be beneficial for all.

I would be grateful if you would take my views into account when considering this appeal.

Yours faithfully

David W. Inman

Councillor David W. Inman LLB,
Borough Councillor, Burbage (Stretton and Sketchley) Ward
Burbage Parish Councillor, Tilton Ward.

106 Wolvey Road
Burbage'
Hinckley
Leicestershire LE 10 2JJ

29th January 2012

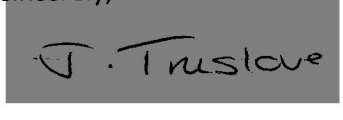
Debbie Smith
The Planning Inspectorate;
3/20 Wing,
Temple Quay House,
2 The Square,
Temple Quay,
Bristol,
BS1 6PN

Appeal Ref: APP/K2420/A/11/2166906/NWF

Dear D. Smith,

I am writing to state my strong objection to the mast application as per your reference above. This application has been before the local planning authority and rejected on both occasions as totally unacceptable. As far as I am aware there has been no change in the circumstances so I cannot therefore understand how this can now be approved.
At all the meetings that I attended it was pointed out that these phone masts cannot be built by or near to schools or nursery's because of health and safety, I am a registered childminder at my home which is not even 100 yards away and faces the mast. There is also 3 other childminders on the Three Pots Estate who will also have to pass by the mast at least twice a day going back and forth to schools and playgroups, one school is very close to the three pots.
So I am very concerned about this new proposal and would hope that it will be refused for the third and final time.
There are a lot more places that are not in a built up area which would bemore appropriate than on an residential estate such as this and would not cause health and safety issues.

Yours sincerely,



Mrs. J. Truslove.

Smith, Debbie

From: samjul1leo@aol.com
Sent: 24 January 2012 10:07
To: Team P16
Subject: Re: Appeal Ref: APP/K2420/A/11/2166906/NWF

Dear Sir/Madam

We are writing in response to the above appeal reference concerning the proposed development by telecommunications code system operators for a telecommunications installation in the Three Pots area of Burbage.

We are strongly against any such installation. The propsed site is in the middle of a housing estate, on a thoroughfare for children walking to Sketchley Hill Primary School and indeed within a very short walk to the school. Not only would such an installation be unsightly, it would be too close to local houses and put the health of the local people at risk.

The Sketchley Industrial Estate is within local proximity and would be a much more suitable place to house such an installation if required.

Re : Appeal Ref : APP/K2420/A11/2166906/NWF

Julia and Sami Aziz

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Smith, Debbie

From:	Tony Eyrl [tony.eyrl@sky.com]
Sent:	21 February 2012 12:25
To:	planning@hinckley-bosworth.gov.uk
Cc:	Team P16
Subject:	Appeal Ref: APP/K2420/A/11/2166906/NWF - Documents Submitted Online To Planning Inspector
Attachments:	Submission Text.pdf; Residents Observations and Commentary v1.pdf; Appendix VII Signatory List v1.pdf

Re: Vodafone/Telefonica Application Appeal relating to land at Three Pots Road, Burbage

My name is Tony Eyrl and I represented the views of local residents at the Planning Meeting on 15th November 2011 at which this proposal was originally rejected.

There remains strong feeling amongst local residents that this development should not be allowed to proceed. Consequently I have prepared the attached documents on their behalf and I have submitted electronic copies under this case on the Government Planning Portal this morning.

If you require any further details then please contact me.

With thanks

...Tony Eyrl

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The Planning Inspectorate

Further information on us and the planning appeal system can be found on our website www.planning-inspectorate.gov.uk

For official use only
(Date received)
21-Feb-2012 12:06

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable for it. This can be found in the notification letter sent out by the local planning authority or the start date letter for it.

Comments submitted after the deadline may be considered invalid and returned to sender.

DETAILS OF THE CASE

Case Reference: **APP/K2420/A/11/2166906**

Address of site: Land at Three Pots Road
Hinckley, Leicestershire

Postcode:

Grid Reference: Easting: 443180 Northing: 291647

SENDER DETAILS

Name: Mr Anthony Eyrl

Acting On Behalf Of: Local Residents of Three Pots Area

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case? Interested Party / Person

What kind of representation are you making? Interested Party/Person Correspondence

YOUR COMMENTS ON THE CASE

Please provide your representation below.

There is strong feeling amongst local residents that this development should not be allowed to proceed. I was responsible for presenting their case at the Planning Meeting on 15th November 2011 at which the proposal was rejected.

I attach a copy of a document which summarises our key objections to the proposal. This document has 197 signatures of support.

If you require any further details then please contact me.

****
* The Documents Listed Below Were Uploaded With The Comments Form *
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YOUR COMMENTS ON THE CASE (Continued)

TITLE: Representation
DESCRIPTION: Residents Objections
FILENAME: Residents Observations and Commentary v1.pdf

TITLE: Representation
DESCRIPTION: Signatory List
FILENAME: Appendix VII Signatory List v1.pdf