
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 27/06/17

**gan Clive Sproule BSc MSc MSc
MRTPI MIEEnvSci CEnv**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.07.2017

Appeal Decision

Site visit made on 27/06/17

**by Clive Sproule BSc MSc MSc
MRTPI MIEEnvSci CEnv**

an Inspector appointed by the Welsh Ministers

Date: 27.07.2017

Appeal Ref: APP/H6955/A/17/3172919

**Site address: Land to the rear of the Welsh MG Centre, Wrexham Road,
Rhostyllen, North Wales LL14 4DW**

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Cornerstone Telecommunications Infrastructure Limited (CTIL) and Vodafone Ltd against the decision of Wrexham County Borough Council.
 - The application Ref ESC P/2016/1058, dated 15/11/16, was refused by notice dated 03/01/17.
 - The development proposed is the installation of a 17.5m monopole supporting 3 no. antennas, 1 no. transmission dish, 3 no. equipment cabinets, 1 no. meter cabinet and ancillary development thereto including the installation of a 2.1m palisade fence to form a compound.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Main Issues

2. The Council's reason for refusal refers to "...an adverse impact on the wider visual amenity of the area...", but within this very broad context the evidence is unclear on the precise nature of the harm that the Council seeks to rely on. Consequently and with reference to the reason for refusal and the representations in this case, I consider the main issues to be the effect of the proposed development on: a) the character and appearance of the locality; and, b) the living conditions of local residents in relation to visual impact.

Reasons

Policy

3. Policy GDP1 of the *Wrexham Unitary Development Plan 1996-2011* ('UDP') requires all new built development to be of a scale, design and layout, and to use materials, that accord with the character of the site and make a positive contribution to the appearance of the nearby locality.
 4. The appellant has referred to UDP Policy GDP2 – *Capacity of Infrastructure and Community Facilities* in regard to the appeal proposal's contribution toward mobile
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telephone coverage for existing and future housing in the locality. UDP Policy GDP2 deals with planning agreements and obligations that would be negotiated with a developer. While the policy and its supporting text make no mention of section 106 of the Town and Country Planning Act 1990, the legislation provides a clear context for what the policy seeks to achieve. No planning obligations have been requested by the Council and none are before me. Given the nature of the development proposed in this case (and the context of a neighbouring planning permission for housing that appears to date from 2004 and 2008), it is not apparent that the Council's position conflicts with UDP Policy GDP2.

5. Telecommunications are the subject of UDP Policy CLF8, which is permissive of such development and related infrastructure having regard to technical and operational considerations. The policy requires consideration of mast sharing, use of existing buildings and structures, and the use of alternative sites. The policy also states that the siting of any development should minimise the impact on the local landscape/townscape, and should mitigate any adverse impact.
6. The appellant has supplied evidence that demonstrates the need for the mast to improve reception in this area. The appellant has also explained the difficulty of finding an appropriate location and addressed possible alternative sites in relation to the area of coverage sought. Details have been provided of why alternative locations were discounted.¹ In particular, my attention has been drawn to an existing installation at Croesfoel Industrial Park, but the appellant is clear that the industrial park could not provide the coverage that would be achievable from the appeal site. Nor is it apparent that there are buildings or structures in the vicinity of the appeal site that could provide a suitable alternative to the use of a mast.
7. Technical Advice Note ('TAN') 19 – *Telecommunications* (2002) deals with the siting and design of masts/antennas. Paragraph 67 of TAN 19 states "...*In seeking to arrive at the best solution of an individual site, authorities and operators should consider the use of 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...*".
8. A letter from Welsh Government to Chief Planning Officers in Wales, dated 31/10/14, provided new Annexes to TAN 19. It notes factors concerning the siting and appearance of a mast to include its siting, the context provided by other structures and land uses, dimensions, overall shape and effect on the skyline.
9. *Planning Policy Wales – 9th edition* ('PPW') recognises the importance of meeting the need for telecommunications. PPW is also unambiguous regarding the importance of good design and its contribution to sustainable development. While the plan period of the UDP has passed, the design objectives of UDP Policies GDP1 and CLF8 are consistent with PPW and the weight attributed to the UDP policies reflects this.

Character and appearance

10. The appeal site is on land to the rear of commercial buildings that have a service station type canopy over their street frontage forecourt area. The mast and ancillary equipment would be near to a car showroom building at the rear of the neighbouring plot, noted to be nos.53/55 Wrexham Road. Open fields wrap around the side and rear of the appeal site and nos.53/55. These fields are the subject of a planning

¹ Including pages 14-16 of the Grounds of Appeal

permission for 223 dwellings, community hall, a shop and tea room. A Council letter, dated 08/11/13, confirmed that works carried out had implemented the planning permission (ref: P/2008/1063) and the owner of the fields has indicated that it is seeking to sell the site to fully implement the scheme.²

11. The proposed mast and antennas would rise to 6.5m above the height of the neighbouring commercial building, and as such, it would be very visible in the street scene. The monopole element of the design would reflect other items of street furniture and infrastructure in the townscape, but exposed antennas and a transmission dish would sit atop the mast that by their scale and design would not be comparable to other elements of the street scene.
12. The Grounds of Appeal note that "*...Exposed antennas have been designed in this location, as the site is located on private land over 60m from the nearest highway and nearly 100m from the nearest residential dwelling...*".³ If this were to be correct, the character of the appeal site could be described as '*...established commercial/light industrial use...*'.⁴ However, there is a dwelling on the neighbouring plot which would be in much closer proximity to the proposed antennas.
13. Many views of the appeal site frontage include the dwelling at nos.53/55. The presence of a dwelling on the frontage immediately alongside the former car garage buildings on the appeal site signals the appeal scheme to be not wholly within a commercial/light industrial environment. Although the dwelling at nos.53/55 may have been associated with the car showroom behind it, and it may not have been in full residential use, evidence confirms it to be a dwelling that is now occupied. The character of nos.53/55 is now clearly a mixed one that results from the residential frontage and commercial building behind it on the same plot.
14. In addition, the commercial development on the appeal site lies immediately across Wrexham Road from residential development, and a number of commercial land uses. Completion of the housing development, as approved, on the fields next to the appeal site would reinforce the predominantly residential nature of the locality and the development would place housing in close proximity to the exposed antennas topped mast.
15. Final comments from the appellant note the rear outrigger of the house at nos.53/55 to be offset, by being on the adjoining plot, and 40m from the proposed installation. Built forms may limit views of the appeal site from habitable rooms on the ground floor. Even so, the residential use of the dwelling will extend into the curtilage around it and the installation would be seen.
16. The commercial character of the appeal site would be appropriate for the siting of the monopole mast, the equipment cabinets and the associated fencing (and the layout plan for the adjoining as yet unbuilt residential development shows there to be planting between it and the appeal site that reasonably would be expected to screen the proposed cabinets and fence). However due to the mixed character of nos.53/55 and the predominantly residential character along this section of Wrexham Road, the

² The appeal stage representation from the National Trust, and the accompanying letter from the Council dated 08/11/13

³ Paragraph 4.7, and other paragraphs (7.34, 7.35, 7.39) including 7.51 of the Grounds of Appeal

⁴ The appellant's Final Comments, and Council Officer's report noted the two adjoining sites to have a commercial character

exposed antennas would appear as a conspicuous and somewhat strident feature in this street scene in views taken along and across Wrexham Road, and from nos.53/55.

17. The exposed antennas would fail to be a sympathetic design due to the proximity of residential land use to the mast, and the views that would be obtainable of it. The use of exposed antennas would not be a positive contribution to the appearance of the nearby locality and the proposed design would fail to minimise the impact of the development on the local landscape/townscape. Accordingly and in this regard, the appeal proposal would be unacceptably harmful to the character and appearance of the locality and conflicts with UDP Policy GDP1, TAN 19 and the relevant parts of PPW. It would also fail to meet the objective for landscape/townscape within the latter part of UDP Policy CLF8.

Living conditions

18. The occupiers of the dwelling and amenity space at nos.53/55 would have views of the proposed installation that would be much closer than those from the dwellings on the opposite side of Wrexham Road. The exposed antennas that would cause the identified harm to the character and appearance of the locality would also cause the occupiers of the neighbouring dwelling to experience a degree of visual impact.
19. However within the context of the aspects obtainable around the mast and within the wider street scene, this visual impact would not be sufficient for it to be unacceptably harmful to the living conditions of occupiers of nos.53/55, or anyone else. Therefore, in this regard the appeal scheme complies with UDP Policy GDP1, TAN 19 and the relevant parts of PPW.

Other matters

Technical requirements

20. Evidence indicates that the exposed antennas would assist the operator in maximising coverage of the target area, and that shrouded antennas would require a taller mast or more base stations.⁵ However, the appeal falls to be determined against the relevant planning policies and in this respect, and following consideration and clarification of the circumstances of the site, harm has been identified. There is insufficient evidence regarding the possible alternative approaches to mounting the antennas for the technical implications of doing so to attract significant weight in this case.

Non-Ionizing Radiation

21. The appellant has confirmed that its ICNIRP Declaration of Conformity: certifies that the site is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the International Commission on Non-Ionizing Radiation (ICNIRP) for public exposure as expressed in the EU Council recommendation of July 1999; and, has taken into account the cumulative effect of the emissions from the proposed installation and all radio base stations in the vicinity of the appeal site and will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest.

⁵ Paragraphs 7.10 and 7.11 of the Grounds of Appeal

Consultation/publicity

22. Concerns have been raised regarding consultation/publicity carried out at the application and appeal stages. However, specific procedural deficiencies have not been demonstrated, and consultation/publicity has resulted in neighbouring landowners making representations at the appeal stage. Accordingly, it is not apparent that any party has been disadvantaged by the level of consultation/publicity carried out in relation to this appeal.

Precedent

23. Evidence includes a number of appeal decisions in regard to telecommunication proposals in other locations. As indicated above, each application and appeal is determined on its own merits within the context of the planning policies and circumstances that apply to it. The harm identified above is specific to this proposal and its context. Consequently, the other appeal decisions referred to do not set a precedent in relation to this case.

Social and Economic Effects

24. The appeal proposal would support the provision of 3G and 4G telephone signals in the Rhostyllen area with associated social and economic benefits for, and resulting from, users of these services. This attracts significant weight in favour of the proposal.

Sustainable development

25. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ('the WBFG Act'). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Conclusion

26. For the reasons above, the proposed development would conflict with UDP Policy GDP1, TAN 19 (and the relevant parts of PPW), and would fail to meet the objective for landscape/townscape in UDP Policy CLF8. All representations in this case have been taken into account and no matters, including the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. Accordingly, the proposal would not be a sustainable form of development and the appeal should be dismissed.

Clive Sproule

INSPECTOR