



Appeal Decision

Site visit made on 14 April 2009

by **John Millard DipArch RIBA FCI Arb**

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

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Decision date:
5 May 2009

Appeal Ref: APP/Q1445/A/08/2091388 Patcham By Pass, Brighton, East Sussex BN1 8YB

- 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 Telefónica O₂ UK Limited against the decision of Brighton and Hove City Council.
- The application (Ref. BH2008/02762), dated 18 August 2008, was refused by notice dated 6 October 2008.
- The development proposed is the installation of a 10m high monopole, incorporating 3 shrouded antennas, a radio equipment housing and development ancillary thereto.

Decision

1. I allow the appeal and grant prior approval under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of development by a telecommunications code system operator for the siting and appearance of a radio base station comprising a 10m high monopole, incorporating 3 shrouded antennas, a radio equipment housing and development ancillary thereto on the public footway of Patcham By Pass, Brighton, East Sussex BN1 8YB in accordance with the terms of the application Ref BH2008/02762, dated 18 August 2008, and the plans submitted therewith, subject to the condition that the development hereby approved shall begin before the expiration of 3 years from the date of this decision.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the living conditions of local residents and visitors, with particular reference to health and safety.

Reasons

3. Patcham By Pass is a busy trunk road (A23) and one of the principal routes into Brighton from the north. In the vicinity of the proposed installation there is a public park to the east of the road and housing, in an elevated position and separated from the road by a wide grass verge, to the west. The area is spacious in character with an abundance of trees and other foliage along the edge of the park on the eastern side of the road and more sporadic younger trees within the grass verge on the western side.
4. Planning Policy Guidance Note 8 – *Telecommunications* (PPG8) sets out the Government's policy for facilitating the growth of both new and existing

- telecommunications systems. From the evidence before me (including a previous appeal decision Ref: APP/Q1445/A/04/1152646 which granted prior approval for a similar proposal nearby that has not been implemented) I am satisfied that there is a genuine need for the installation, in order to fill a gap in 3G coverage in this area. I am also satisfied that the general location chosen would satisfy the technical requirements and that the appellant's attempts to identify a more appropriate site have been unsuccessful.
5. The proposed installation constitutes permitted development and prior approval is required only to the siting and appearance of the installation. In the location proposed, I consider that the visual impact of both the monopole and the equipment cabinet would be minimal and the Council has raised no concerns with this aspect of the proposal. Accordingly, I am satisfied that the installation would have no adverse effect on the character or appearance of the area and that it would accord with the objectives of criterion (c) of Policy QD23 of the adopted Brighton & Hove Local Plan 2005 (LP).
 6. The Council is, however, concerned about the siting of the mast because of its proximity to the public park and to a school for children with special needs. It is considered that, in this location, the installation would pose an unacceptable perceived health risk to, in particular, children and young people using the park or attending the special needs school.
 7. This is a concern shared by many local residents who have written to express their opposition to the proposal. Whilst I fully accept that these concerns are material to my decision, there is little objective evidence before me to support them. I must also give full weight to scientific and technical advice on the subject and to established Government policy based on that advice.
 8. PPG8 states that the planning system is not the place for determining health safeguards and that, if a proposed mobile phone base station meets the guidelines for public exposure to radio waves issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), it should not be necessary to consider further the health aspects of the development and concerns about them.
 9. The appellant has certified that the installation in this case would be well within the ICNIRP guidelines. These are, in themselves, precautionary and were introduced by the Government in 2000 in the light of research findings and recommendations contained in the report of the Independent Expert Group on Mobile Phones (the *Stewart Report*).
 10. There is nothing before me to suggest that children and young people are more vulnerable to radio waves than anyone else. On this basis, I can find nothing unusual about this proposal either technically or in its siting in relation to its surroundings. There is nothing to indicate that there would be an actual risk to health, nor evidence sufficient to outweigh the PPG8 advice on health considerations. I am therefore led to the conclusion that the health fears of local residents do not weigh sufficiently against the development to justify dismissing the appeal.
 11. The Council is also concerned that the siting of the equipment cabin within the width of the footway would represent a potential hazard to pedestrians,

particularly those with sight or other disabilities. From what I saw at the site visit, I gained the impression that this particular footway is not heavily used. I also satisfied myself that the residual footway, after installation of the cabinet, would remain in excess of 2.0m and, in these circumstances, I consider that the Council's concerns are unfounded.

12. LP Policy QD27 advises that planning permission will not be granted for development that is liable to cause harm to human health. For the reasons I have outlined above, it is my conclusion that the proposal in this case would cause no material harm to the living conditions of local residents or visitors, with particular reference to health and safety, and that the objectives of LP Policy QD27 would be satisfied.
13. I have considered all other matters raised but have found nothing that changes the balance of my decision that the appeal should be allowed and prior consent granted.
14. The Council has made no suggestions as to conditions it would like to see imposed in the event that I allow the appeal and I consider that none, apart from the statutory time limit, is required.

John G Millard

INSPECTOR

