The Planning Inspectorate

Appeal Decision

Site visit made on 24 April 2012

by Andrew Jeyes BSc DipTP MRTPI

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

Decision date: 22 June 2012

Appeal Ref: APP/K2420/A/11/2166906
South side of Three Pots Road, Burbage, Hinckley, Leicestershire LE10 2PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Vodafone (UK) Ltd / Telefonica (UK) Ltd against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 11/00793/GDOT, dated 30 September 2011, was refused by notice dated 17 November 2011.
- The development proposed is a telecommunications mast: 15-metre replica telegraph pole with ancillary development.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal was determined prior to the publication of the National Planning Policy Framework [the Framework], which now provides the current national policy background in relation to development. Both the Council and the appellants have been consulted on the Framework. The appeal has been determined taking account of the new national policy background established by the Framework.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the area and neighbours' amenity, and whether alternative sites have been fully considered.

Reasoning

Background

4. The thrust of the Framework is to encourage the development of telecommunications networks, whilst aiming to keep the number of masts and sites to a minimum consistent with the efficient operation of the network. It further advises that existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. The Framework also attaches great importance to the design of the built environment and identifies good design as a key aspect of sustainable development, with one of the core principles being always to seek to secure high quality design. Advice is provided in a Code of Best Practice[1] on how to sensitively deliver the infrastructure needed for modern telecommunications systems.

5. Specific policy relating to telecommunications in the Hinckley & Bosworth Local Plan 2001 [LP] has not been saved, but saved LP Policy BE1 seeks a high standard of design

[1] Code of Best Practice on Mobile Phone Network Development.

to safeguard and enhance the existing environment. This policy is consistent with the Framework and therefore carries substantial weight. Supplementary Planning Document: *The Burbage Village Design Statement* [SPD] was developed by Burbage Parish Council and adopted by the Borough Council in 2006 as part of its Local Development Framework. This guidance, as adopted SPD, carries considerable weight. Guidance Note 3 of the SPD seeks, wherever possible, an improvement in quality and a reduction in quantity of street furniture, including telecommunication terminal boxes.

6. The Council has not questioned the need for an installation and the appellants' coverage plots indicate a lack of acceptable coverage over this part of Burbage that the proposal would largely overcome. This need weighs in favour of the appeal. A previous application for a 17.5-metre high mast on the opposite side of the road has been refused permission.

Character and Appearance and Neighbours' Amenity

7. The proposed site is part of the verge on the southern side of Three Pots Road, a link road between Rugby Road, which leads to the centre of Hinckley, and Wolvey Road, which serves a substantial residential area as well as connecting to the A5 Watling Street. The site is adjacent to a footway that cuts the corner of Three Pots Road and Wolvey Road. There is a bus shelter sited against the overgrown hedge at the rear of the footway some 12 metres to the west of the proposed mast. Modern housing backs onto Three Pots Road on the opposite side. There are lighting columns of some eight metres height aligned with the highway along the southern side of Three Pots Road, including a column in front of the bus shelter. The nearby residential area also has street lighting columns and there are two wooden telegraph poles in the vicinity of similar height to street lighting columns.

8. The proposed mast would have an overall height of 15 metres, which includes a set of three antennas for each operator. The design, with a brown GRP finish, would reflect that of a normal telegraph pole. The height of the proposed mast would not reflect that of nearby telegraph poles or adjacent streetlights, being almost twice as high. It would also project above general background vegetation, although there are a few higher trees within the vicinity. Whilst the mast would be of a camouflage design, its proportions would not reflect other telegraph poles in the area. The mast would appear as a prominent feature within the street scene that would have a poor visual relationship to existing street furniture.

9. There is a line of vegetation along the southern side of the highway, which extends around the corner along Wolvey Road, which would provide a degree of screening from the south. However, the proposed mast would be open to full view from properties sited around the junction of Three Pots Road, Wolvey Road and Herald Way, and prominent in views from the rear of properties on the opposite side of the road. There is no effective screening from these viewpoints and the proposed mast would be sited in a position where vegetation would only provide a limited backdrop.

10. The equipment cabinet would be sited close to the carriageway within the highway verge. It would be 1.8 metres long by 1.6 metres high and it is proposed to paint it green. There would be an associated meter pillar. The cabinet would be sited in isolation on the verge, forward of background vegetation, and would stand out as a distinct street furniture feature at the edge of the carriageway that would not be screened or assimilated into the street scene.

11. For the above reasons, the proposal would harm the character and appearance of the local area and impinge on neighbours' amenity contrary to saved LP Policy BE1 and the Framework. This would also conflict with the intentions of SPD.

Alternative Sites

12. The Framework indicates that evidence should be submitted that the appellants have explored the possibility of erecting antennas on an existing building, mast or other

structure. Other options were considered by the appellants and these are listed in the submission. All, except the site previously refused permission on the opposite side of the road, are outside of the search area defined by the appellants and short reasons are given for their lack of suitability. Two further options were considered by the appellants in their appeal submission; Hinckley Island Hotel, which is outside the search area and which would not provide sufficient coverage, and an undefined site south of Three Pots Road, where a heavier and bulkier mast would be required. No coverage plots have been submitted to substantiate that coverage would be insufficient for any of these sites.

13. The Framework indicates other structures should be used unless the need for a new site has been justified. The Council considers that the range of sites considered has not been wide enough and has suggested two further options, one close to the M69 island and the other at a lay-by on the western side of Rugby Road. The appellants state that neither of these sites would provide an acceptable level of coverage to the targeted residential area.

14. From the site inspection, and as mentioned by the Council and in representations, it is clear that other additional structures and areas have not been specifically referred to by the appellants. These include electricity pylons adjacent to the south side of Watling Street and within land on the western side of Rugby Road and at roadside locations where substantial backcloths of trees occur, including the eastern side of Rugby Road.

15. Taking account of the above, it is not clear that the appellants have given suitable and proper consideration to other reasonable options for providing the required degree of coverage. This conflicts with the Framework.

Other Matters

16. Residents have expressed concern about the possible health risks associated with the development. The Framework indicates that applications should be supported by a statement that International Commission[2] [ICNIRP] guidelines for public exposure will be met. The appellants have confirmed that the proposed equipment would comply with the ICNIRP guidelines. It should not therefore be necessary to consider further the health aspects of the development and concerns about them. There is no evidence submitted to outweigh advice in the Framework on health considerations. Therefore, the health fears of local residents do not weigh significantly against the development.

Conclusions

17. On balance, the need for the proposal and lack of evidence of harm to health do not outweigh the harm to the character and appearance of the local area and neighbours' amenity and the lack of evidence to fully consider alternative options for provision. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew Jeyes

INSPECTOR

[2] International Commission on Non-Ionizing Radiation Protection [ICNIRP]