



Appeal Decision

Inquiry held on 9 July 2008

Site visit made on 9 July 2008

by **JP Roberts** BSc(Hons) LLB(Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
10 September 2008

Appeal Ref: APP/Y11110/A/08/2062116

Junction of Haven Road / Alphington Road, Exeter, Devon EX2 8AF

- 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 O2 (UK) Ltd against the decision of Exeter City Council.
- The application Ref 07/2018/03, dated 13 September 2007, was refused by notice dated 12 November 2007.
- The development proposed is the installation of a 15m monopole with 3 no. antennas, 2 no. radio equipment housings and ancillary development.

Procedural matters

1. The main parties agreed that the site address should refer to Alphington Street, rather than Alphington Road.
2. During the course of the appeal, the appellants submitted amended plans showing a slimmer monopole and a single equipment cabinet. The Council had no objection to my dealing with these plans, and as I consider that no-one's interests would be prejudiced by doing so, I have taken them into account in my decision, and I have amended the description of the development accordingly.
3. After the making of the appeal, the appellants' company name was changed to Telefónica O2 UK Ltd.

Decision

4. I allow the appeal, and grant planning permission for the installation of a 15m monopole with 3 no. antennas, 1 no. radio equipment housings and ancillary development at Junction of Haven Road / Alphington Street, Exeter, Devon EX2 8AF in accordance with the terms of the application, Ref 07/2018/03, dated 13 September 2007, as amended by the plans Refs: P/38025A/GEN/050 and P/38025A/GEN/051, subject to the following condition:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Application for costs

5. At the Inquiry an application for costs was made by O2 (UK) Ltd against Exeter City Council. This application is the subject of a separate Decision.

Main issue

6. The main issue is whether the proposal would cause material harm to the character and appearance of the area, and if so, whether any harm would be outweighed by the need to site the development in the location proposed.

Background

7. The appeal application was submitted following the Council's making of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 which removed rights to carry out development under Part 25 of the Order. I shall refer to this Direction below.

Reasons

8. The site is located at an entrance/exit to the Exebridge Centre, an edge of town retail park, opposite a leisure centre and some 30m away from the nearest part of Alphington St, the busy A377 road leading south from Exeter city centre.
9. The site does not lie in an area with any special designation for its character or appearance, but is within part of a designated district shopping centre shown on the Exeter Local Plan (LP). Most of the buildings surrounding the site are of a large scale and of modern design. I accept that the design of the Exebridge Centre possesses no great architectural quality. The building itself is a brick walled monolith, broken up by large canopies over the four individual shop units, the curved design of which is echoed in the covered walkway beneath. I have no reason to doubt that similar units are commonplace in such centres.
10. Other buildings nearby, such as the leisure centre, the Pizza Hut restaurant and the library on the north side of the Exebridge Centre, are all of modern design, but none of them is, to my mind, especially notable. The proposed monopole would form a column with a slightly thicker shroud at the upper 3.5m or so. It would be 7m higher than the adjacent street light, and together with the single equipment cabinet, I agree that it would have a functional appearance.
11. The car park has within it numerous trees, which are protected by a tree preservation order. Possibly as a result of that order, the trees, whilst relatively young, nevertheless possess luxuriant foliage, and in my view, make a positive contribution to the area. As well as giving the retail park some individuality they would also screen some views of the proposed monopole from pedestrians within the car park or from the pedestrian link through it. The trees will no doubt continue to grow, and would screen more views, either wholly, or in part, of the proposed pole.
12. The monopole would be higher than any of the buildings and street lights nearby. It would also be higher than the lighting columns and trees in the extensive car park which serves the retail park, and I accept that it would appear above the skyline in numerous locations from the public realm, and from within the retail park, to which the public have access. Whilst there may be no legal public right of way over the retail park, it is nevertheless a place which large numbers of the public use and I consider that such public use is significant.
13. However, numerous streetlights in the area, and the buildings in the vicinity of the appeal site have varied heights, designs and materials, so that there is no

- uniformity in the skyline. Whilst the nearby streetlights are lower than the proposed monopole, a number are sited close to the adjacent streets, so that from the surrounding roads they would appear higher in comparison with the more distant proposed development. Moreover, the surrounding roads are busy ones; drivers and even passengers are likely to have their attention focussed on the dynamic street scene of other traffic, traffic lights, and lanes.
14. Even when approaching the site from the east, around the Exe Bridges gyratory, I do not share the Council's view that the pole would be more prominent or exposed than any other location in the city. Trees would block some views, and tall conjoined streetlights and other street furniture are prominent features in a busy street scene.
 15. The clearest views would be from the beginning of Alphington Street to a point just to the south of Ashmore Court, where it would be seen against the background of the retail centre and leisure centre, with trees and street lights in the foreground. Whilst it would break the skyline, in such an environment I am certain that the proposed pole would not be highly intrusive. Such poles and other street furniture such as streetlights and CCTV cameras (of which there are some nearby) are an everyday part of the modern urban environment, and despite the height of the pole in this case, I consider that it would not stand out in views.
 16. Its height and functional appearance would to some extent detract from the street scene, adding to existing clutter. However, I reject the Council's submission that it would result in a point being reached where additional clutter would be unacceptable. No evidence was adduced on this point, and from my own observations, I find that streetworks are sufficiently dispersed in the area, so that this proposal would not tip the balance to an extent that it would cause significant damage to the area.
 17. The Council accepts that the proposal would not conflict with the only relevant telecommunications policy, Policy EN7 of the Exeter Local Plan First Review. However, it alleges a breach of Devon Structure Plan Policy CO6 and Local Plan Policy DG1. Policy CO6 is a general policy seeking quality in new development. The first part of the policy seeks to conserve and enhance the identity, distinctive character and features of existing settlements, urban and rural areas. I consider that the proposal would have no impact on these features.
 18. The other relevant part of the policy requires good design and layout that respects the character of the site and its surroundings, a criterion similar to (g) of LP Policy DG1 which also contains a requirements that height should be appropriate to the surrounding townscape. Telecommunications antennas, by their nature, have to be higher than surrounding buildings, and whilst the modern slimline design utilised in this case limits its impact, I find that there would be some small harm to the street scene, contrary to the objectives of these policies.
 19. Apart from the owner of the Exebridge Centre, there was no public objection to the proposal, either at application stage or when the appeal was made, despite considerable publicity having been given to the proposal by the Council. This

reinforces my views that the visual harm caused by the development would be small.

20. It is the Government's policy expressed in Planning Policy Guidance Note 8: *Telecommunications* (PPG8) to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to the minimum. The appellants have explained the need for the proposal to improve coverage in the area of the appeal site, which is close to main roads and a railway line. The need for the development has not been disputed, but the Council has attached little importance to the need for the development. I share the appellants' view that good telecommunications systems are important for both business and social needs, and also help to meet wider planning objectives such as improving accessibility to services and goods for those who are unable to access them in other ways.
21. The main parties agree that there is no other suitable alternative location for the development. Although the Council suggested that coverage might be obtained by reconfiguring existing cells, there was no evidence to support this proposition, and the appellants' witness was not challenged on this aspect. In the absence of substantive evidence on this point, I give it little credence.
22. Although not a reason for refusal, the Council criticised the appellants for not demonstrating to its satisfaction that the landowners referred to by the appellants were genuinely not willing to allow installations on their properties. I do not take the view that planning authorities should not challenge such claims. It is open to planning authorities to seek further information at application stage and the Council could then take a view on the appropriateness of the information before it. In this case the information from the applicants was not challenged, and in the absence of any substantive evidence to suggest that the "willingness" information is wrong, and on the basis of what I was told at the Inquiry, I am satisfied that no suitable alternative locations are available.
23. In my view, the importance which the Government attaches to the growth of telecommunications development, having regard to the lack of suitable alternative sites, outweighs the limited visual harm that I have found.

Other matters

24. I acknowledge that PPG8 indicates that Article 4 Directions should not be made unless there is a specific threat to amenity. The confirmation by the Secretary of State of the Direction suggests that there would be such a threat, and it is clearly a material consideration.
25. However, the Direction was made by the Council without notifying the appellants, so that they had no opportunity to argue their case when the Secretary of State considered whether to confirm it. Secondly, it appears that the Secretary of State was not aware of the specific proposal, which was referred to only in general terms, and which, in my view, was not described in a neutral way, which may have affected the decision. Thirdly, and to my mind most importantly, the Direction was approved only on the basis of there being a threat to amenity. This is a different exercise from the one taken here, where the need for the development, the lack of alternatives and the technical constraints involved need to be balanced against environmental effects.

Bearing in mind that the effect of the Direction is only to require that planning permission needs to be granted before development can take place, I am satisfied that the confirmation of the Direction should not fetter my discretion to determine the appeal on its own merits.

26. There were no conditions suggested, and other than the standard implementation condition, I consider that none is necessary.
27. For the reasons given above, I conclude that the appeal should be allowed subject to a condition.

JP Roberts

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ross Hussey He called	Planning Solicitor, Exeter City Council
Mr Erich König, MA, MRTPI	Appeals Officer, Exeter City Council

FOR THE APPELLANT:

Mr Trevor Blaney, MSc, LAMRTPI, Solicitor He called	Partner, Lawrence Graham LLP, 4 More London Riverside, London SE1 2AU
Mr Glenn Holt, BEng(Hons), NDEE, MIEE	Director, Tilehouse Solutions Ltd, Tile House, Vicarage Hill, Tanworth-in-Arden, Solihull, West Midlands B94 5EB
Mr Ian Waterson, BA (Hons), DMS, MRTPI	Town Planning Solutions Ltd, 5 Holly Close, Sutton Coldfield, West Midlands B76 2PD

DOCUMENTS

Document	1	List of persons present at the inquiry
Document	2	Letter of notification
Document	3	Summary of Mr Holt's evidence
Document	4	Summary of Mr Waterson's evidence
Document	5	Paginated bundle of correspondence submitted by Mr Blaney
Document	6	Signed Statement of Common Ground
Document	7	Appeal decision APP/Y1110/A/07/2042742 submitted by Mr Blaney