



# Appeal Decision

Inquiry opened on 3 September 2008

Site visit made on 10 March 2009

by **B J Juniper** BSc, DipTP, MRTPI

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

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Decision date:  
20 April 2009

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## Appeal Ref: APP/Y1110/A/08/2062069

### Land at the junction of Belmont Road and Western Way, Exeter, EX1 2HF

- 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 O<sub>2</sub> (UK) Ltd against the decision of Exeter City Council.
- The application Ref 07/2017/03, dated 13 September 2007, was refused by notice dated 12 November 2007.
- The development proposed is the installation of a 12.5m monopole with 3 no. antennas, a radio equipment housing and ancillary development.

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### Application for costs

1. 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.

### Decision

2. I allow the appeal, and grant planning permission for the installation of a 12.5m monopole with 3 no. antennas, a radio equipment housing and ancillary development on land at the junction of Belmont Road and Western Way, Exeter in accordance with the terms of the application, Ref 07/2017/03, dated 13 September 2007, and the drawings numbered P/37204A/GEN/050 and /051 submitted with the appellants' statement of case, subject to a condition requiring that the development hereby permitted shall begin not later than three years from the date of this decision.

### Preliminary Matters

3. The inquiry opened on 3 September 2008 but it emerged that the Council, although it had undertaken to do so, had not arranged for the site notice to be displayed for the appropriate period. The inquiry was therefore adjourned. It re-opened on 3 December 2008 and sat for 2 days then was further adjourned until 10 March 2009 when it sat for one further day.
  4. Revised drawings were submitted by the appellants with the appeal. They show a slimmer monopole than that considered by the Council during the processing of the planning application and only one equipment cabinet instead of the two originally proposed. The Council indicated that it was content for the appeal to be determined on the basis of these revised details which are shown on the drawings referred to in the formal decision above and I agree that this can be done without prejudice to the interests of any party to the appeal. I have amended the description of the development in the heading and the formal decision to accord with the revised drawings.
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5. The appellants argued that, as the Council had failed to respond in time to a prior notification they had previously submitted under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), planning permission had effectively been granted for the proposal in any case. However, following that notification, the Council made a Direction under Article 4 of the Order removing the permitted development rights under Part 24 at this and other sites. The Order was subsequently confirmed by the Secretary of State. The appellants expressed the view that the Council had acted deceitfully in obtaining confirmation of the Direction but that is a procedural matter which is not before me. I have to determine the appeal which arises from the refusal of the application for planning permission subsequently made by the appellants.
6. The day before the opening of the Inquiry the Council withdrew reason for refusal No.2 which related to alleged health effects of the proposal. That part of the evidence of the Council's witness which related to health effects was also withdrawn. One of the Council ward members for the area submitted to the inquiry a separate proof of evidence on health matters which he had originally prepared on behalf of the Council.

### **Main Issue**

7. I consider that the main issue is the effect of the proposal on the character and appearance of the area including the impact on the Belmont conservation area and the setting of the listed buildings at 1-25 Belmont Road.

### **Reasons**

8. The proposed mast would be sited at the back of the footway on the corner of Belmont Road and Western Way. The monopole would be about 12.5m high to the top of the 3.6m high antenna shroud which is shown on the drawings as 325mm in diameter, slightly more than the 273mm diameter shown for the remainder of the pole. There would be a single equipment cabinet about 1.65m high, 1.9m wide and 0.8m deep finished in dark green. The Council did not object to the equipment cabinet and I agree that it would be a discrete structure of the type commonly found on the margins of highways in urban areas. It would have no material impact on its surroundings at this location.
9. The appellants were able to demonstrate a need for enhanced 2G and 3G coverage in the area, much of it arising from the relatively transient population of this part of the city, which houses a large number of students who tend to occupy accommodation without fixed line telephones. The Council did not dispute the assessed need, but argued that the appearance of the monopole and shroud would be sufficiently harmful to the character and appearance of the adjoining conservation area and to the setting of the terrace of mid C19th listed houses at 1-25 Belmont Road as to justify withholding permission for the scheme.
10. The site is at the margin of what, in urban form terms at least, could be considered to be the city centre. To the west is a range of modern commercial buildings on the opposite side of Western Way and to the north is a large, landscaped roundabout which accommodates a CCTV camera on a mast of broadly similar proportions to that proposed for the appeal site. Permission

has been granted for this mast to be replaced with one which accommodates telecommunications equipment as well as the camera but this has not been implemented and, due to technical difficulties, may not be in the immediate future. To the south is an area of post-war housing of somewhat municipal appearance, the closest building being a four-storey block of maisonettes. The listed buildings and conservation area which are of particular concern to the Council are a little to the east, beyond a small, pay-and-display car park and the truncated stub of Belmont Road. This length of road has evidently been displaced from its previous connection to Sidwell Street in the past by the construction of Western Way and now serves only as the access to the car park.

11. I have no doubt that the mast would be readily perceived by road users on foot and in vehicles. However, Western Way is lined by a series of street lamps mounted on columns about 11m in overall height mostly with single lamps but some, including one on the pedestrian refuge in Western Way opposite the site, with a pair of lamps. Although these columns are neither as high nor as wide as the proposed mast their number and location are such that the latter would be seen as an addition to a range of vertical features in the street. From most viewpoints around the site the mast would, simply through the effect of perspective, be seen as a structure of comparable height and its proposed finishes, which would be similar to the lighting columns, would help it to be seen as a relatively unobtrusive structure.
12. The lamp columns are by no means the only features in the street scene. The mast would be located adjacent to a small ornamental tree, about 6m high and one of a number around the car park which range in height up to about 8m. There is also a zebra crossing with its associated lamps and some smaller items of street furniture around the car park such as the pay-and-display machine and its associated notice board. The area around the site is, therefore, by no means devoid of other engineering structures and to my mind the addition of the mast to the area would be of limited visual significance. Although the Council describe its design as 'mediocre', the proposed mast has the merit of being unassuming in its profile and almost wholly lacking in any detail which might draw the eye. Such structures are now relatively commonplace and I judge that it would be rapidly assimilated into the urban scene.
13. The Council had suggested a number of other locations nearby for rooftop sites where antennas could potentially be erected but the appellants demonstrated that none of these were both realistically available and technically suitable. I am satisfied that the appellants took reasonable steps to identify alternative locations for the facility and this was accepted by the Council at the Inquiry.
14. Policy EN7 of the Exeter Local Plan First Review (LP) states that proposals for telecommunications apparatus will be permitted where they are sited and designed to minimise their visual impact and effect on amenity and where there are no practicable alternatives. I consider that the proposal conforms to this Policy, and to the wider design objectives in Devon Structure Plan (SP) Policy CO7 and LP Policy DG1.
15. The mast would not directly adjoin the conservation area but at its closest point would be between 23m and 28m away from the boundary, the exact line of

which could not be agreed at the inquiry. Given the length of the front gardens of the terrace of listed houses, the appeal site is no closer than 40m to them. Nevertheless the mast would be seen in the foreground in views towards Belmont Road from the west and south-west, and it would also be visible from locations with the conservation area. Its visual impact on that area and on the setting of the listed buildings was a matter of concern to the Council.

16. I accept that the mast would comprise an additional feature in the existing array of street furniture but, as I have found above, its impact would be modest. Given its distance from the boundary of the conservation area and the fact that the intervening area is laid out as a car park, I do not consider that the impact of the proposal could reasonably be described as material. The view of the mast from Belmont Road within the conservation area would also be against the background of the modern buildings to the west and the 11m high street lamp columns along Western Way. Further, the visibility of the mast from many of the houses in Belmont Road would be additionally obstructed by the vegetation in their front gardens. I judge that the effect of the proposal on the conservation area would be neutral and that the scheme would thus preserve its character and appearance. This accords with requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and with LP Policy C1. For the same reasons I find that the setting of the listed buildings would be unimpaired, as required by SP Policy CO7 and LP Policy C2.
17. I conclude that the proposal would not harm the character or appearance of the area nor would it have an adverse impact on the Belmont conservation area or the setting of the listed buildings at 1-25 Belmont Road. It would also conform to the relevant development plan policies.

### **Other Matters**

18. The application was submitted with a certificate stating that the installation would meet the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines for public exposure. Local residents expressed fears about the potential safety of the scheme and the evidence submitted by a Council ward member sought to challenge the basis of the ICNIPR assessment as being inadequate to provide the necessary assurances on safety. The core of this evidence was that the strength of intensity of radiation would not be uniform and that higher levels of exposure might be experienced at upper floor levels of residential property close to the antennas. The flat at 11 Parr Street, just south of the site, was adduced as being the closest point, about 25m from the mast.
19. The objection effectively sought to challenge the basis on which telecommunications proposals are judged in national policy terms, and in particular in Planning Policy Guidance Note 8 – *Telecommunications* (PPG8). However, the approach in PPG8 is based on a well established precautionary principle and almost all of the available research evidence is that exposure to the public from mobile phone base stations will be a small fraction of that judged safe in the ICNIRP guidelines. In any event, the appellants were able to demonstrate that the maximum exposure at any building face, a point 8m above ground level at the face of 11 Parr Street, would be less than 0.5% of

the ICNIRP figure. There is thus no basis for the proposal to be considered as being harmful to the health of occupiers of the surrounding buildings.

**Conclusion**

20. Overall I have found that the proposal would address an established need for a telecommunications facility and would not harm the character and appearance of the area nor result in demonstrable health hazards. I have taken into account all other matters raised in the representations but I have not found any evidence to outweigh the main considerations which have led to my decision.

*B J Juniper*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Giles Atkinson of Counsel  
He called  
Erich König BA, MRTPI Appeals Officer

### FOR THE APPELLANT:

Trevor Blaney MSc, Partner: Lawrence Graham LLP  
LAMRTPI, Solicitor  
He called  
Glenn Holt BEng(Hons), Director: TileHouse Solutions Ltd, Tile House,  
NDEE, MIEE Vicarage Hill, Tanworth-in-Arden, Solihull, B94 5EB  
Michael Pearce ARIBA, The Lodge, 52 Hallows Close, Salisbury, SP2 8JX  
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Ian Waterson BA(Hons), Town Planning Solutions Ltd, 51 Heath Road,  
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### INTERESTED PERSON:

Dr Peter John Shepherd City Council Member (Newtown Ward), 12 Thornton  
MA(Oxon), DPhil (Oxon) Hill, Exeter, EX4 4NS

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

Submitted at the opening of the inquiry on 3 September 2008

- Document 1 Council's letter of notification of the inquiry and list of addresses to which it was sent
- Document 2 Signed and agreed statement of common ground
- Document 3 Rebuttal proof of evidence from Ian Waterson
- Document 4 Rebuttal proof of evidence from Glenn Holt
- Document 5 Bundle of correspondence relating to the statement of common ground and to the display of the site notice prior to Sept 3rd

Submitted during the inquiry sessions on 3 and 4 December 2008

- Document 6 Supplementary proof of evidence from Ian Waterson
- Document 7 Summary proof of evidence from Glenn Holt
- Document 8 Summary proof of evidence from Michael Pearce
- Document 9 Summary proof of evidence from Ian Waterson

Submitted during the inquiry session on 10 March 2009

- Document 10 Closing submissions on behalf of the Council (amended as delivered)

- Document 11 Closing submissions on behalf of the appellants (amended as delivered)
- Document 12 Application for costs made by the appellants
- Document 13 Council's response to the above (manuscript)
- Document 14 Bundle of correspondence referred to in Document 13