

12 DCNC2009/0453/F - ERECTION OF AN AMATEUR RADIO ANTENNA OF COMMERCIAL DESIGN (HUSTLER 6BTV). 35 PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NW**For: Prof Philip Witting at the above address.****Date Received: 26 February 2009 Ward: Leominster South Grid Ref: 50097, 59026****Expiry Date: 23 April 2009**

Local Member: Councillor RC Hunt

Introduction

This matter was first reported to committee on June where it was deferred to allow further examination of the health and safety issues, including the implications for ICNIRP. This report includes additional information/representation submitted since then.

1. Site Description and Proposal

- 1.1 The application relates to 35 Pinsley Road in Leominster. The property is a recently completed semi detached dwelling, being one of a group of six approved under application reference DCNC2003/2699/F. They are modest properties, set back slightly from the road behind a low brick wall topped with railings. Each has a small garden to the rear with a shared parking area beyond. The shared parking back on to a narrow strip of commercial land and Pinsley Mill, which itself has the benefit of planning permission for residential conversion to nine flats, subject to the completion of a Section 106 Agreement. Beyond this is railway line.
- 1.2 The area can be described as being residential in its character and is adjacent to the Leominster River Meadows Conservation Area.
- 1.3 The proposal is for the erection of an amateur radio antenna. It is described as a Hustler 6BTV being of a commercial design. It has a total height of 7.15 metres and for the majority of its height has a diameter of 32mm, although this does increase slightly at four points to 40mm and towards the top to 50mm with the top 0.75 metres having a diameter of just 2mm. The antenna is silver in colour and is shown to be supported at two points by a pair of 3mm nylon guy ropes.

2. Policies**2.1 Herefordshire Unitary Development Plan**

DR2 - Land use and activity
CF3 - Telecommunications

2.2 Planning Policy Guidance Note 8 - Telecommunications**3. Planning History**

- 3.1 Conversion and extension of former mill building to 9 flats - Approved by the Northern Area Planning Sub-Committee subject to the completion of a Section 106 Agreement. To date the Agreement has not been signed and until such time that it is the matter remains outstanding.

3.2 DCNC2003/2699/F - Erection of six dwellings with shared parking to the rear - Approved

4. Consultation Summary

Statutory Consultations

4.1 None required

Internal Council Advice

4.2 Conservation Manager - No objection. The proposal will not conflict with conservation interests.

4.3 Leominster Town Council - Does not consider there to be sufficient information about the operation of the particular aerial to determine whether the transmitter works within the guidelines published by the International Commission on Non-Ionising Radiation Protection (ICNIRP)

4.4 Network Rail - Object to the application. It appears that there is a potential risk that electromagnetic interference could be generated at this location of which would be at a level of which is likely to affect the correct operation of our signalling and telecommunications assets within this locality, thereby potentially affecting the safe operation of the railway.

4.5 I should also point out that Network Rail has in its possession a report from an accredited EMC Test Laboratory relating to Solid State Interlocking (SSI) equipment used to control the safe movement of trains on the railway, which indicates that in the frequency range 150 kHz - 60MHz an induced voltage above 3 volts will lead to a system malfunction. Due to the nature of the interference in this frequency range, the precise correlation of the field strength limit and the induced voltage level can only be accurately established by on site testing and measurement, which at present cannot be performed as the radio mast is not yet installed and in use.

4.6 The Ramblers Association - Object on the basis that the mast will be visually intrusive from the Hereford Way and that walkers could be at danger when the mast is transmitting at the high power levels of which it is capable.

5. Representations

5.1 Eight objections have been received in response to the statutory consultation period from the following:

Mrs Roe, 21 Buckfield Road, Leominster
J N Cowall, Gretley, Pinsley Road, Leominster
Dr & Mrs Poole, Parkside, Pinsley Road, Leominster
Mrs Jones, 2 The Meadows, Leominster
G Hunt, 9 Pinsley Road, Leominster
Mrs D Emes, 37 Pinsley Road, Leominster
Mr D Martin, 108 The Mallards, Leominster
Mrs Measures, 45 Pinsley Road, Leominster

5.2 Petitions of 105 and 17 signatories has been submitted. Of these 33 reside in Pinsley Road, the remainder range from addresses in Leominster and surrounding villages including Stoke Prior and Monkland, Hereford, Tenbury Wells, and one each from residents of Peterborough and Northallerton respectively.

5.3 In summary the letters and petition raise the following issues:

- (a) The antenna will be visually obtrusive.
- (b) The proposal gives rise to concern over health issues.
- (c) The antenna will cause interference with electrical equipment in nearby dwellings.

Additionally, further representations have been received from Dr and Mrs. Emes. Some of a technical nature.

The concerns are:

- (i) that the approach appears to resolve problems after they arise, rather than test before;
- (ii) advice has been sought from Health Protection Agency – referred to later;
- (iii) who will carry out testing/monitor the site;
- (iv) what do HPA/HSE have to say.
- (v) are ICNIRP guidelines exceeded or railway signalling/telecoms affected.

They have also listed experiences of interference, including computer equipment dishwasher, washing machine, extractor fan, halogen lights. They advised that once the antenna was removed the problems ceased.

They refer to their “Human Rights” to peaceful enjoyment of their property, including right to hobbies and work. Mrs Emes advises that the exam working work is dependent upon broadband access.

5.4 In support of the application the applicant has provided details of a pre-application consultation that he undertook with his immediate neighbours. These show nine residents to have been supportive at that time, although one has since retracted this support through a consultation response to the application, and one objection.

In response to the above and to further questions from officers, the applicant has responded as follows:

- (i) He considers the evidence of interference to be below that required by PPG8.
- (ii) The objection refers to running power to 1000w – to do so would require a “Notive of Variation” from Ofcom. This would only be granted if I could show a very good reason and would then only be agreed following a determination that no deleterious effects on other persons would follow. He advises that Councillors need not be concerned on this score.
- (iii) This vertical antenna transmits through 360° rather than been found in one direction. Thus the energy is shared in all directions and intensity substantially reduced.

A high proportion of the energy is directed upwards at an angle to the ionosphere. Therefore, it passes above land-based objects after a few metres and would be quite high by the time it reached the railway line.

He advises that calculation of power density of antennas is extremely complex, but to provide a single illustration advises:-

“ A 400 watt transmission over a 30m radius gives a density of 0.035 watt/sq.m. Approximately 1.8% of the recommended exposure for members of the public.”

He also advised that:-

“on the amateur bands relevant to the proposed antenna I woud that none of the limits on power density for general public exposure, as laid down in the ICNIPR table would be expected to be exceeded at the publicly-accessible point of closest approach to the antenna. Further, the probable average level of exposure across all of the relevant bands amount to 33% of the relevant ICNIRP limits on power density for general public

exposure. The probable exposure on neighbouring properties is expected to be significantly below that at the closes point of approach for the general public.”

- 5.5 A letter from the Radio Society of Great Britain is also provided confirming that the applicant is properly licensed by Ofcom as an amateur radio operator.
- 5.6 In addition four appeal decisions where antenna have been allowed in residential areas have also been submitted by the applicant.
- 5.7 As a result of contact by objectors the following has been received from the Health & Safety Executive.

I have had numerous emails from the Emes family complaining about the proposed development of an antenna in their neighbour's garden. They assert that Prof Witting "*is entitled to have a 1000W research broadcasting license*" - a claim that does not appear to be supported by the details in the application.

I have copied my reply to them to you so that you can see the details. If you need detailed technical advice it is possible that the Radiation Protection Division of the HPA (based at Chilton, tel: 01235 831600) may be able to help. They have a very competent radio frequency assessment section and you will already have seen a general comment (I have only the opening couple of paragraphs) from the Head of Division, Dr Simon Mann. I know that HPA has worked in partnership with Local Authorities to resolve such questions of public health and safety in other cases, and may be willing to help in this one.

Dr Hawkins' email makes a statement that is slightly suspect in that he asserts "*the law states that if preliminary calculations indicate that if the radiated power density is likely to be greater than 10 Watts/metre-squared, site measurements of the radiated power must be carried out to ascertain the actual level radiated.*" I am not aware of any specific legislation making this requirement. There is a European Recommendation (EC/519/1999) on restricting the exposure of the public to electromagnetic fields but this is not UK law, nor does it require measurements of EMF emission levels.”

- 5.8 Following the contact from HSE officers contacted the Health Protection Agency, who responded as follows:-

“Our advice is that the guidelines on limiting exposures to electromagnetic fields from the International Commission on Non-ionizing Radiation Protection (ICNIRP) should be adopted and this advice can be found in the following publication (note, NRPB's staff and functions transferred to HPA in April 2005).

The quoted power level of 1 kW and the distances that seem to be involved to neighbouring properties point to the need for some form of assessment, probably involving a calculation. It is possible that less than 1 kW is being radiated or that the precise beam pattern of the antenna directs the radio waves in such a way that exposures are low, but I have no information on these matters.

In summary, my advice is that the applicant is asked to provide reassurance that exposures will not exceed the ICNIRP guidelines. There is a specific page on our website that may help them in doing this.”

The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The main issues to be considered are those relating to residential amenity and the visual impact of the antenna, its potential to cause electrical interference and concerns over health issues. Each matter will be dealt with in turn.

Residential Amenity and Visual Impact

- 6.2 These two matters are closely linked and it therefore it is logical to consider both together.
- 6.3 Policy CF3 requires that proposals are sited and designed to minimise their impact on the surrounding area and residential amenity, and where appropriate and possible, to provide a scheme for landscape screening.
- 6.4 Pinsley Road is residential in its character and is a well used public thoroughfare. The area predominantly consists of two storey dwellings within the immediate vicinity of the application site. A large Silver Birch tree is immediately alongside the proposed site for the antenna and is considerably taller than the applicant's dwelling.
- 6.5 The antenna will be viewed from neighbouring properties against the backdrop of the Silver Birch tree. Although dwellings are closely positioned to one another, the antenna only has a diameter of 32mm and it will lose any visual prominence that it might otherwise have, particularly when the tree is in leaf. It is not considered that it will be unduly dominant or overbearing as a result.
- 6.6 Views of the antenna from the road will be limited. The antenna does not exceed the height of the dwelling and any glimpses of it will again be seen in the visual context of the tree.
- 6.7 It is noted that the Council successfully defended an appeal for the erection of a mast at a property in Withington on visual and landscape impact grounds (application reference CE2008/0228/F) but this is considered to be materially different from the application currently being considered. The mast at Withington was to be located in an open position, clearly visible from the A465. Furthermore it had a maximum height of 15 metres, over twice the height of this proposal.
- 6.8 It is concluded that the proposal accords with CF3 in terms of residential amenity and visual impact. Its slimline design, combined with its location against the backdrop of the Silver Birch tree ensure that this is the case.

Electromagnetic Interference

- 6.9 Paragraph 102 of PPG8 deals specifically with this subject. It advises that electromagnetic interference can be caused by a radio transmitter or by unwanted signals emitted by other electrical equipment. It goes on to state that the Radiocommunications Agency (now Ofcom) has statutory powers to deal with this type of interference under the Wireless Telegraphy Act 1949. Whilst such interference can be considered as a material planning consideration, it first has to be clear that significant interference will arise, or will probably arise, and that no practicable remedy is available.
- 6.10 The comments received from Network Rail suggest that there is a solution to the concerns that they have raised and that this could be dealt with under the statutory powers described above. They also point out that interference can only really be accurately established by on site testing, which cannot presently be performed as the antenna is not installed and in use.
- 6.11 Whilst some of the letters of objection go into some detail on the technical background and operation of the antenna and suggest that it will cause electromagnetic interference they do not quantify the significance of this and, like the concerns expressed by Network Rail, it is concluded that any interference that may be cause can be dealt with by Ofcom as the regulatory body. This

being the case a comment from a Planning Inspector dealing with an appeal in West Sussex is particularly pertinent:

“Control of radio interference is not a matter for the planning system....”

- 6.12 It is also noted that a similar antenna was erected for a temporary period by the applicant to gauge local opinion before submitting a planning application. An enforcement complaint was lodged with the Council at this time but no mention was made of interference.
- 6.13 The applicant is a licensed operator and a requirement of this is to ensure that a log is kept of all transmissions. If logs were to be kept by local residents of instances when electrical interference occurs it would be a simple matter for Ofcom to deal with. Nevertheless, the level of interference that might occur as a result of this proposal would not be so significant or extreme to justify refusing this application.

Health Issues

- 6.14 Many of the objection letters and the petition raise concerns about the effects on health. Paragraph 98 of PPG8 makes it quite clear that the Government considers that the planning system is not the place for determining health safeguards. The emphasis of the paragraph is focussed on mobile phone installations but is applicable in this case. The advice is that if an installation meets ICNIRP guidelines for public exposure it should not be necessary for a local planning authority to consider further the health aspects and concerns about them.
- 6.15 The application is not accompanied by an ICNIRP compliance certificate. However, the type of antenna applied for appears to be aimed at amateur radio enthusiasts who will most commonly be transmitting from their own homes. This will often mean that they are in close proximity to other dwellings, as is the case in this instance. Whilst concerns have been raised about health issues they are not supported by any evidence to suggest that this type of antenna has been the subject of any such complaints. It is therefore considered that there is little to suggest that this proposal will give rise to such significant implications to public health to warrant its consideration as being material to the determination of this application. The concern expressed by HPA stems from the incorrect assumption that 1000w in fact is proposed. The only reference to this output comes from the objectors. The applicant has responded to this in paragraph 4.10.
- 6.16 The assessment of this proposal is consistent with the approach that has been taken by Planning Inspectors when considering appeals where similar objections have been raised. It is therefore concluded that the scheme accords with Policy CF3 of the Herefordshire Unitary Development Plan and the guiding principles of PPG8. The application is recommended for approval.
- 6.17 Advice in Annex 2 of PPH8 states it is unlikely that refusal of planning permission would be justified on the grounds of radio interference from a transmitter alone, except in extreme cases. It goes on to say that, whilst temporary permissions may be appropriate to allow trial periods, this should not be adopted unless there is evidence of significant interference. If applications are refused on interference grounds LPA'S should produce full details of that evidence, together with evidence that there are no reasonable remedies. Thus, whilst a temporary permission is a possible option, it is not one recommended by officers.
- 6.18 The applicant has provided information on ICNIRP as requested and the HSE suggest that the objections are based on a misinterpretation or misunderstanding of the application. It is considered that there is sufficient information to determine the application in accordance with the relevant policy and PPG.

RECOMMENDATION

Further information on the subject of this report is available from Mr A Banks on 01432 383085 Ext 3085»

That planning permission be granted subject to the following conditions:

- 1 - A01 (Time limit for commencement (full permission))

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2 - The mast shall be taken down within 28 days of its ceasing to be required for radio communication.

Reason: To ensure the removal of equipment that is no longer in use in the interests of residential amenity and in order to conform with Policy CF3 of the Herefordshire Unitary Development Plan and the guiding principles of PPG8 – Telecommunications.

INFORMATIVES

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

- 2 - N19 - Avoidance of doubt - Approved Plans

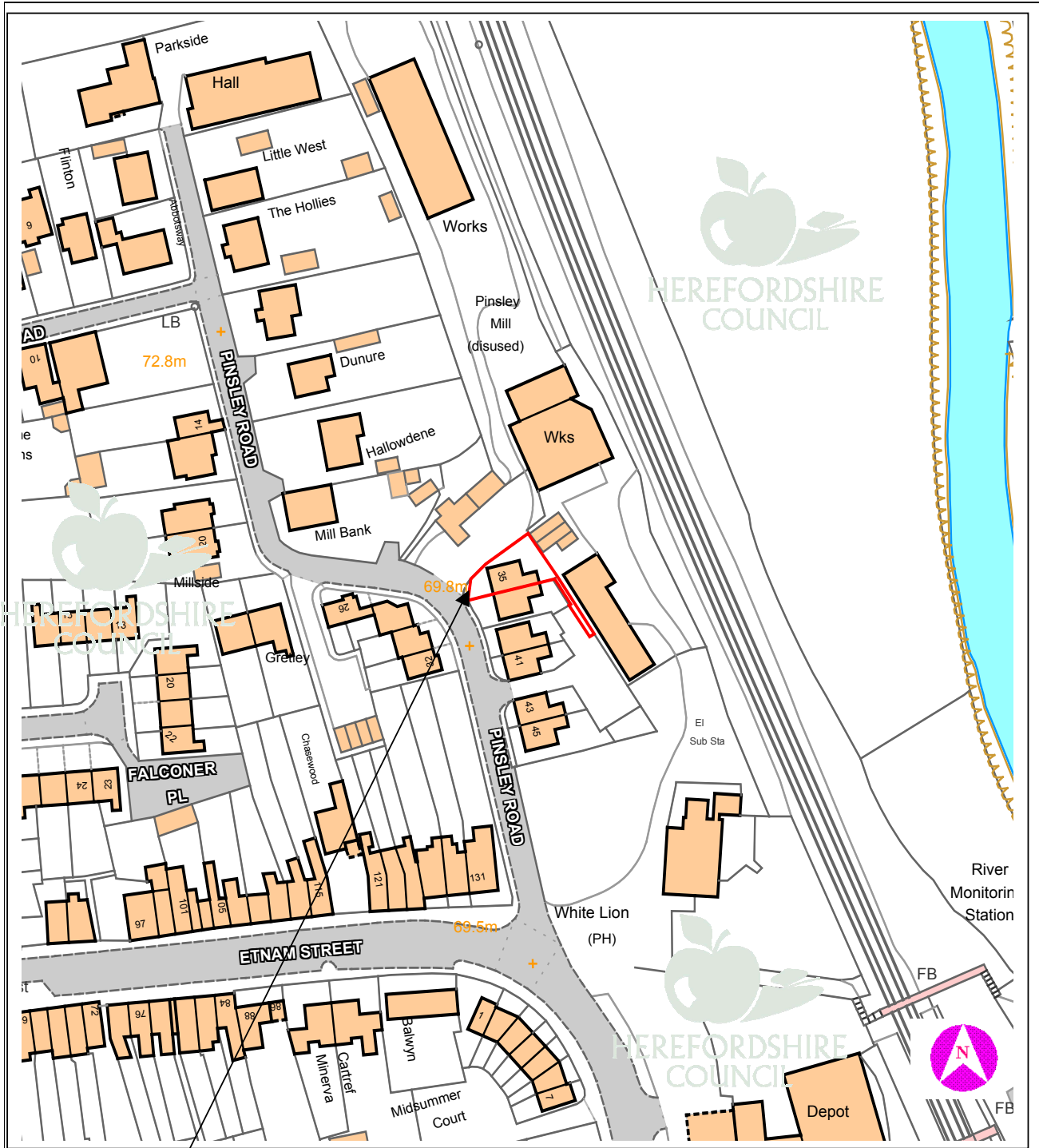
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2009/0453/F

SCALE : 1 : 1250

SITE ADDRESS : 35 Pinsley Road, Leominster, Herefordshire, HR6 8NW

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