

ARQIVA LIMITED

STATEMENT IN SUPPORT

OF

APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT

1990



February 2014

**Arqiva
Crawley Court
Crawley
Winchester
Hampshire
SO21 2QA**

1. INTRODUCTION

1.1 This application is in respect of the Arqiva Transmitting Station, Halangy Downs, St Mary's, Isles of Scilly. The site is controlled and managed by Arqiva, a radio site management company.

1.2 This statement is submitted in support of the application under Section 73 of the Town and Country Planning Act 1990 for a variation to condition 4 of planning permission reference P/09/072: -

“This permission is for a temporary period of five years from the date of the decision notice. Either on or before this date, the apparatus hereby permitted shall be removed unless otherwise agreed in writing with the local planning authority”

1.3 The variation to the condition we seek is to state: -

The electronic communications apparatus hereby permitted shall be removed from the land, building or structure on which it is situated within six months after it is no longer required for electronic communications purposes and such land building or structure shall be restored to its condition before the development took place or to any other condition as may be agreed in writing between the local planning authority and the developer.

1.4 Although drawings are not required under Part 2, paragraph 6(c) of the Town and Country Planning (Development Management Procedure)(England) Order 2010 for Section 73 applications to assist provide a site plan, tower plan and elevation.

1.5 In this statement we go on to highlight the benefits of retaining the existing development and to explain the particular needs of maintaining the provision of terrestrial television signals at this site. We also demonstrate that the variation to condition 4 of planning application reference P/09/072 as proposed complies with extant Local Plan Policy and the National Planning Policy Framework.

Background information

- 1.6 Arqiva is an electronic communications company with its headquarters in Hampshire and other major UK offices in London, Buckinghamshire and Yorkshire. Arqiva own and operate the entire UK terrestrial television broadcast network - in simple terms we run the main television transmission infrastructure and Freeview platform that is used by the broadcasters such as the BBC, ITV Channel 4 and Five to transmit their programming. We also provide a similar service for national and local radio. This transmission network is in the public interest and forms part of the UK Critical National Infrastructure.
- 1.7 The Arqiva transmitting station at Halangy Downs provides essential TV signal coverage to the entire Isles of Scilly and is fed by the main station at Redruth; for reference please refer to the transmitter map submitted with this application showing the site in context with the wider West Country Regional TV network. The station was originally constructed circa 1969 and consists of 76.2 metre high lattice steel tower, surmounted by the main TV antenna, with associated equipment buildings accommodated within a fenced compound below.
- 1.9 The recent switchover from analogue to digital TV signals (DSO) required some changes to the existing antennas and some other minor works which were granted planning permission under application reference P/08/070. Following this a further planning application was submitted for the associated radio links under application reference P/09/072 which is the subject of the current application before you.
- 1.10 The television network is dependent on links from the television studios to the existing broadcast transmission sites and these provide the actual television services (programmes) to be broadcast from each site. Many of these links needed to be upgraded through the DSO programme and this was provided by optical fibre, wireless transmission dish links, satellite and UHF re-broadcast links.
- 1.11 The majority of the main broadcast transmission sites are fed by optical fibre programme links, but for some sites this is simply not practicable due to topographical problems such as rivers, the sea and mountains. For island sites, the only solution is wireless transmission dish links which in this case are connected to the nearest high capacity BT fibre termination point at the main station at Redruth.

1.12 As outlined above, the application site provides terrestrial television signals to the Isles of Scilly, receiving its signals from our main Redruth station. The two existing 1.2 metre dish antennas are required to receive signals from the 'intermediate hop' site at St Just and are critical for the ongoing provision of digital television signals to the Isles.

1.13 Due to the long-term contractual requirement to provide terrestrial TV signals to the Isles, and the obvious public benefits, the current time limiting condition does not offer the necessary security to either Arqiva or the broadcasters. As such, we now seek to vary the five year condition to one that properly reflects the need to retain the apparatus until it is no longer required for the provision of these essential services.

2.0 COMPLIANCE WITH PLANNING POLICY

2.1 Although the development permitted under application reference P/09/072 was granted planning permission under the provisions of national and local planning policy and other material considerations at that time, we believe it would be beneficial to show compliance with more recent policy. The relevant planning policy framework that has been taken into account is found principally within:

- Documents within the Local Plan
- National Planning Policy Framework (NPPF)

The General Policy Background

2.2 The general policy background found now within the NPPF can be summarised as follows: -

- Government policy is to support advanced, high quality communications infrastructure and systems to drive sustainable economic growth
- Local authorities should aim to keep the number electronic communications sites to the minimum consistent with the effective operation of the networks

- Government policy promotes the enhancement and conservation of the natural environment, in particular National Parks and Areas of Outstanding Natural Beauty
- In these sensitive landscape designations Government acknowledges that development is acceptable where it can be demonstrated it is in the public interest

2.3 The application site is included within the Isles of Scilly Area of Outstanding Natural Beauty and with regard to retaining the current development the protection of the landscape and scenic beauty is of particular importance. The NPPF has generally restrictive policies in the open countryside, with emphasis on designated areas such as National Parks and Areas of Outstanding Natural Beauty.

2.4 However, it is recognised at paragraph 116 there are circumstances where development will be acceptable, *inter alia*, when the development is in the public interest. This stance relates to major development but carries even more significance where small scale development is proposed which is evidently in the public interest, as in this instance.

2.5 The NPPF specifically goes further with regard to electronic communications and promotes - *“Advanced, high quality communications infrastructure as being essential for sustainable growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services”*

2.6 The retention of the existing programme links for DSO directly relates to securing the ongoing provision of TV signals which form part of the UK Critical National Infrastructure and is in the public interest. The proposal to vary condition 4 as brought forward through this application therefore accords with these key policy objectives.

Site Specific Policies

2.7 With regard to the extant Development Plan policy, pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant policies are contained within the Isles of Scilly Local Plan, adopted November 2005 (saved policies as part of the Local Development Framework).

- 2.8 Policy 1 – Environmental Protection and Policy 2 – Sustainable Development are relevant. Policy 1 seeks to respect and protect the recognised quality of the islands’ natural, archaeological, historic and built environment with particular emphasis in this instance on development which conserves or enhances the AONB. Whilst not a natural feature within the AONB the limited visual impact of the existing development site does not materially detract from the overall character of the AONB. It is a feature of a modern and developed society that even within National Parks and AONBs some development is necessary to support the necessary infrastructure needed to serve local communities and those visiting areas. This includes roads, railways, power and buildings and structures needed for the supply of water and drainage as well as electronic communications. To that extent, the real impact that will flow from the retention of this appropriately located development may therefore be considered neutral.
- 2.9 Policy 2 promotes the re-use of land and buildings where practicable and appropriate. Insofar as it is applicable the retention of the DSO apparatus is in accordance with this objective with the installation of all apparatus confined to the existing, well established transmitting station structures and buildings.
- 2.10 The development has no effect on amenity in terms of noise, traffic, vibration or fumes and as outlined above has an extremely limited visual impact. As such the proposals do not compromise wider policy objectives, in particular those relating to the protection of amenity.
- 2.11 With regard to attaching the time limiting condition to the original permission we believe the reasoning to be flawed and a condition requiring the apparatus to be removed from site when no longer required for electronic communication purposes would have been more appropriate.
- 2.12 As a matter of general policy, Circular 11/95 is very clear that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. Specific advice set out in paragraph 109, identifies the three main factors should be taken into consideration. First, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provisions of the development plan, as in this case.

- 2.13 Second, it is undesirable to impose a condition where the development is clearly intended to be permanent. The original application was not for a temporary period and the apparatus is required to support the provision of terrestrial TV signals to the Isles of Scilly, the demand for which is unlikely to go away and the principles of the DSO technology deployed will not change.
- 2.14 Third, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. Thus, the guidance is unambiguous in stating that the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenities of the area. It is apparent from this that the reason behind the condition originally imposed was unsound against this advice. The reality is that the principle way of protecting the amenities of the area is to encourage mast sharing and to ensure the apparatus is removed when no longer required.
- 2.15 Having regard to the application of this specific advice it is clear that a temporary permission would not be necessary or reasonable to impose and so fail two of the six tests for a planning condition.
- 2.16 In any event, all Electronic Communications Code Operators such as Arqiva must comply with the Electronic Communications Code, which is set out as Schedule 2 of the Telecommunications Act 1984, as amended. Paragraph 22 of the Code effectively requires the removal of redundant apparatus. A planning condition is arguably not therefore required, but to maintain enforcement within the ambit of the Isles of Scilly Council, Arqiva does not object to the variation of Condition 4 to state: -

The electronic communications apparatus hereby permitted shall be removed from the land, building or structure on which it is situated within six months after it is no longer required for electronic communications purposes and such land building or structure shall be restored to its condition before the development took place or to any other condition as may be agreed in writing between the local planning authority and the developer.

2.17 In summary, proper justification exists for the apparatus to remain beyond 3rd August 2014, as specified in condition 4 of planning permission reference P/09/072, we therefore seek permission for the retention of the DSO apparatus by means of the variation of condition suggested above.