



Appeal Decision

Hearing held on 22 January 2008
Site visit made on 22 January 2008

by **David Richards** BSocSci DipTP MRTPI

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

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Decision date:
4 February 2008

Appeal Ref: APP/R1845/A/07/2041971

Grey Green Farm, Crundalls Lane, Wribbenhall, Bewdley DY12 1NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Hutchison 3G (UK) Ltd against the decision of Wyre Forest District Council.
- The application Ref 06/1198/FULL, dated 28 November 2006, was refused by notice dated 18 January 2007.
- The development proposed is the installation of a radio base station (amendment to previously approved application – reference WF(T)108 dated 6 December 2005) comprising of a 14 metre high telegraph pole style communications tower, three shrouded antennae, one 300mm dish antenna, radio equipment housing and development ancillary thereto.

Application for costs

1. At the Hearing an application for costs was made by the Appellants against the Council. This application is the subject of a separate Decision.

Decision

2. I allow the appeal, and grant planning permission for the installation of a radio base station (amendment to previously approved application – reference WF(T)108 dated 6 December 2005) comprising of a 14 metre high telegraph pole style communications tower, three shrouded antennae, one 300mm dish antenna, radio equipment housing and development ancillary thereto at Grey Green Farm, Crundalls Lane, Wribbenhall, Bewdley DY12 1NF in accordance with the terms of the application, Ref 06/1198/FULL, dated 28 November 2006, and the plans submitted with it, subject to the following condition:
 - 1) Any trees or plants forming part of the established landscape planting which within a period of 5 years from the date of this decision die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reasons

3. The appeal seeks to retain equipment which has already been installed. The installation is not in accordance with the terms of the original approval on appeal (Ref: APP/R1845/A/05/1186723). That appeal decision imposed a landscaping condition requiring details to be submitted and approved, which has not been complied with. However, some landscaping has been carried out.

4. Policies GB.1 and GB.6 of the adopted Wyre Forest District Local Plan and D.39 of the adopted Worcestershire County Structure Plan aim to protect the Green Belt from development and from visual harm resulting from development. Local Plan Policy LA.2 indicates that development which would have a significant adverse effect on the quality or character of a landscape protection area will not be permitted. Policy TR.20 outlines the criteria that telecommunications proposals should satisfy, including evidence of need, that there are no satisfactory alternative sites and that siting and design should not have a significant impact on interests of acknowledged importance.
5. The previous Inspector found that the development would amount to inappropriate development in the green belt, and I find no reason to disagree with that assessment. Such development is harmful by definition, and should only be permitted if the harm by reason of inappropriateness, and any other harm, is clearly outweighed by material considerations amounting to very special circumstances.
6. The previous Inspector noted the existence of a "fairly dense" hedge somewhat over 2 metres high alongside a footpath which passes by the site. He commented as follows on views of the installation from the public footpath: " ... in passing round the Crundalls Court complex and walking towards the gate, the installation would be on full view to users of the footpath, beyond which is a distant view of the town of Bewdley." He noted that the proposal was to "shelf the compound area into the side of the hill to form a level area, to form a stockproof fence and to place landscape screening to the ground installation." He considered that the area available for planting would be large enough to plant trees and shrubs capable of forming an effective screen in a short space of time, and concluded as follows: "With a planning condition in place to ensure that appropriate screening takes place, I conclude that this, combined with the hedge I describe, would result in a development that would minimise the impact on the character of the area and minimise the visual effect on users of the footpath." For similar reasons he considered that the effect on the outlook of occupiers of nearby Crundalls Court would be acceptable.
7. The landscaping condition imposed by the Inspector required that "*no development shall take place until full details of landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours and means of enclosure. All landscape works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with a programme to be agreed with the local planning authority.*" In the event no details were submitted prior to the works being carried out. Whereas the previous Inspector clearly envisaged that the mast and equipment would be cut into the slope of the hillside, the actual installation has been cut-in by a lesser amount, and spoil from the cutting used to level the site on the other side.
8. I have no doubt that the outcome is that the mast is set at a higher level than envisaged by the previous Inspector, with the result that both it and the equipment cabinets are more visible in the landscape. The actual degree of cut- in is disputed. On site it appeared to lie somewhere between the 30 cm suggested by residents, and the 90 cm which would be implied by the appellants' statement that the top of the mast is only 20 cm higher than

envisaged. In any event the degree of cut-in is considerably less than the 1.1 metres shown in an amended plan sent to Wyre Forest District Council by letter dated 25 July 2005, which indicates the intentions of the appellants at the time.

9. Given that the mast and equipment would have remained prominent even if it had been installed in accordance with the permission, in my judgment, the additional harm does not substantially affect the balance of advantage found by the previous Inspector. The effect of the additional height of the mast would be difficult to detect in the context of the surrounding open landscape. I accept that the ground based equipment is more prominent than it should be. Nevertheless the effect diminishes with distance, and to my mind the additional visual impact of the installation on users of the footpath approaching the gateway where the footpath passes through the hedge from the direction of Crundalls Court would only really be apparent from relatively close quarters. The compound itself provides some screening for the ground cabinets. The landscaping which has been planted has yet to reach its full effect, but if properly maintained it should provide effective screening in a reasonable period of time.
10. Notwithstanding the officers' positive recommendation to committee when the application was considered I accept that the issue is finely balanced in terms of the effect of the Green Belt. I am conscious however of the fall-back position in the event of this appeal failing. It would be open to the appellants to submit landscaping details in accordance with the appeal decision, which remains extant, and re-install the equipment at a lower level. In my judgment, in view of the strong likelihood of this fall-back position being implemented, and the potential for the existing landscaping in time to provide effective screening, the additional harm arising from the installation as built would not be a sufficient basis to justify dismissing the appeal.
11. In reaching this conclusion I have had regard to the changes in circumstance since the appeal decision. While the BT Cellnet permission to which the Inspector attached weight in assessing the balance has expired on 16 May 2007, this does not invalidate the Inspector's decision, nor the fall back position which I discuss above. I have also taken into account the agreement between Hutchinson 3G and T-Mobile drawn to my attention by residents, which will allow for mast sharing and decommissioning of over 5,000 duplicate sites. This agreement was announced to the public on 18 December 2007. It may in future have implications for this site but, while information available from T-Mobile's website shows extensive coverage in the Bewdley area, there is no information before me which would allow me to conclude that this site was a candidate for decommissioning under this agreement. I therefore have no basis on which to conclude that the need argument is any less compelling than when the previous Inspector considered the matter.
12. In summary, I find that the proposal is inappropriate development in the green belt. There would be some limited additional harm to openness and to the character and appearance of the area if the appeal is allowed, though this will be mitigated in time by the landscaping which has already been carried out. In my view the additional harm is not so great as to invalidate the previous Inspector's conclusion in respect of very special circumstances. There is no conclusive evidence that the need for the mast in terms of coverage is any less

pressing than at the time of the previous appeal, or that the appellants' site search carried out at the time was not exhaustive. For reasons explained above I am not able to rely on the potential for mast sharing or decommissioning to indicate that there may be viable alternatives at this time. While the 2002 BT Cellnet permission which would have allowed the construction of two poles with no landscaping has expired, there is a valid fallback position which could be implemented which in my opinion would only lead to a marginal improvement in the appearance of the installation and its effects on the surroundings.

13. I therefore conclude that very special circumstances have been demonstrated that clearly outweigh the harm by reason of inappropriateness and limited harm to openness and to the surroundings that I have identified.
14. For the reasons given above, and taking into account all other matters that have been raised, I conclude that the appeal should be allowed.
15. A condition to ensure replacement planting in the event that any of the existing planting should die or become diseased is necessary to ensure that the landscape screening becomes properly established.

David Richards

INSPECTOR

