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## Appeal Decision

Site Visit made on 17 November 2020

**by R E Jones BSc (Hons), DipTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 December 2020**

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**Appeal Ref: APP/Q3305/W/20/3257171**

**Wells Cathedral School Sports Ground, Torhill Lane, Wells, BA5 3NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Vodafone Ltd and CTIL against the decision of Mendip District Council.
  - The application Ref 2020/0073/TEL, dated 13 January 2020, was refused by notice dated 9 March 2020.
  - The development proposed is the installation of a 12.5m lattice mast with ground based equipment cabinets and ancillary development.
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### Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the installation of a 12.5m lattice mast with ground based equipment cabinets and ancillary development at Wells Cathedral School Sports Ground, Torhill Lane, Wells, BA5 3NT in accordance with the terms of the application, Ref 2020/0073/TEL, made on 13 January 2020, and the details submitted with it.

### Background and Main Issue

2. The appeal concerns a proposed telecommunications development that was refused prior approval by the Council under the terms of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Within certain limits the GPDO grants permission for the development of telecommunications equipment subject to a prior approval procedure. The GPDO makes it clear that the relevant issues to consider when assessing applications of this type are the siting and appearance of the proposed development. As a consequence, I consider the main issue to be the effect of the siting and appearance of the proposed development on the character and appearance of the area.

### Reasons

#### *Character and appearance*

3. The appeal site occupies a corner location within the grounds of the Wells Cathedral School playing fields. The playing fields comprise an expansive linear tract of land located between the rear property boundaries of dwellings along Bekynton Avenue and an elevated and prominent wooded bank to the south.

Other than a small group of buildings located close to the appeal site, the playing fields are undeveloped and have an open appearance. The thick covering of mature trees on the higher land to the south serves to neatly frame the appeal site and the playing fields and together they form part of a coherent and attractive natural setting at this edge of settlement location. I noted during my site visit that the footpath to the north of the playing fields and the appeal site was popular with walkers and cyclists. The open and natural surroundings of the playing fields and the woodland on higher ground, are likely to enhance the experience of users of the footpath.

4. The proposal includes a lattice tower, with 1 transmission dish and 3 antennae attached above, giving it a combined height of approximately 14.5m. The tower and antenna would be painted green and positioned on a 4m by 4m mass concrete foundation.
5. The proposal's position in the south western corner of the playing fields close to tall boundary trees, would to a minor extent help the mast assimilate into its natural surroundings, while the painted green colour would blend in with the nearby vegetation somewhat. However, the antenna would rise above some of the boundary trees, exposing its scale and height, while the mast's lattice construction with protruding antenna, positioned above the mass concrete foundation, would have a harsh, industrial appearance in marked contrast to the softer verdant surroundings. This impact would be most tangible from the public footpath that traverses the northern boundary of the playing fields and from the gardens and rear windows of properties along Bekynton Avenue. From these areas, the proposal would appear incongruous and jarring to visual receptors in context with the expansive grassed playing fields and the mature tree lined boundary, leading to a harmful presence that would be detrimental to the area's visual qualities.
6. From further afield, views of the proposal would be diminished, particularly from the residential streets at Bekynton Avenue, Plumtre Avenue and Bedford Road. At these locations the proposal would be screened by existing dwellings or partially seen through short gaps between buildings or rising above the rooflines of properties. From these more distant vantage points the mast and antennas would be seen against the backdrop of the rising woodland to the south. This would be the dominant feature on the skyline and would obscure views of the proposal, which would be set down at a lower land level.
7. The footpath to the north of the playing fields, merges into Torhill Lane at a point a short distance away from the appeal site and continues in the direction of the Wells Cathedral and Bishops Palace. The thick line of tall mature trees along the southern side of Torhill Lane would screen views of the proposal. The physical characteristics of the site's surroundings would therefore serve to lessen the prominence and visual impact of the proposed development from more distant vantage points in the area, and there would be no unacceptable harm in this respect.
8. Although there would be no unacceptable harm to views from surrounding streets and more distant vantage points, there would nevertheless be visual impacts upon the surrounding area from the other locations referred to. Therefore, I conclude that the siting and appearance of the proposed development would be visually intrusive, and it would cause harm to the character and appearance of the wider area. The harm would be relatively

localised given the surrounding context, and it would conflict with Policies DP1, DP3, DP4 and DP7 of the Mendip District Local Plan – Part 1 Strategy and Policies, adopted 15<sup>th</sup> December 2015 (the Local Plan) insofar as they are relevant to the prior approval matters of the siting and appearance of the development. These require amongst other matters, that proposals are appropriate to local context in terms of scale, contribute positively to the maintenance and enhancement of local identity and distinctiveness, preserve the significance and setting of heritage assets, and not degrade the quality of local landscapes. The proposal would also be contrary to the National Planning Policy Framework (the Framework) (Paragraph 127) where it requires proposals to be sympathetic to local character and landscape setting.

### **Other Considerations**

9. The Framework advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.
10. The appellant indicates that the proposed development, is required to provide new 4G coverage and capacity, and improved 2G and 3G, to the eastern part of Wells. Coverage plot information submitted by the appellant shows a shortfall in these services for the network provider. I have no reason to doubt that there is restricted coverage and capacity in this part of the city, nor have I been presented with any compelling evidence to the contrary.
11. The current restricted coverage and capacity is at odds with the Framework's emphasis on extending and future-proofing digital connectivity in order to ensure that communities can benefit from economic growth and greater social inclusion. Therefore, from the evidence before me the appeal proposal would extend the reach of 4G coverage in the area. This is a public benefit and a matter to which I give significant weight. Moreover, the proposal would support economic and social objectives, and deliver benefits which may include improved support for home working, enabling smart devices and services as well as supporting future advances.
12. The appeal has been accompanied by additional coverage plots relating to existing mast installations in the area. Whilst these were not submitted with the application, they nevertheless indicate that mast sharing at existing sites in Wells would not be capable of covering the appellant's search area.
13. Paragraph 115 of the Framework indicates that applications for telecommunications development (including those submitted for prior approval) should be supported by the necessary evidence to justify the proposed development. Similar procedures are supported by the Code of Best Practice on Mobile Network Development in England. This should include, amongst other things, the outcome of consultations with organisations with an interest in the proposed development, and in particular with the relevant body where a mast is to be installed near a school.
14. The proposed telecommunications installation would be sited on land used by Wells Cathedral School and close to the changing room facilities associated with the school's playing fields. The appellant has submitted a copy of the developers notice sent to the school, which coincides with the date of the application to the Council. Therefore, the outcome of the consultation with the

- school would not have been known by the applicant, prior to its submission to the Council.
15. Notwithstanding this, the school has made detailed representations both at application and appeal stage, while the appellant has had an opportunity to consider those replies. In the circumstances, although it would have been good practice for the appellants to have carried out its consultation with the school prior to the submission of the application, so that the outcome of that could inform the detailed scheme design, I do not consider that the timing of the consultation weighs heavily against the proposal.
  16. The Framework outlines that the number of electronic communications and radio masts should be kept to a minimum and encourages use of existing masts, buildings and other structures. The possibility of using those locations should be explored before applicants look at proposals for new masts or base stations. On new sites, equipment should be sympathetically designed and camouflaged where appropriate.
  17. The appellant's search area comprises the eastern part of Wells and their submission includes 18 sites that were discounted in favour of the proposed mast location. Based on its analysis, the appellant considers that there are no existing masts, base stations buildings or other structures/locations that could be utilised to provide the required improvement in network coverage within or near the defined search area. The Council has raised concerns that a number of these sites have been dismissed without further justification or analysis of further options.
  18. In terms of locating the proposal on existing buildings, St Thomas Church and the Britannia Inn were both discounted; on grounds of heritage concerns in the case of the church and the scale of the proposal being unsuitable in respect to the two-storey public house. According to the appellant, other suitable buildings/rooftops have not been identified due to the predominately residential nature of the search area in this case, and there being no existing suitable structures available for this form of electronic communications development. The Council suggests that it is not evident that the possibility of installing antennae on existing buildings has been fully explored but has put forward no substantive evidence of alternative sites that could be considered.
  19. Site Option No 4 at Serious Stages (Option 4) was discounted by the appellant due to the made-up ground at the site not being able to support the taller structure required at this location. Furthermore, the site's location would not meet the network coverage requirements for the Eastern part of Wells. On the matter of network coverage, this site is close to the southern edge of the search area. I note the Council's concern that further justification is required before discounting Option 4, yet, they have put forward no substantive evidence to challenge the validity of the appellant's assessment, or to suggest alternatives that have not been considered. Therefore, I am satisfied with the level of detail provided by the appellant in the case of that site.
  20. Locating the proposal at Wells Cricket Club and Wells Golf Club were discounted as they would be too far east of the appellant's search area. Those outlying sites, according to the appellant, would not provide the required uplift in network services needed. Expanding on this, the appellant states that base stations need to be within the areas that require network services, ideally centrally within the 'cell' search area, in order that the network signals can be

distributed evenly between the antennas of the base station to maximise its operational efficiency. The use of sites outside of these areas means practically that the base stations would not be operating efficiently, and more base stations would be required.

21. The distance that those locations are from the search area is noted, and it is considered that the appellant has provided compelling technical grounds, specific to mobile telecommunications infrastructure, why those locations are not preferable to the appeal site. Although the Council considers that this position lacks reasoning, they have not provided any specific details of the further justification that is required.
22. Options Nos 9, 12 and 13 were discounted as the proposal would appear visually exposed at these locations, while in the case of Options 9 and 13, overhead powerlines would impact the operation of the apparatus.
23. Those three locations are closer to residential dwellings and do not have the same surrounding topography or landscape features as the appeal site in minimising the visual impact of the proposal. Therefore, the reasons provided by the appellant in favouring the appeal site in this instance are acceptable. The Council maintains that discounting those sites on visual grounds alone is insufficient to eliminate them as a preferred option. Yet, they have not provided any further advice on what further considerations should be looked at. In the absence of this information, I am satisfied with the case put forward by the appellant.
24. Despite their concerns in relation to assessment of new sites and the use of existing buildings, the Council accepts that there is no existing telecommunications equipment within the search area which could be shared or upgraded, and on this matter I have no reason to disagree.
25. Third party representations have indicated that the proposed development fails to meet the appellant's optimum antenna height of 17.5m for efficiency and service provision. Nevertheless, the appellant has indicated that the reduced height of the antennae still provides the uplift in services required, while representing a compromise to facilitate its assimilation with its immediate surroundings. I have no compelling reasons before me to disagree with this view.
26. I am satisfied that there would be no alternative option to the development to deliver an appropriate standard of communications in the area, and the social and economic benefits associated with this. The visual impact of the proposed development on the surrounding area has also been minimised so far as is practical. In these regards the proposal would comply with the Framework.

### **Other Matters**

27. Concerns have been raised about potential effects of the proposal on the amenity and health of users of the sports fields and I have been referred to the Stewart Report. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines

would not be complied with or that a departure from national policy would be justified. Furthermore, no objection has been advanced from the Council's environmental health officers.

28. In terms of land ownership issues between the developer and the School, this would be a matter between the main parties and therefore does not form part of my assessment.
29. The appeal site is located outside of the Wells Conservation Area (WCA). The special features of the WCA that contribute to its significance include a large number of historic buildings, some of which dating back to the 12<sup>th</sup> century, and the impressive Wells Cathedral. Moreover, the open spaces around the Cathedral and its associated buildings, contribute to displaying their importance and splendour. The land between the appeal site and the WCA comprises, amongst other things, dense blocks of woodland and residential dwellings that would screen the proposal from view within much of the WCA. There would be some views from within the WCA towards the proposed development, for example through gaps between buildings. Yet the proposal's separation distance from the WCA and the backcloth of Torhill woods would mean that its visual prominence would be diminished, to the extent that it would not harm the special qualities and therefore significance of the WCA.
30. The Council's case refers to a recent appeal decision<sup>1</sup> where, in dismissing the appeal, the Inspector was unconvinced that that proposed location was the least harmful site available through which coverage benefits could be facilitated. But there are no specific parallels that can be drawn between that decision and this appeal, given that it related to a different town in the authority's area. Consequently, I have afforded that decision little weight in respect of this appeal.
31. There are third party concerns in relation to the proposal's impact on local ecology. However, the Council's ecology adviser has not raised any objection to the proposed scheme, subject to the developer complying with the provisions of the Wildlife and Countryside Act 1981 (as amended) in respect of nesting birds. There is no reason to disagree with the Council on this while there has been no site-specific evidence submitted of how the proposal would harm other ecological features.

## **Planning Balance**

32. The proposal would be visually intrusive causing harm to the character and appearance of the area in conflict with Policies DP1, DP3, DP4 and DP7 of the Local Plan, and also the Framework. Yet, the harm would be relatively localised, and this is judged to be moderate, given that views of the proposed development, from further afield, would be screened or seen against the backdrop provided by local topography and woodland.
33. Against this harm, the Framework gives strong support to the need for high quality and reliable communications infrastructure. I find that there is a clear and pressing need for development to deliver communications infrastructure to sustain adequate existing coverage and capacity in the area. The proposal would further allow for the expansion of networks. The evidence before me shows a lack of realistic alternative sites to provide coverage which is

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<sup>1</sup> APP/Q3305/W/17/3185165

important for economic growth and social well-being, and in the absence of the appeal proposal, the quality of communication services would be deficient.

34. In this context, I find with regard to the specific circumstances of this case, that the public benefits of the development would be significant, and these would outweigh the harm caused by the visual effect of the development on the character and appearance of the area. Therefore, on this basis the proposed development would be acceptable.

### **Conditions**

35. Development permitted under Class A Part 16 of the GPDO are subject to standard conditions. These include the time limit for implementation, a requirement that development is carried out in accordance with the details approved/submitted with the application, and that it is removed when it is no longer required for electronic communications purposes. I have not repeated these conditions.

### **Conclusion**

36. For the reasons given above, the appeal should be allowed, and prior approval should be granted.

*RE Jones*

INSPECTOR