ADUR DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

TOWN AND COUNTRY PLANNING (APPEALS) (WRITTEN REPRESENTATIONS PROCEDURE) (ENGLAND) REGULATIONS 2000

Appeal by T-Mobile (UK) Ltd against the refusal of the local planning authority to approve the details of siting and external appearance of a proposed telecommunications 'telegraph pole' type mast (8.5m high including 3 antennae within shroud) and ground cabinet on land south of 50 Overhill, Southwick BN42 4WJ

Planning Inspectorate Reference: APP/Y3805/A/07/2046093/NWF

Local Planning Authority Reference: ADC/0187/07 6 July 2007

WRITTEN REPRESENTATIONS OF THE COUNCIL

1.0 The Site and its Location

1.1 The site lies within a residential area, on the east side of Overhill (unclassified), in the northern part of Southwick, approximately 300m north of the A270 (old Shoreham Road). It lies on the lower part of the southern slope of former Downland which was developed in the 1950s, being 400m south of the boundary between the built-up area and the Sussex Downs AONB.

1.2 The site is on the edge of the highway verge where it broadens out at the access to grazing land which lies to the rear of the bungalows fronting Overhill. The access also serves a footpath leading to the rear of the cemetery, further to the east. There is a conifer and a sycamore tree adjacent to the site of the proposed installation.

2.0 Policies (extracts submitted with appeal questionnaire)

2.1 The Adur District Local Plan 1993-2006 was adopted in 1996, following a local inquiry, and has been saved until September 2007 (or until adoption of the Adur Development Plan Core Strategy). The relevant policies are AG1 and AB29. AG1 is a general policy requiring new development to be located within the built-up area and stating that, subject to other policies, it will normally be permitted subject to "it not detracting from the existing local urban environment". AB29 relates to telecommunications development and states that permission will be granted where it can be demonstrated that there is no reasonable possibility of sharing existing facilities or using existing buildings or structures but expects apparatus to be sited and designed to minimise

its visual impact (it adds that masts will not be permitted where they would be visible in the wider landscapes of the AONB except where special siting needs attributable to technical requirements dictate otherwise).

2.2 The West Sussex Structure Plan 2001-16 was adopted in October 2004 and published February 2005. The most relevant policies are NE23 and DEV1. NE23 relates to telecommunications development and states that development facilitating the growth of new and existing telecommunications systems should be permitted provided there is a demonstrable need, priority is given to using existing buildings, structures and masts and the impact on the environment is acceptable. DEV1 requires construction, layout, scale, appearance and landscaping to be of high quality taking into account the need to have regard to the local context including the characteristics of the site, the streetscape, views into and out of the site and the use of materials and building styles.

2.3 Government policy is set out in PPG8 (Telecommunications). It states that "The Government's policy is to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum – the Government also has the responsibility for protecting public health." It encourages Local Planning Authorities to respond positively to telecommunications development proposals, working with operators to find optimum solutions and taking account of advice about mast sharing and siting/design as well as advice in other PPGs on the protection of urban and rural area. Modern telecommunications are an essential and beneficial element in local community life and the national economy, meeting the growing demand for improved communication at work and home and can assist in attracting industry to an area and contribute to sustainable development by avoiding the need to travel. Operators are obliged by license to expand networks to accommodate customer requirements of service and quality. The size of each cell is determined by the number of subscribers expected to require access to the system. Many antennae have special siting needs because they have a limited range or require line of sight. Siting a mast within an AONB should only be a last resort.

3.0 Explanatory Comments

3.1 The Council determined the application under Part 24 of the T & CP (General Permitted Development) Order 1995 that approval of the siting and appearance of the development was required and refused the details that were submitted. The main issues are the impact of the proposed design and siting of the mast/antennae on the appearance and character of the locality and, if there would be an adverse impact, whether the justification for the proposal is sufficient to demonstrate that there is no alternative less environmentally harmful site or design

available. Other concerns relating to the effects on human health also need to be considered.

3.2 The site lies on the edge of a grazing field within a residential area. It is not identified for any specific use or development in the Local Plan but the Council-owned grazing land at the rear has been identified for possible affordable housing development as part of the emerging policies and documents of the Adur Local Development Framework on which consultation is currently taking place.

3.3 The Council acknowledges that the applicants have given some attention to the design of the mast, proposing a small monopole with a timber-effect appearance and vertical sheathed antennae the same overall width as the pole (0.25m). For a telecommunications mast, it would be relatively short, similar to the adjacent deciduous tree immediately to the east.

3.4 Nevertheless, it is considered that the proposal is not a good replication of a telegraph pole as, for example, can be seen from the similar mast erected by T-Mobile at nearby Mile Oak Road on the corner of Prince Charles Close (allowed on appeal). The proposal would be readily distinguishable from a telegraph pole because of its greater thickness and height. The existing telegraph poles in this road are only 6m high; the nearest located about 35m to the north, on higher ground, plus another on lower ground 45m to the south.

3.5 The proposed pole would be visible when approaching from the south and would be directly opposite bungalows at No's 45 & 47 (23m away), and on the south side of the garden of the bungalow at No.50 (18m from the side of the bungalow). It is considered that it would be harmful to the pleasant appearance of the existing streetscene and that its visual impact would be detrimental to a degree warranting refusal of the submitted siting and design details.

3.6 The proposal would only serve a relatively small area infilling an area of poor indoor 3G coverage between T-Mobile's existing nearest installations at Mile Oak Road (650m east), Kingston Broadway (950m west) and the Transmitter site off Middle Road, Shoreham (1,600m southwest). As to whether there is an alternative less harmful site, the appellants have listed various alternatives which they state are either unavailable or unsuitable and which, in some instances, seem more objectionable than the present site. It is not disputed that there are no existing installations suitable for sharing. The other sites they considered as alternatives include St Theresa's Church, Downland Avenue (owners not agreeable); All Souls Church, Downsway (would require tall installation well above height of building); Mitsubishi Garage roof, Windmill Parade (not tall enough); Upper Kingston Lane Recreation Ground or Quayside Youth Centre site (an appropriate siting could not be found and sensitive because of use by children); ADC land at Overhill, Southwick Cemetery, or Cromleigh Way

Recreation Ground (they state that a suitable siting could not be found and ADC has embargo on any masts on its own land within 50m of residential property or school). However, members of the Council's Planning & Regulatory Committee are not satisfied that the latter is correct and feel that it ought to be possible to find a less environmentally-harmful site on the Council-owned land at either the cemetery, recreation ground or adjacent field which would meet the Council's requirement (as landowner) for a 50m separation distance from the nearest dwellings.

3.7 The effects of development on public health are generally recognised as being a relevant planning consideration and this is stated in PPG8. Whilst the Stewart Report concluded that "the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the guidelines", it went on to state "however, there can be indirect adverse effects on their well being in some cases". Consequently, a precautionary approach was recommended by the Report until there is more scientifically robust information.

3.9 Whilst PPG8 states that "in the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure, it should not be necessary for an LPA, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them", this has been contradicted by some Court cases where evidence has been given that the advice in PPG8 cannot fetter the jurisdiction of the LPA or avoid a requirement to consider the effects on health on a case by case basis.

3.10 In the present instance, the application is accompanied by a Declaration of Conformity with the International Commission on Non-Ionising Radiation Protection guidelines. Where the beam would reach the ground at its greatest intensity, the submitted emissions profile states that the emissions would be *0.18% of* the ICNIRP standard. However, in the face of increasing reports from scientists and others questioning the reliability of the ICNIRP standard, the Council's Planning & Regulatory Committee are concerned that the advice in PPG8 has become outdated and they are not satisfied that the proposal would be safe in terms of its longer term effect on human health. Reference is made to the recent report in the Sunday Times of 22 April 2007 drawing attention to clusters of cancer and other serious illness cases around mobile phone masts; to the presentation by Dr George Carlo of 26 February 2007; and to the Summary of the ECOLOG study for T-Mobile in 2000. The level of research into the health implications is still ongoing as shown by the current public consultation on the European Commission's SCENIHR (Scientific Committee on Emerging and Newly Identified Health Risks) Opinion on possible effects of electo-magnetic fields on human health, the outcome of which is awaited; plus the unanswered questions posed by the h.e.s.e. project. Copies of these are attached.

3.11 Moreover, there have been cases where Planning Inspectors have dismissed appeals because the mast applied for would be so close to or prominent from dwellings, as indeed would be the case at Overhill, that it would be a constant visual reminder to the occupants leading to anxiety for some and an appreciable and enduring diminution of their quality of life and that alternative less harmful sites had not been explored. In the High Court case of *Jodie Philips v First Secretary of State, Havant Borough Council and Hutchison H3G* in October 2003, the Court held that the consideration of alternatives is an integral part of the process of assessment of applications for prior approval – "the broad tenor of the guidance to accept the principle of telecommunications structures where they are needed for coverage but to acknowledge the sensitivity of the location of such structures and to emphasise the importance of searching in each case for the optimal location."

3.12 In the present case, the Council considers that the applicants have not adequately searched the locality for alternative sites and, taking all factors into account, the Council is not satisfied that the application site is the least harmful location for the proposal within the search area in terms of either its effects on the appearance of the area or the health of nearby residents.

The appointed Inspector is requested to share the views of the local planning authority and to dismiss the appeal.