



Appeal Decision

site visit held on Thursday, 10 June 1999

by D A HARMSTON

an Inspector appointed by the Secretary of State for the Environment, Transport and the Regions

PLANNING DEPARTMENT

DACORUM BOROUGH COUNCIL

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Received

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Comments

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Appeal: T/APP/A1910/A/99/1017381/P7

- 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 brought by Orange PCS Limited against the Dacorum Borough Council.
- The site is located on land at the Thames Water Sewage Works, Bullbeggars Lane, Berkhamsted, Hertfordshire.
- The application (ref: 4/01312/98/FUL) was dated 22 July 1998 and was refused by the Council on 5 November 1998.
- The development proposed is the extension of an existing telecommunications mast from a height of 15 metres to 25 metres.

Decision: - The appeal is ALLOWED, subject to conditions.

The Main Issues

1. The main issues are: firstly, whether or not the development is one which would be inappropriate within the Green Belt, causing demonstrable harm to its function or purpose; secondly, the effects of the proposal on the character and appearance of the immediate area and the surrounding countryside; thirdly, and having regard to the advice in PPG8 (*Telecommunications*), whether any material harm to these interests which might occur would be outweighed by other considerations.

Planning Policy

2. The appeal land lies within the Metropolitan Green Belt and the policy advice contained within PPG2 (*Green Belts*) is therefore relevant. The statutory Development Plan comprises the Hertfordshire Structure Plan Review (1991 – 2011) and the Dacorum Borough Local Plan which was adopted in 1995. Within the Structure Plan the relevant policies are numbers 1, 5 and 21. Within the Local Plan, the relevant policies are numbers 3, 8, 89, 90, 92, 104 and 107. The Government's policies and advice in relation to developments concerning telecommunication proposals is contained within PPG8. PPG7 (*The Countryside – Environmental Quality and Economic and Social Development*) also provides advice on the correct approach to planning matters within rural areas.
3. The policies of the Development Plan reflect the advice contained within PPG2 regarding the appropriateness of developments within the Green Belt and the general presumption against proposals which seek to create inappropriate forms of development. Policy 21 of the Structure Plan seeks to ensure that the visual intrusion from telecommunications masts is minimised, particularly in cases which would affect the Chilterns AONB. Policy 89 of the

Local Plan stresses the importance to be attached to the preservation and improvement of the landscape in the District and states that proposals for developments which would be visually obtrusive will normally be refused.

4. The appeal site lies just outside the AONB but within a Landscape Development Area. Policy 92 of the local Plan states that within such Areas improvements to the character and appearance of the Area will be sought. Policy 90 of the Local Plan refers to the special considerations which will apply to proposals which would detract from the preservation of the natural beauty of the AONB. In respect of telecommunication proposals, policy 104 of the Local Plan focuses on the effects of developments arising from the size, colour and appearance of the apparatus as well as the topography of the area within which it is proposed, its relationship with other buildings and the presence of trees and other vegetation within the vicinity. From the foregoing, it is evident that the main policy considerations which arise in this case are those concerning the Green Belt and the location of the appeal land within a Landscape Development Area, abutting the Chilterns AONB.

The Appeal Site and the Proposals

5. The appeal site is within the curtilage of a large sewage works operated by Thames Water. It is located in a narrow valley within the Chiltern Hills, about 700 metres south of Berkhamsted. The valley is an important transport corridor containing the main East Coast rail line, the Grand Union Canal and the A4251 (formerly the A41T). The site itself contains numerous structures, tanks and items of plant associated with its primary use. A number of mature trees and shrubs are situated at the periphery of the site, close to the canal and the main road. Located in a position next to the railway line is a large equipment cabin used in association with the overhead electrification together with a 50-metre high lattice mast operated by Railtrack for telemetric purposes.
6. Also present on the land, adjacent to the railway line, is a 15-metre high lattice tower with an equipment cabin. It is this mast which it is proposed to increase in height to 25 metres. At present the headframe contains several antennae together with one 600mm microwave dish aligned in a southward facing direction. The proposals are for a total of three such dishes with six sectorised antennae. The existing structure was erected about two years ago as permitted development but has proved technically ineffective, mainly due to the topography of the area and the presence of the nearby trees.
7. To be able to provide an appropriate level of system integration, the applicants state that they require an increase in the headframe height of the existing mast from 15 metres to 25 metres - thus providing an acceptable standard of signal coverage within the screened area now existing between Berkhamsted and Boxmoor. According to the applicants, the only practicable alternative to the appeal proposal is to remove the existing structure and to replace it with a pair of new masts, each perhaps 20-metres high, on sites to the north and south. Mast sharing with Railtrack on their equipment is not feasible because of the inadequacy of that structure to carry further equipment.

Considerations

8. PPG2 sets out the classes of development which will normally be considered as appropriate within the Green Belt. Nothing therein suggests to me that a structure of this type should be so regarded and I am able to reach the conclusion immediately that this proposal is one which would constitute an inappropriate form of development in Green Belt terms -

- harmful, by definition, to its function and purpose. The relevant policies of the Development Plan reinforce this conclusion and unless there are sound and convincing reasons why this development should be permitted, then the normal presumption in favour of its refusal should prevail.
9. On the second main issue, the following matters are pertinent to this decision. The appeal site is adjacent to (but not within) the AONB. Nevertheless, its designation within a Landscape Development Area should attract some weight. The sewage site as a whole is intensively developed with structures and plant associated with its primary use. The adjacent railway line is positioned on a slightly higher embankment than the site itself and the overhead cables add to the visual intrusion into the area. A line of electricity pylons crosses the valley nearby. Two masts are located on the site now – one of them 50 metres high. There are also equipment cabins present. One of these is controlled by the applicants and would be retained (as now) at the base of the mast if this structure were to be extended as is proposed. The immediate area to the mast which it is proposed to extend is cluttered and visible in the landscape from various vantage points, including the canal.
 10. The presence of the nearby trees tends to screen the site from some viewpoints, including those from the main road. No trees are present within the immediate vicinity of the mast at issue and, at its present height of 15 metres, the headframe can be seen in the landscape. The applicants estimate that the existing trees in the area may be as high as 22 metres but, due to their location, their screening effect in respect of any structures on the site which are more than a few metres high is quite limited.
 11. The Council has questioned the need for the extension to this mast for several reasons. They contend that other options may be available, including mast sharing. Particularly, and as has been done elsewhere in the District to provide coverage to the A41T, it could be preferable to install a pair of 15-metre high masts in strategic locations. In this case even this might be unnecessary as other masts have been permitted (or erected under the GPDO) in the Berkhamsted area for this specific purpose.
 12. The case for the appellants on this point, however, is convincing. The 15 metre high mast now on the site is incapable of fulfilling its purpose and its erection in this form was a mistake. To overcome the problem, their detailed technical assessment is unequivocal – the erection of two 20-metre masts at Berkhamsted would be essential (because of the existing tree cover and the topography of the area). This would be the only possible alternative to the appeal proposal. This is because the new facility has to be able to capable of achieving a clear line of sight for microwave signals to the BSC at Luton for its integration, apart from providing local signal coverage. Extensive field tests and trials have shown that these are the only two viable options open to the appellants to solve the problem. Whilst the Council's consultants have questioned the technical data supplied, their appraisal has been based on an over-optimistic 'desktop' interpretation of matters such as signal strengths and predicted coverage.
 13. From all the evidence on this matter, I conclude that it is neither practical nor technically proven that any other solutions are available to the applicants than to extend the existing mast on the site (in the manner they propose) or to install two 20-metre high masts in other (as yet unidentified) locations nearby. PPG8 and other Government policy guidance support the general concept of providing full coverage in network form by code operators as soon as possible, subject to environmental constraints. This consideration attracts weight in the planning balance.

14. Bearing in mind the Green Belt status of this land and the other policy constraints which are aimed at protecting important areas of the countryside such as this from visually intrusive development, it is necessary for the weight of the factors in favour of this type of proposal to be such as to overcome any harm which might be caused. In this instance, I believe that the harm which would be created is limited. The site is a developed one. A 50-metre high mast is already present on the site – albeit in a slimmer form of construction than is proposed now. The existing 15-metre high mast is not unduly prominent, partly because of the natural screening effects of the nearby trees.
15. With these points in mind, I conclude that the additional harm to the visual amenity of the area which would flow from this proposal would not be so serious as would be the case on an undeveloped site. I conclude that when viewed from a distance, and when seen in relation to the Railtrack mast and all the other clutter present on the valley floor in this location, the mast at a height of 25 metres would not be excessively conspicuous or so out of place that it would be unacceptable for that reason. Some tree screening is present now and more could be provided. Whereas the relevant policy considerations indicate that special care must be exercised in the consideration of proposals of this type, in this particular instance I conclude that the harm which I have identified would be outweighed by all the other factors in its favour. I shall therefore allow this appeal.

Conditions

16. The Council has suggested a number of conditions which should be imposed in the event of the appeal being allowed. I agree that the mast and its associated apparatus and equipment should be painted dark green to minimise visual impact. In this case I also accept that a scheme of landscaping would be advantageous to offset the visual effects of the development from various positions. Further, a condition should be imposed to secure the removal of the mast if and when it is no longer required for operational reasons. It is not necessary to safeguard the position in respect of further alterations as they would require planning permission.

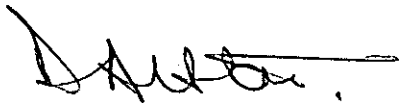
Conclusions

17. I have taken into account all the other matters raised by the parties in respect of this appeal. Nothing, including the provisions of the Development Plan, persuades me that the harm that this development would cause would be so significant that the technical need to increase the height of the existing mast should be resisted for this reason.

Formal Decision

18. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning for the extension of the existing telecommunications mast from a height of 15 metres to 25 metres at the Thames Water Sewage Works, Bullbeggars Lane, Berkhamsted, Hertfordshire in accordance with the terms of the application dated 22 July 1998 (ref no: 4/01312/98/FUL), and the plans submitted therewith, subject to the following conditions:
 - (i) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
 - (ii) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.

- (iii) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development 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 consent to any variation.
 - (iv) The mast, antennae, cabinets and all other equipment and apparatus installed or erected on the site in accordance with this permission shall be removed from the land within 6 months of the date when they cease to be used for telecommunication purposes. Thereafter the site shall be restored and reinstated in a neat and tidy condition.
 - (v) All of the apparatus and equipment to be used in association with this permission, including the mast, base cabinet, antennae, dishes and site fencing shall be painted in matt-finish dark green and thereafter retained in this colour.
19. This decision only grants planning permission under section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent which may be required.
20. The above conditions may require further matters to be agreed by the local planning authority. There is a right of appeal to the Secretary of State if they refuse such application, fail to give notice within the prescribed period, or grant conditional consent.





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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01312/98/FUL

THAMES WATER SEWAGE WORKS, BULLBEGGARS LANE, BERKHAMSTED,
HERTS
EXTENSION OF EXISTING TELECOMMUNICATIONS MAST FROM 15M TO 25M

Your application for full planning permission dated 22 July 1998 and received on 24 July 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 05 November 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01312/98/FUL

Date of Decision: 05 November 1998

- 1. The site is within the Metropolitan Green Belt wherein there is a presumption against inappropriate development. The area is not to be regarded as one of availability for development and permission will not be granted for new masts unless it is satisfactorily demonstrated that a suitable alternative site either outside the area or having a less harmful visual impact is not available. The current proposal is incompatible with these policies as it has not been satisfactorily demonstrated that such an alternative site is not available or, alternatively, that there are difficulties which prevent the sharing of existing facilities.**
- 2. The site lies adjacent to the Chilterns Area of Outstanding Natural Beauty and lies within a Landscape Development Area as defined on the Proposals Map accompanying the Dacorum Borough Local Plan. Notwithstanding any technical argument as to the need for a mast in this location, greater weight should be placed on the need to protect the quality of the landscape in the Area of Outstanding Natural Beauty and to improve the character and appearance of the immediate area. No additional mitigation measures are proposed and the mast will be severely detrimental to the visual amenities of the area.**