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## Appeals Received Hetton Houghton and Washington

Between 01/02/2010 and 28/02/2010

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Team	Ref No	Address	Description	Date Appeal Lodged
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# Appeals Determined Hetton Houghton and Washington

Between 01/02/2010 and 28/02/2010

Team	Ref No	Address	Description	Appeal Decision	Date of Decision
HE					
	09/00043/REF	Eppleton Cricket Club Church Road Hetton le Hole Houghton-Le-	Installation of 12m steel monopole with dual band, dual polar antennae and equipment cabinet.	DISMIS	25/02/2010
HO					
	09/00040/REF	Thornton Cottage Redburn Row Houghton-Le-Spring DH4 6PX	Change of use from public open space to vehicle hardstanding with associated drop curb. Erection of a retrospective fence to rear/side ( Amended 22.4.09 )	APPC	02/02/2010
	09/00041/REF	Land Rear Of 4A Front Street Fence Houses Houghton-Le-	Erection of 14m slimline street work pole with cabinet and fenced enclosure at base (amended description)	DISMIS	11/02/2010

W

Team	Ref No	Address	Description	Appeal Decision	Date of Decision
	09/00036/ENF	94 Biddick Lane Fatfield Washington E38 8AA	<p>THE BREACH OF PLANNING CONTROL Without planning permission the change of use from highway verge and amenity open space to private garden bounded by a 1 metre high approx fence and conifer hedge to the eastern boundary and a 1.8m high approx fence to the northern boundary.</p> <p>REASONS FOR THIS NOTICE It appears to the Council that the breach of planning control has occurred within the last ten years.</p> <p>The enclosure and change of use of the land to private garden has resulted in the loss of open space to the detriment of the visual amenities of the area as a public facility. The boundary fencing intrudes into the open space and contrasts starkly with the remaining open space, which extends along the front of properties on this part of Biddick Lane. The fencing represents an uncharacteristic feature within the street scene, not respecting the best qualities of the wider area. The development is contrary to policies B2 and B3 of the council's adopted Unitary Development Plan and paragraph 2.4 (e) of the Supplementary Planning Guidance (2000).</p> <p>The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.</p>	DISMIS	19/02/2010



# Appeal Decision

Site visit made on 8 February 2010

by Kevin Ward BA (Hons) MRTPI

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

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Decision date:  
25 February 2010

**Appeal Ref: APP/J4525/A/09/2117041**

**Eppleton Cricket Club, Church Road, Hetton Le Hole DH5 9AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval 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 Sunderland City Council.
- The application Ref 09/01260/TEX, dated 30 March 2009, was refused by notice dated 22 May 2009.
- The development proposed is a 12m steel monopole with dual band, dual polar antennae and equipment cabinet.

## Decision

1. I dismiss the appeal.

## Main Issues

2. I consider the main issues to be the effect of the proposal on:
  - a) The living conditions of the occupiers of nearby dwellings in terms of outlook.
  - b) The character and appearance of the area.
  - c) The amenity and recreational value of the adjacent public open space and children's play area.

## Reasons

3. The proposed mast would be visible from a number of dwellings along Church Road and the streets behind, and the upper floors of the houses on the other side of the cricket ground. In the majority of cases, the combination of distance and the layout of dwellings would limit the impact of the mast on outlook. There would be a greater impact on the outlook from 41 and 42 Church Road given their proximity and orientation towards the road. However, the mast would be at an angle to the dwellings and would be some 40m or so away. I consider that whilst there would be some impact on outlook, this would not significantly affect the living conditions of those occupying the properties.
4. The base of the mast and the equipment cabinet would be well screened by the cricket club buildings, the wall along the road frontage and surrounding fencing and vegetation. However, although the mast would be a relatively simple and slim line structure it would rise significantly above the cricket club buildings.



5. Whilst there are telegraph poles and street lighting columns along Church Road, the mast would be a noticeably higher feature, particularly in relation to the telegraph poles along this side of the road. It would also be set well back from the road and so would not follow the linear pattern of these other vertical features. In my view, it would not assimilate well into the street scene.
6. From a number of viewpoints the mast would be seen as a skyline feature against the backdrop of the adjacent open space and children's play area and the cricket pitch. The open nature of much of this adjacent land would exacerbate the visual dominance of the mast in relation to its immediate surroundings.
7. Therefore, whilst I acknowledge the technical requirements in terms of the height of the mast, I find that in the specific location identified it would be an unduly dominating and obtrusive feature, causing significant harm to the character and appearance of the area.
8. Whilst the development would be sited within the cricket ground, it would only take up a small and seemingly unused area in the corner, behind existing buildings. The land in question appears to make no meaningful contribution to the recreational value of the cricket ground. I find no conflict with Policy L7 of the City of Sunderland Unitary Development Plan (UDP) therefore.
9. However, the appeal site is adjacent to a significant area of public open space and within a few metres of an equipped children's play area. Due to its height and close proximity, particularly to the children's play area, the mast would be an unduly dominating and overbearing feature. Its dominance would be reinforced by the fact that the appeal site is elevated compared with the play area. It would be seen as a distinct and clearly separate feature in relation to the much shorter telegraph poles along the road.
10. Although much of the public open space is a grassed area and is likely to be used for informal and passive recreation, such areas fulfil an important role in built up areas and are a valuable resource for the local community. Despite the limited amount of objection to the proposal, I consider that the close proximity of such a visually overbearing feature would be likely to have a considerable adverse effect on the enjoyment of those using the public open space and in particular the children's play area. The mast would therefore significantly undermine the amenity and recreational value of these areas.
11. I appreciate that the Cricket Club itself would receive income from the siting of the mast and that this may assist in securing or enhancing facilities at the Club. This does not however outweigh the harm to the amenity and recreational value of the public open space and play area.
12. I note that some concern has been expressed by interested parties about the possible health risks from the mast. Planning Policy Guidance Note 8 on Telecommunications advises that if the guidelines issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure to radio waves are met, it should not be necessary for planning authorities to consider further the health aspects of a proposal. In this case, the appellant has confirmed compliance with ICNIRP guidelines. Therefore, whilst I acknowledge the concerns expressed, they are insufficient to justify dismissing the appeal on health grounds.

13. I accept that the appellant has demonstrated that the mast is necessary to improve 3G network coverage in the area, that there are no tall buildings or structures available and that there is no potential for mast sharing. Alternative sites have been considered and legitimately discounted for a variety of reasons. This information is not disputed by the Council.
14. However, I find that the need for the development does not outweigh the significant harm that it would cause to the character and appearance of the area and the amenity and recreational value of the adjacent public open space and children's play area as a result of the specific location chosen.
15. For the above reasons and taking account of other matters raised, I conclude that the proposal would be contrary to Policies B2, B3 and B26 of the UDP and that the appeal should be dismissed.

*Kevin Ward*

INSPECTOR



## Appeal Decision

Site visit made on 12 January 2010

by Kevin Ward BA (Hons) MRTPI

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Decision date:  
2 February 2010

**Appeal Ref: APP/J4525/A/09/2115383**

**Thornton Cottage, Redburn Row, Houghton Le Spring, Tyne and Wear DH4 6PX**

- 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 Mr Thomas Robson against the decision of Sunderland City Council.
- The application Ref 09/00345/FUL, dated 28 January 2009, was refused by notice dated 3 June 2009.
- The proposed development is a change of use from open space to hard standing.

### Decision

1. I allow the appeal and grant planning permission for the change of use from public open space to vehicle hard standing with associated drop kerb and erection of fence to rear/side at Thornton Cottage, Redburn Row, Houghton Le Spring, Tyne and Wear DH4 6PX in accordance with the application Ref 09/00345/FUL, dated 28 January 2009, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the plans submitted with the application Ref 09/00345/FUL.

### Procedural Matters

2. At the time of my site visit the rear part of the appeal site was enclosed by fencing and the drop kerb had been installed. The proposed hard standing had not been put in place and there were no vehicles parked on the appeal site. I have therefore determined the appeal on the basis that the development has at least in part already commenced.
3. The description of the development set out in the heading above is taken from the application form. In the interests of clarity I have used the description in the Council's decision and the appeal form.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

5. Thornton Cottage is at the end of a small group of houses which sit in otherwise open land between the built up area of Chilton Moor and the Rainton Bridge Industrial Estate. The appeal site forms part of a strip of open amenity

land running along the side of the road which provides a route for pedestrians given that there is no footway beyond Thornton Cottage. Along the road on both sides are open fields which appear to be used for horse grazing or are lying fallow.

6. Policy EN10 of the City of Sunderland Unitary Development Plan (UDP) seeks to retain the existing pattern of land use and states that development should be compatible with the principal use of the neighbourhood. Although the number of houses in the group is limited, they are spread along the road frontage. This makes them a significant feature in the wider landscape. I consider therefore that the existing pattern of land use and the principal use of the neighbourhood is residential development set within open countryside uses.
7. The appeal site forms a small section at the end of the strip of open land along the roadside. The visual context for the appeal site is provided by Thornton Cottage and the other dwellings in the group, and it is largely seen against the backdrop of these dwellings. The area of the appeal site is very small in comparison to the overall extent of open land in the wider area.
8. In my view, given the small area of land concerned and the visual context provided by the dwellings, the change of use and enclosure of the rear of the appeal site would not affect the visual amenity value of the strip of open land along the roadside to any significant extent. It would have little effect on the overall sense of openness and a minimal impact on the open break between the built up areas of Chilton Moor and the Rainton Bridge Industrial Estate. It would retain the overall pattern of land use and be compatible with the principal use of the neighbourhood. Safe access for pedestrians along the road in front of Thornton Cottage to the open land beyond would be maintained given the extended surfaced footway.
9. I consider therefore that the development would not cause significant harm to the character and appearance of the area. It would comply with Policies B2, EN10 and CN6 of the UDP.
10. In addition to the expressions of support, I acknowledge the weight of objections to the proposal and have taken account of the concerns raised. I appreciate that parking provision was considered adequate when planning permission was granted for Thornton Cottage and the extent of the proposed residential curtilage was clear at that time. I must however deal with the merits of the particular proposal before me, in the light of current circumstances.
11. There is no substantive evidence which demonstrates a need for additional off street parking in terms of highway safety. However, given that I find the proposal acceptable in terms of the character and appearance of the area, the lack of demonstrable need for additional parking is not a determining factor in my decision.
12. The Council accepts that the proposal would retain the right of way serving the rear of Redburn House. In any case, this issue would be dealt with by other legislation and is not a matter before me as part of this appeal. The ownership of the appeal site is not a material consideration in terms of my determination of the appeal.

13. I have considered the Council's argument that the appeal proposal would set an undesirable precedent for development pressure further along the road. However, each application and appeal must be determined on its individual merits and I see no reason to suggest that my decision would set a precedent as the Council fear, particularly as Thornton Cottage is the last house in the group, and the land beyond the appeal site is open. In any case, I consider that the development does not harm the character and appearance of the area.
14. The Council has suggested conditions should the appeal be allowed. I agree that for the avoidance of doubt and in the interests of proper planning a condition to ensure that development is carried out in accordance with approved plans is necessary. Given that the development has already partly taken place, there is no need for a condition relating to a time limit for commencement.

### **Conclusion**

15. For the above reasons and taking account of other matters raised I conclude that the appeal should succeed.

*Kevin Ward*

INSPECTOR



# Appeal Decision

Site visit made on 26 January 2010

by Louise Crosby MA MRTPI

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

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Decision date:  
11 February 2010

**Appeal Ref: APP/J4525/A/09/2115727**

**Land to the rear of 4a Front Street, Colliery Row, Houghton Le Spring, DH4 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Vodafone UK Ltd against the decision of Sunderland City Council.
- The application Ref: 09/00812/TEX dated 27 February 2009, was refused by notice dated 28 April 2009.
- The development proposed is 12m pole with antennae on top contained together with a ground based equipment cabinet within a small compound surrounded by a fence.

## Decision

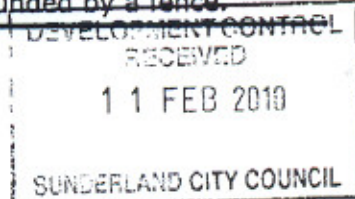
1. I dismiss the appeal.

## Main issue

2. The main issue is the effect on the street scene and on the outlook of nearby residents.

## Reasons

3. There is an undisputed need for such an installation in this locality. It is apparent that there are no existing masts suitable for sharing or roof top sites. The appellant has undertaken an extensive search for alternative sites, which is not challenged by the local planning authority. These factors carry significant weight given the general support for the telecommunications industry set out in Planning Policy Guidance Note 8: *Telecommunications*. However, that guidance seeks to ensure that environmental impact is kept to a minimum.
4. The building to which the pole would be attached is a single storey industrial building in a poor state of repair. It is located within a mixed use area, which includes housing. Although the pole would be slim it would have an overall height (including antennae) of about 14m above ground level. The ridgeline of the building to which it would be attached is approximately 7m above ground level.
5. Given the lack of higher buildings to the south of the appeal site, the mast would appear extremely prominent when viewed from Wynyard Street, which consists of terraced dwellings. The pole would also be highly visible from the rear windows and yards of a number of dwellings on Front Street. This harm would be further exacerbated by the proposed compound around the pole, which would measure approximately 7m by 3m and be created using 2m high palisade fencing. This part of the proposal would result in more of the open yard area being developed in a utilitarian manner, which would be highly visible



from nearby dwellings. While I realise that the outlook for local residents at the present time is quite poor because of the condition of the existing building, this does not provide a sound basis for allowing this proposal.

6. Local residents have expressed concern about the possible health risks from the development. Planning Policy Guidance Note 8: *Telecommunications* (PPG8) says that if a proposed mobile phone base station meets the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines, it should not be necessary to consider further the health aspects of the development and concerns about them. The appellant has confirmed that the proposed equipment in this case, would comply with the ICNIRP guidelines. From what I have seen and read there is nothing unusual about this proposal either technically or in this location in relation to nearby dwellings. There is no evidence to outweigh the advice in PPG8 on health considerations. As such, the health fears of local residents do not weigh significantly against the proposal.
7. Although I attach significant weight to the need for the installation and the absence of identifiable alternative sites, I find the degree of harm to the street scene and the outlook of nearby residents to be a factor of greater weight. As such, the proposal would conflict with City of Sunderland Unitary Development Plan Policies B2 and B26.
8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Louise Crosby*

INSPECTOR



# Appeal Decision

Site visit made on 9 February 2010

by **J D Waldron MCD BArch**

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for Communities and Local Government**

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**Decision date:  
19 February 2010**

**Appeal Ref: APP/J4525/C/09/2113328**

**94 Biddick Lane, Fatfield, Washington NE38 8AA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Steven Ward against an enforcement notice issued by Sunderland City Council.
- The Council's reference is 09/00036/ENF.
- The notice was issued on 28 August 2009.
- The breach of planning control as alleged in the notice is **Without planning permission the change of use from highway verge and amenity open space to private garden bounded by a 1 metre high approx fence and conifer hedge to the eastern boundary and a 1.8m high approx fence to the northern boundary.**
- The requirements of the notice are:
  - (i) **Cease the use of the land as a private garden.**
  - (ii) **Remove the conifers planted along the eastern boundary of the land, including the removal of the stumps and roots to depth of not less than 10 centimetres below ground level.**
  - (iii) **Dismantle the fencing enclosing the north and eastern boundaries of the land, ensuring that the posts and foundations are removed to depth of not less than 10 centimetres below ground level.**
  - (iv) **Restore the land to its condition prior to the breach by filling in holes left by the removal of fence posts and conifers with topsoil to a depth of not less than 10 centimetres, levelling the surface of the ground to match the contours of the surrounding land.**
  - (v) **Following (iv) above, make good the former grassed areas with turf, adjusting levels to ensure that it is laid level with the surface of the surrounding land.**
  - (vi) **Remove from the land all waste materials arising from compliance with the above requirements.**
- The periods for compliance with the requirements are:
  - (a) **Requirements (i) to (iv) no later than one calendar month after this notice takes effect.**
  - (b) **Requirement (v) no later than six calendar months after this notice takes effect.**
  - (c) **Requirement (vi) no later than one month in respect of requirement (i) to (iv) and no later than six months for requirement (v).**
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) of the Town and Country Planning Act 1990 as amended.

## Appeal on ground (b)

1. The fences and hedge referred to in the alleged breach of planning control are in place as matters of fact. Thus the appeal fails on ground (b). Whether or not the change of use has taken place is addressed under ground (c).

## Appeal on ground (c)

2. There is no dispute that the fences enforced against fall within the permitted development tolerances at Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995. However, by virtue of paragraph 3(5)(b) of the Order, the permission granted by Schedule 2 does not apply where the existing use is unlawful. It follows that if the fences have been erected to facilitate an unlawful use, they cannot benefit from permitted development rights.
3. The fence on the north side of the land enforced against is generally similar in design, height and colour to the rest of the fencing along the northern boundary of No 94. It all fronts on to a landscaped footpath/cycleway route on the alignment of a former railway line. The fence on the

east side of the land enforced against faces towards Biddick Lane and is similar in design and colour to the fencing on the northern boundary, but lower in height. The fences enforced against appear as an integral part of No 94 as a whole by reason of their design and colour.

4. The land enforced against is bordered on the south side by a hard surfaced driveway which provides vehicular access to No 94, and also to No 92 the adjacent house to the south. The driveway forms a clear and distinct southern boundary to the land enforced against.
5. A low wall appears to have defined the boundary between the front garden of No 94 and the highway verge/amenity open space bordering Biddick Lane. Although the wall remains, planting has been provided in front of the wall. Given this planting, and the fences and hedge enforced against, the low wall now appears as a feature within the front garden of No 94.
6. It follows that the provision of the fences and hedge enforced against has resulted in the land enforced against appearing as an integral part of the front garden of No 94. This conclusion is reinforced by the distinct boundary to the south provided by the driveway. The conclusion will be reinforced further as the hedge grows higher with time. The fact that the land enforced against comprises mainly a grassed area with no raised flowerbeds, as the appellant points out, does not change my conclusion.
7. For the reasons given above the land enforced against no longer appears as part of the long strip of highway verge/amenity open space on the west side of Biddick Lane between the footpath/cycleway route to the north and the entrance to Fatfield Park to the south.
8. The Courts have accepted that it is proper to assess materiality in planning terms having regard to possible effect of the change on local amenity. There has been a significant change in the character of the use and local amenity has been significantly affected. I conclude that, on the basis of fact and degree, the material change of use enforced against has taken place. As the use of the land enforced against as private garden is unlawful, it follows that the fences which facilitate that unlawful use are also unlawful for the reasons set out above. The appeal fails on ground (c).

#### **Appeal on ground (a) and the deemed application for planning permission**

9. The open grassed area to the front of the properties on the west side of Biddick Lane has functioned as highway verge/amenity open space. It has been an attractive feature of the street scene, important to the distinctive character of the area. The provision of the fences and hedge enforced against, and the change in the use of the land, has resulted in the loss of highway verge/amenity open space to the detriment of the character and appearance of the area as a public facility. In this context the boundary fences and hedge enforced against appear out-of-place and intrusive.
10. The development is contrary to policy B2 of the Unitary Development Plan 1998 which seeks to ensure that the layout of new development should respect and enhance the best qualities of the locality, pointing out that it is necessary through the sensitive control of development to protect and enhance those features of the built environment which contribute towards the determination of character. It is also contrary to policy B3 which seeks to ensure that public and private open space is protected from development which would have a serious adverse impact upon its amenity value. Granting planning permission would set a precedent for further loss of highway verge/amenity open space to the further detriment of the area.
11. The appellant is willing to accept conditions preventing the provision of parking areas or hardstanding on the land enforced against, and restricting the height to which the hedge would be allowed to grow. However they would not overcome the objections.
12. I have taken into account that the land enforced against has not been adopted as highway verge and the appellant's concern that it was used for anti-social purposes before the fences were erected. I have also taken into account the representations from local residents in support of the appellant's case and that there has been a fence along the northern boundary in the past.
13. In conclusion the matters enforced against are contrary to policy in the development plan. I have taken into account all the matters raised but they do not outweigh the objections. The appeal fails on ground (a). Planning permission will not be granted on the deemed application for planning permission.

**Formal Decision**

14. I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

*J D Waldron*

Inspector