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# Appeal Decision

Site visit made on 16 April 2012

by **N M McGurk BSc (Hons) MCD MBA MRTPI**

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

Decision date: **19 July 2012**

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## **Appeal Ref: APP/M2270/A/11/2166047**

### **The Bull Pub, 79 Frant Road, Tunbridge Wells, Kent, TN2 5LH**

- 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 Telefonica O2 (UK) Limited against the decision of Tunbridge Wells Borough Council.
  - The application Ref 11/01301/FUL/SF1, dated 21 April 2011, was refused by notice dated 27 June 2011.
  - The development proposed is the installation of 6 antennas with an extended GRP chimney, 1no. shared equipment cabinet, and development ancillary thereto.
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## **Decision**

1. The appeal is allowed and planning permission is granted for the installation of 6 antennas with an extended GRP chimney, 1no. shared equipment cabinet, and development ancillary thereto at The Bull Pub, 79 Frant Road, Tunbridge Wells, Kent, TN2 5LH in accordance with the terms of the application, Ref 11/01301/FUL/SF1, dated 21 April 2011, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100A, 200B, 301C, 400B.
  - 3) No development shall take place until a sample of the material to be used in the construction of the GRP for the chimney stack has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out only in accordance with the approved details.

## **Procedural Matters**

2. Both parties have been consulted on the recently issued National Planning Policy Framework. The Council's Local Plan<sup>1</sup> was adopted in March 2006 and none of the policies relevant to this appeal appear to be at odds with the new Framework. In determining this appeal, I have had regard to the Framework and to the written comments made by the main parties on this matter.

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<sup>1</sup> Tunbridge Wells Borough Local Plan (adopted March 2006).

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3. Revised versions of the plans submitted with the planning application, have been forwarded with the appeal (plans 300B – existing elevations, and 301C – proposed elevations). I am normally required to deal with an appeal on the same basis as the plans considered by the Council in coming to its decision. In this instance, however, the revision on both plans relates solely to a more accurate representation of the existing chimney stack at the appeal property. There is no change to the detail of the proposal itself and I am satisfied that no third party interests are affected in this regard. I therefore confirm that the plans on which my decision is based, include plan Nos 300B and 301C.

### **Main Issues**

4. The main issue in this case is the effect of the development proposed on the character and appearance of the Royal Tunbridge Wells Conservation Area.

### **Reasons**

5. The appeal property, The Bull Pub, is a two storey Victorian building comprising a part brick, render and hanging tile exterior, with a clay tile roof. It is located on the corner of Frant Road, where it meets Birling Road. Frant Road is a principal route and whilst the pub is set back and largely hidden from view when approaching from Tunbridge Wells town centre, it appears more prominent when approaching towards the town centre from the south. The area is predominantly residential in character, although there is an off licence to one side of the pub and a storage yard and offices to the other side and rear. The Royal Tunbridge Wells Conservation Area in this location<sup>2</sup> is characterised by two storey period properties in a variety of styles, set within large garden plots and surrounded by tall, mature trees and hedgerows. As the Council point out, it has an older, mature village-like character, towards which the pub makes a positive contribution.
6. The side elevation to the appeal building includes two tall chimney stacks. With the benefit of planning permission (TW/02/00587/FUL) three antennas were installed on top of the rear chimney stack, within a shrouded chimney extension. I understand, in this regard, that the oversailing brick courses were to be rebuilt in GRP, painted to resemble brickwork, and cowls added to mask the antennas. It is proposed to remove the 'cowls' and the existing antennas, and to extend the GRP chimney casing upwards, by around 2.2 metres, within which would be housed six antennas, to allow for shared use of the installation by two operators. The existing meter and equipment cabinets are located towards the rear of the site. Whilst the meter cabinet would be retained, it is also proposed to install a replacement equipment cabinet
7. The shape and profile of the existing GRP chimney stack on the appeal property closely matches that of the adjacent chimney on the same building. Given this, I am satisfied that the proposed replacement replica GRP chimney stack could be constructed to match the shape and profile on the photomontage provided by the appellant in support of its case. During my site visit, I noted a range of chimney types in the surrounding area, including a number of tall and prominent chimneys and as such, I find that the form of development proposed would be compatible and not look out of place. A full height chimney of brick

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<sup>2</sup> Although the Council refers to the site being within the Frant Road special character area, no information is provided on this.

appearance would also be in keeping with the period features of the host building. Although it would be taller than the existing chimney and would be clearly seen, it would not, in my view, be incongruous, sitting comfortably together with the adjacent brick and cowl chimney on the same roof. However, I agree with the Council that the colour of the existing replica GRP chimney stack was a poor match to the original brickwork, being significantly different in both tone and colour. The photomontage suggests that the proposal will be designed to provide a very close match to the existing brickwork and the appellant has proposed a condition in order to ensure that this is the case. A close match is an essential requirement, due to the size and prominence of the replica GRP chimney stack proposed.

8. Consequently, through sympathetic design and camouflage, in line with the requirements of the National Planning Policy Framework (2012), I find that the proposed development would not harm, but preserve the character and appearance of the Royal Tunbridge Wells Conservation Area. In so doing, it would also conform with Local Plan policy EN1, which requires development to respect its context; and policy EN5, which seeks to ensure that development preserves the character of the conservation area in which it is situated. I find no conflict in this regard, with Local Plan policies EN1, EN5 and EN20(5) which seek a balance between need and environmental impact. For the reasons given above and having regard to all other matters raised, I conclude, on balance that the appeal should succeed.

### **Other Matters**

9. As mentioned above, the reasons for refusal include reference to Local Plan policy EN20, which requires proposals for siting telecommunications equipment to accord with 5 specified criteria. With regards this policy, the appellant has provided an ICNIRP<sup>3</sup> Certificate; has demonstrated that the proposal is essential to provide coverage; and has provided evidence that the proposal is an optimum environmental solution, and that there is no other structure in the area capable of providing a practicable solution. In addition, I consider that the proposed development would be as unobtrusively sited as technically feasible and that, subject to a condition, its visual impact would be minimised. Consequently, the proposed development would meet the requirements of policy EN20.
10. The Council also refer to policies in the South East Regional Plan 2009 (SERP). I have had regard to the provisions of the Localism Act 2011 and the intention to revoke the SERP Plan, along with other Regional Strategies. However, in the context of this appeal, the relevant SERP policies (BE1 and BE6) do not suggest a significantly different approach from the policies within the Local Plan.
11. I am aware of the concerns of local residents regarding the possible effects of the proposal on public health. However, the new Framework makes it clear that the planning system is not the place for determining health safeguards if the proposal meets the ICNIRP guidelines for public exposure. Since the Certificate submitted by the appellant confirms that emissions from the installation would be in full compliance with requirements of the guidelines, it is not necessary for me to consider further the health aspects and concerns about it. I recognise

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<sup>3</sup> International Commission on Non-Ionizing Radiation Protection.

that the concerns of those who live in the area are sincere and keenly felt. However, there is no specific or compelling evidence before me to indicate that a different approach should be adopted in this case. Although I have treated those concerns as a material consideration, I have found nothing to outweigh the thrust of Government advice in this respect.

12. Whilst concerns have also been raised about the proposed development interfering with the hunting habits of bats, there is no substantive evidence before me to demonstrate that this would be the case. I also note that whilst an alternative site, at the local rugby club, has been proposed by local residents, that this site already hosts the adjoining cell and as such, is not a viable alternative to the appeal property.

### **Conditions**

13. I have considered the conditions suggested by the Council against the advice in Circular 11/95. A condition referring to the relevant plans is necessary for the avoidance of doubt and in the interest of proper planning. Given my concerns in relation to the existing poor match in terms of materials, a condition requiring the submission and approval of a sample of the materials for the GRP chimney stack, is necessary in the interest of visual amenity.

### **Conclusion**

14. I recognise the strength of local feeling in relation to the development proposed and am mindful that, in addition to individual letters, a petition was submitted in objection to the proposal. I confirm, in this regard that, in coming to my conclusion, I have taken full account of all the representations that have been made. These have been balanced against the provisions of the development plan and the new Framework. I have found that there would be no harm to the character or appearance of the Conservation Area, which would be preserved. I am also mindful of the importance the Government attaches to a high quality communications structure, which is essential for sustainable economic growth. Accordingly, for the reasons set out above, I conclude, on balance, that the appeal should succeed.

*N M McGurk*

INSPECTOR