

# Appeal Decision

Site visit made on 11 May 2004

by **Christopher Jarvis LLB MRTPI Solicitor**

**an Inspector appointed by the First Secretary of State**

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Date

**27 MAY 04**

Appeal Ref. **APP/U1105/A/04/1137356**

**Radio Site, Beare Trading Estate, Beare, Broadclyst, Exeter, Devon, EX5 3JX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- The appeal is made by Vodafone Ltd against the decision of the East Devon District Council.
- The application (Ref. RC/JH/7/22/03/V0003/720), dated 2 September 2003, was refused by a notice dated 28 October 2003.
- The development proposed is the replacement of an existing 15 metre high monopole fitted with 2 no. omni antennas with a new 15 metre monopole fitted with 2 no. panel antennas and replacement of existing equipment cabinet with a new RBS 2103 equipment cabinet.

## Decision

1. I dismiss the appeal.

## **Reasons for the Decision**

2. The proposal would replace the present mast, granted permission and constructed in 1994/5., with a mast of very similar visual characteristics. However, while the proposed mast would cause no greater impact than at present on the character and appearance of the locality and the setting of its listed buildings, I find the evidence supporting the continuing need for the mast to be in this location so close to housing, and that on the nature of the radiation effects, to be inadequate.
3. I accept that the appeal site has merit because the structure would be within an industrial area and close to the M5 motorway. It is an environmentally degraded location as my colleague, Mr Dudley, explained in appeal APP/U1105/A/03/1113523 when permission was granted for the Hutchinson 3G "site share" mast close by. However, I am unable to assess the coverage requirements for the proposed mast, as justification for the clutter it adds to this location and the anxiety it causes, because I find the diagrams for given signal strengths to be incomprehensible as they are not in colour and are of poor quality. I also note that the assessment of alternative sites was carried out over 10 years ago which begs the question as to whether that assessment is still valid for this proposal and its future emissions.

4. The more fundamental difficulty I have with the project is my inability to properly consider, assess and explain the potential health effects on local people. This is all the more important when there are such high levels of anxiety amongst nearby residents expressed in the representations. There are also specific allegations of harm to health although these are not supported by medical evidence to demonstrate a link with the masts. Although I have a certificate stating that the ICNIRP Guidelines would be complied with for the proposed mast, and PPG8 advises that ICNIRP compliance should be sufficient assurance for a favourable decision to be made on the application from a health viewpoint, I nevertheless feel it right that the impact of the radio emissions should be properly explained and understood.
5. To illustrate this lack of evidence, I have no comprehensible data on radiation levels from the proposed (and other) mast as they affect the surrounding land and buildings in order to assess the potential impact on occupiers of houses, offices and industrial businesses. I have only the most basic technical information and not, for example, predicted radiation levels at relevant points of interest, calculation or estimation of power losses or the likely power output profile of the mast. There is no attempt by Vodafone to explain or counter the results of the AcoustiCom monitoring carried out by local residents which clearly gives effect to their worries. The evidence submitted does not allow me to carry out the appraisal exercise expected by the High Court in *Skelt v First Secretary of State & Three Rivers DC & Orange PCS Ltd [C0/2466/2003]*. Furthermore, I question the validity of the ICNIRP Compliance Certificate which, as stated on the document, relates just to the proposed mast and not to the cumulative effects of the Hutchinson 3G mast and the proposed new mast or the previously permitted lattice mast as is advised in PPG8 paragraph 99. This shortcoming does not inspire my confidence.
6. Overall I conclude that the high level of anxiety amongst local people is of sufficient weight that approval for siting the proposed mast should not be granted without more and better information, and particularly a competent assessment of the likely effects of the project on the health of local people. In coming to that conclusion I have considered compliance with cited local and national policies and the permission that is extant for the larger lattice mast. The lattice mast permission may not be implemented as a result of dismissal of this appeal, especially if this project were to be able to proceed in future as a result of the production of better evidence. However, any future application will need to be assessed on its own merits at the time.
7. I have considered all other matters raised, including whether the height of the mast qualifies it as permitted development. The mast would need to comply with the 15m criterion if it is to be lawful. However, neither this, nor any other matter is sufficient to override my conclusions and my decision.

*C Jarvis* (signature)

Inspector