



Appeal Decision

Inquiry held on 8 and 9 August 2007

by **Steven Fox BA MA 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:
4th, September 2007

Appeal Ref: APP/Y2620/C/06/2023392

North Walsham Police Station, Yarmouth Road, North Walsham NR28 9AT

Summary of Decision: The appeal is allowed and planning permission granted

This decision supersedes that issued on 17 January 2005.

Preliminary Matters

1. I am appointed by the Secretary of State to redetermine the appeal made by MMO2 Airwave Ltd on ground (a) of Section 174(2) of the 1990 Act against an enforcement notice issued on 4 May 2004 by the North Norfolk District Council. The notice alleged alterations of the existing lattice tower mast by the installation thereon of three omni-directional antennae and supporting brackets.
2. In a letter dated 17 January 2005 the appeal was determined by another Inspector appointed by the Secretary of State. That decision was the subject of an application to the High Court by Henry Pennington, and on 26 May 2006 the Court ordered by consent that the decision be remitted to the Secretary of State for rehearing and determination. The ground on which the Court remitted the appeal was in accordance with the form of consent agreed between the applicants and respondents that the decision involved breaches of procedural fairness.
3. I now have to redetermine the ground (a) appeal and the deemed application for planning permission in the light of the form of consent, the evidence originally submitted in respect of the appeal and the decision letter.
4. However, the Inspector's decision to quash the enforcement notice could not be challenged under Section 288 of the Act. Moreover, as a third party, Henry Pennington had no locus to challenge that part of the Inspector's decision under the only statutory power available, namely Section 289 of the Act; and the Council did not exercise its right to challenge the decision under Section 289. Nor did Henry Pennington seek to apply for judicial review of the Inspector's decision in that respect. In these circumstances, the Council's enforcement notice dated 4 May 2004 remains quashed and is therefore of no effect.
5. At the inquiry an application for an award of costs against the Council was made on behalf of the appellant. This is the subject of a separate decision.

Policy Framework

6. In my view the development plan policy most relevant to this appeal is policy R6 of the saved local plan. This policy says that compatible non-residential development will be permitted in residential areas. Reference was also made to local plan policy 100, which relates to new sites for telecommunication masts. As the appeal development involves use of an existing mast this policy does not apply. Nor does policy 101 which concerns applications for the determination of prior approval. Policy E6 of the draft Regional Spatial Strategy has now been deleted and is no longer relevant. The Council's Core Strategy Document includes CT4 (telecommunications), which is a criteria-based policy for telecommunications development. This document has been approved for submission to the Secretary of State but the weight attaching to its policies is reduced because of the possibility that they may be changed through later formal stages.
7. As far as central government advice on planning for telecommunications development is concerned this is set out in Planning Policy Guidance Note 8 (PPG8). The thrust of government policy is to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. The guidance also recognises a responsibility for protecting public health.

The Site and Surroundings

8. The development comprises the installation of three antennae and supporting framework on an existing 20m lattice mast within the complex of buildings at North Walsham Police Station. The site is on the west side of Yarmouth Road, within an area characterised by low density residential development and a significant presence of mature trees and vegetation at the roadside. My attention was drawn to the location of a veterinary practice and the St Nicolas House Preparatory School close by to the south, and the presence of care homes for the elderly and a Cottage Hospital on Yarmouth Road. I also noted a day nursery (Poppies) in the park to the north-east and the North Walsham High School at the rear of housing to the east.

Main Issues

9. From what I have seen, heard and read I consider the main issues to be:
 - (i) Whether, bearing in mind the operator's technical requirements, adequate investigations of possible alternative sites have been carried out, and
 - (ii) Whether health considerations and public concerns justify refusal.

Inspector's Reasons

Alternative Sites

10. Following a Home Office review of police mobile communications approval was given to the rollout of an integrated system which meets the requirements of police forces and also extends for use by other emergency services. The Airwave network has been introduced throughout the country by means of a Terrestrial Trunked Radio (TETRA) system, which automatically allocates

channels to users according to availability. The benefits of the system include faster call set-up, group calls, enhanced security and inter-mobile calls.

11. Because of the nature of the system's use by emergency services coverage requirements are more stringent than for the commercial telephone networks in that as near to 100% geographical coverage as possible is essential. In addition to the geographical aspect police forces specify the coverage levels required within their areas. For North Walsham two levels of coverage have been identified. Firstly a wider red zone where 100% handheld coverage must be provided, allowing calls to be made and received from handsets in outside locations, and, secondly, a black zone around and including the town centre, where fully enhanced coverage is needed to enable handsets to be used under the widest range of circumstances.
12. The appellants have produced a series of radio plots, based on computer models that input topographical/geographical information, mast/antennae heights and levels of transmission. For each location the results are shown on a grid based plot indicating the signal strength available within each individual grid. This methodology is commonly used throughout the telecommunications industry.
13. At the inquiry the Council confirmed that it does not challenge the need for the service provided by the equipment. Nor does it take the view that alternative sites put forward are technically suitable or would meet operational requirements.
14. PPG 8 attaches considerable importance to keeping the number of masts and sites to the minimum consistent with efficient operation, and encourages mast sharing and the use of existing buildings and structures. Applicants for new masts are expected to show that they have explored the possibility of erecting their antennae on an existing mast, structure or building before advocating a new site. This is essentially a sequential approach to location.
15. The need for additional coverage in North Walsham is demonstrated by the plots of coverage from existing equipment (without the appeal site) which show areas where signals are below usable handheld levels. The equipment at the appeal site satisfactorily fills the gaps in service and provides the required coverage within both red and black zones.
16. The appellant has provided coverage plots for the location of the equipment at 18 other sites in and around the town and has also investigated four additional alternatives. No technical information about the possible alternative sites was put forward by other than the appellant. Third parties did question the apparent anomalies between the original plots and those submitted to the inquiry but the appellant's witness explained that differences result from changes to the key and an updating to achieve consistency. I visited each of the locations in order to assess the nature and setting of the site and the possible impact of the development on the surrounding area. But in considering alternatives factors other than visual impact have to be borne in mind. Firstly the requirement to provide the coverage specified by the police force, bearing in mind the implications for public safety and order of not doing so, and, secondly, problems likely to arise through co-channel interference. The appellant's technical expert explained that under certain circumstances other

distant cells in the TETRA network could be affected by signals from the North Walsham equipment, particularly dependant on the height of the equipment and inter-visibility (co-channel interference). This would lead to calls being interrupted and/or a low level of service and is a recognised problem in relatively flat areas such as North Norfolk where there is limited inter-cell screening by topographical features.

17. The sites investigated include an existing lattice mast at Folgate Road, which is currently used by two operators. Because of the need for vertical separation between different sets of antennae the height of the structure would have to be increased. Even if this were done there would still remain problems with coverage in the south-western quadrant. Whilst I accept that this mast is located on an industrial estate it is already visible from the surrounding area and any significant increase in its height would make it unacceptably prominent. Shared use of the Trimmingham Radio Mast would mean an increase in its height and thereby further intensify the jarring impact of this prominent and isolated feature standing in open countryside.
18. The shared use of existing monopoles close to the town centre has also been looked into. It would be necessary to rebuild these structures (which are specifically designed to minimise visual intrusion) and in some cases, particularly the street works mast, space would not be available for this. In all cases even with redevelopment including increased height the monopole mast sites would not provide adequate coverage. In the case of the BPA Norwich Road site, where use of an existing pylon was investigated, not only would the height of the structure have to be increased by 10m but because of the use of the site to store gas and hazardous materials safety considerations would limit accessibility and make this site unviable irrespective of any coverage shortcomings. At the inquiry interested third parties made vague references to the possibility of siting the equipment in the vicinity of the railway station. However, whilst there are industrial structures in this area, including the BPA site which had been investigated by the appellant, no particular location was identified and there was no information as to practicability in terms of land availability or whether the required coverage could be provided.
19. There are two water towers at Norwich Road, the larger of which already accommodates telecommunications equipment that includes antennae, dishes and poles together with associated supporting structures. This water tower is widely visible from Norwich Road and the surrounding area and the equipment on it has altered the profile of its upper section. Simply attaching further slim antennae to the lip of the tower would not in itself greatly alter its overall appearance. However, in order to achieve the necessary vertical separation and required coverage the TETRA antennae would have to be mounted on a 7m stub mast. This would set the antennae at a height of 29.9m, and thereby cause problems of co-channel interference. It would also have the effect of creating a disproportionate and prominent addition to the top of the tower such that the impact of the new equipment would be discordant in views from Norwich Road and into the town from the surrounding countryside.
20. A number of sites for a new mast on the edge of the urban area and within the countryside benefit from a limited amount of screening afforded by buildings, structures and mature trees. The sites include the Garden Centre at Nursery Drive, where a 15m temporary mast was erected but later removed when

coverage was found to be inadequate. All the new mast sites would have coverage limitations at a mast height of 21.3 m. At the greater height needed to achieve adequate coverage there would be particular problems with masts at the Garden Centre and the disused Crane Frauhaf factory being unacceptably dominant in relation to their immediate surroundings (including the redevelopment likely to take place at and near to the factory site).

21. While travelling in and around the North Walsham I could not help noticing a number of other telecommunications masts within the wider area. They are visible for miles across an open landscape and their prominence in the countryside serves to illustrate the need to avoid further proliferation if at all possible. As far as freestanding masts around the town are concerned the coverage plots indicate a required mast height of between 30 and 40m. Whilst sites such as the Recycling Centre, Sewage Treatment Works and those close to farm buildings would offer screening by buildings and trees this would have limited effect and a tall isolated mast in an open countryside location would significantly erode the character and appearance of the area. In all cases problems of co-channel interference have been identified because of the height of the new mast required.
22. The mast at the police station is visible from roads to the east and west and from within private properties, but apart from the addition of the antennae and their supports there is no change to the height or shape of the existing structure. The equipment itself is lightweight and of not of any significant bulk. Consequently the visual impact of the existing mast remains unchanged.
23. I consider that the appellant has carried out a thorough examination of possible sites in the area consistent with the operational brief from the police force. No other specific sites have been put forward by the Council or third parties and no technical evidence produced to question the appellant's evaluation of the achievable coverage and required mast height at each location. The consideration of alternative sites against the advice in PPG8 that advocates the use of existing masts and structures and seeks to minimise environmental impact and a proliferation of new structures is an integral part of the planning process. Having regard to all these considerations my conclusion is that the appeal site is the best location for siting the equipment.

Health Concerns

24. The written representations submitted and the oral evidence given at the inquiry leaves me in no doubt that there is very considerable concern about the implications of this TETRA installation for the health and well-being of those living nearby, attending the nursery and schools in the area and visiting local businesses. The level of concern is demonstrated by the decision of three families with young children to sell their properties and move away from Yarmouth Road. It was also reported that the health of police employees based at North Walsham has been affected, with particular reference to one officer requesting a transfer.
25. Since the equipment has been operating people living nearby, including residents of care homes, report incidences of illness and discomfort. In several cases the descriptions of their experiences are specific and graphic. The range of reported problems includes sleep disruption, nosebleeds, headaches and

migraines, skin rashes, tinnitus, dizziness and the exacerbation of existing medical conditions. Many of these problems were not experienced before the equipment was operational and ceased when it was switched off after the service of a stop notice, only to return when it was re-activated. I was also told that when people move away from the area the symptoms reduce or disappear. One particular letter says that lives have been ruined by the installation and people live in a climate of fear because of its presence, which serves as a constant reminder as they go about their daily lives.

26. Representations from St Nicholas House School and Poppies Day Nursery re-enforce individual concerns and uncertainties about the effects of the equipment on the health of children and the implications of these concerns for the future viability of those establishments. The same level of concern and apprehension exist in respect of the care homes for the elderly, where health problems are attributed to the presence of the equipment.
27. Mr Pennington's evidence makes extensive reference to reports, studies and commentaries concerning the adverse effect of TETRA installations on the health of people living nearby. Views are expressed in these documents about the fundamental safety of the TETRA system and the biological effects of low intensity signals below the guidelines that are currently applied. There are calls for more research into possible adverse health implications of emissions from TETRA equipment, particularly in respect of non-thermal effects, and a consistent view that adverse effects from RF emissions cannot be ruled out on currently available data. The overall feeling is that potential hazards from the TETRA system have not been thoroughly evaluated and tested.
28. PPG8 recognises that the public has become increasingly aware of the presence of EMFs (electromagnetic fields) in the environment, with related concerns about possible adverse effects on health. But paragraph 98 of the Appendix expresses the government's view that the planning system is not the place for determining health safeguards, and that if a base station meets the ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines for public exposure it should not be necessary to consider further the health aspects and concerns. This does not mean that health considerations and public concern cannot be a material consideration in determining this planning appeal. On the contrary, paragraph 97 confirms that they can. There are two main aspects of the representations made about health effects that I need to consider. Firstly an intrinsic fear about the safety of TETRA and telecommunications systems generally and, secondly, personal experiences and fears arising from the presence of the equipment at the appeal site.
29. Issues relating to the health effects of mobile phones and telecommunications systems were considered in depth by an independent expert group which reported in 2000 (Stewart Report). The group undertook a wide programme of consultation and adopted an evidence-based approach to health issues, taking into account the vulnerability of groups such as children and the elderly, and concluding that exposure to RF radiation below NRPB and ICNIRP guidelines does not cause adverse health effects. But it was unable to say that exposure below these levels is totally without potential adverse health effects. On-going research was recommended, as was the adoption of the more stringent ICNIRP guidelines, as part of a precautionary approach. Stewart recognised that science can never provide a guarantee of zero risk. It may, however, offer a

strong reassurance that any risks from a technology are small in comparison with many other risks we accept in our lives.

30. Since 2000 there have been a number of reports taking forward and up-dating Stewart's review of scientific evidence. The 2001 Doll Report confirmed that signals from TETRA base stations are not pulsed and concluded that whilst there were areas of uncertainty the evidence suggested that it is unlikely that special features of the signals from TETRA systems pose a hazard to health. The 2003 Swerdlow Report said that research since Stewart did not give any cause for concern, but stressed the need for research to continue. Subsequent reports from NRPB and its Advisory Group on Non-Ionizing Radiation confirm that exposure to RF fields from base stations is generally at an extremely small fraction of guidelines, with the OFCOM audit of base stations finding that this is the case with TETRA.
31. The appellant confirms that exposure levels from the North Walsham site are a small fraction of the ICNIRP guidelines. The beam of greatest intensity, falling to the south-west of the site, is 0.216% (463 times below) guidelines. At St Nicholas House School the figure is 0.204% (490 times below) and at the nearest dwelling 0.0017% (58,823 times below).
32. I do not dismiss the reports and papers submitted by local residents out of hand but they must be set against the findings of a series of objective and comprehensive scientific studies and the unequivocal government guidance about health concerns. Nonetheless, the fears and anxieties expressed by local people are genuine, and in many cases relate to personal experiences. There is undoubtedly a climate of fear and apprehension in the locality, possibly fuelled by the fact that there has been a long-running campaign of opposition to the installation and operation of the TETRA equipment since late 2003. Also, the presence of the mast and equipment is a constant reminder of their fears as people go about their daily lives.
33. It may be that those opposed to the retention of the development are all too ready to attribute any physical symptoms to its presence. But it seems to me that even if there is no direct causal relationship between the reported illnesses and the emissions from the mast the stress and anxiety experienced as a result of being fearful about possible health implications could in itself give rise to issues that have a physical manifestation. Whether there is a direct or indirect cause I have no doubt that the problems and concerns are genuine and that the living conditions of people in the area are affected by their perception that the presence of the equipment affects their health. However, this perception is not based on any objective evidence but on a subjective apprehension that they are likely to be harmed by emissions.
34. Whilst I fully appreciate the concerns of local residents the appeal decisions submitted by the appellant indicate that their circumstances are by no means exceptional in terms of the location of telecommunications equipment, including TETRA, close to housing and schools. Having regard to all the circumstances I do not consider that there is justification for setting aside government policy on health grounds in this case.

Conclusions

35. I find that the appellant has carried out a full and thorough assessment of alternative sites taking into account environmental and operational considerations, and that the appeal site represents the best available location. The use of an existing mast which is not unduly prominent in relation to its surroundings also complies with government policy to avoid an unnecessary proliferation of new masts. The location of the equipment in a residential area and close to schools and residential institutions has given rise to concerns about the implications of the development for health but these concerns run counter to the findings of extensive and subjective scientific reports and do not justify overriding government advice set out in paragraph 98 of the Appendix to PPG8. I have taken into account all other matters raised, including the undoubted benefits of the TERTA system to the emergency services in the North Walsham area, and conclude that the development complies with government guidance and does not conflict with development plan policy. Therefore I shall grant planning permission for its retention.

Formal Decision

36. I allow the appeal and grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act as amended for the development already carried out, namely the alterations of the existing lattice tower mast by the installation thereon of three omni-directional antennae and supporting brackets on land at North Walsham Police Station, Yarmouth Road, North Walsham, Norwich NR28 9AT.

Steven Fox

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr T Blaney MSc LAMRTPI	Partner, Lawrence Graham LLP, Solicitors
He called	
Mr R G Holt BEng NDEEE MIEE	Director, TileHouse Solutions
Mr I Waterson BA DMS MRTPI	Town Planning Solutions Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Walton	Of Counsel
He called	
Mr R J Williams DipTP MRTPI	Development Control Officer
Clr V Gay	Councillor for North Walsham West Ward

INTERESTED PERSONS:

Mr N Lamb MP	Member of Parliament for North Norfolk
Mr D Gosling	31 Yarmouth Road, North Walsham NR28 9AT
Mr M Pennington	Oak Farm Cottage, Felmingham, North Walsham NR28 0JZ
Mrs A Gill	St Etheldreda, Station Road, North Walshingham NR28 9QU
Mrs R Knight	55 Silhill Hall Raod, Solihull B91 1JX
Mr K Thomas	Peacock Lodge, 52A Yarmouth Road, North Walsham NR28 9AT
Mrs S Stevenson	Birchwood, 30 Yarmouth Road, North Walsham NR 28 9AT

DOCUMENTS

Document 1	Lists of persons present at the Inquiry
Document 2	Statement of Common Ground
Document 3	Height data and frequency spectrum submitted by appellant
Document 4	Police Federation News article submitted by appellant
Document 5	Location plan application for residential development off Cromer Road submitted by the Council
Document 6	Plot overlays submitted by Mrs Stevenson
Document 7	5 letters objecting on health grounds submitted by Mr Pennington
Document 8	Mr Gosling's assessment of 9 alternative sites