Application Number: ADC/0187/07 **Recommendation – APPROVAL NOT REQUIRED**

Site: **Verge south of 50 Overhill, Southwick**

Proposal: **8.5m telecommunications 'telegraph pole' type mast (including 3 shrouded antennae) with ground cabinet (application to determine whether prior approval of details of design and siting is required)**

The Application

The proposal is submitted on behalf of T-Mobile and is for a prior determination as to whether approval of siting and design details is required. It does not require planning permission (because the site is not in a Conservation Area or AONB and the mast does not exceed 15m high). Under the relevant procedure, the details are deemed approved unless the LPA determines otherwise within 8 weeks.

The proposed telecommunications mast and ground cabinets would be on the east side of Overhill and would be sited on the edge of a grassed verge on the north side of the access to the grazing field (with stables) adjoining the cemetery.

The proposed mast would be a simulated 'telegraph' type pole (0.25m diameter), made of GRP coloured matt brown. It would have 3 antennae at the top enclosed in a shroud the same width as the pole. The overall height is 8.5m. At ground level would be one grey cabinet (1.3m high, 1.2m long and 0.6m wide).

The application is accompanied by a supporting letter from the agent plus technical justification, plot coverage maps, ICNIRP Declaration, etc. Without an installation in this locality, the letter states that T-Mobile users might not be able to make a video call or surf the internet at an acceptable speed or may not have any 3G service at all when demand is high.

Consultations and Representations

Director of Services: Given PPG8 advice, the EHO has no objection but the applicant has been asked whether the possible future development of the adjacent field would affect the ICNIRP declaration of compliance (reply awaited).

Third Parties

7 letters of objection have been received from residents of No's 41, 43, 45, 48, 50, 54 & 75 Overhill. The main grounds are that:-

- the mast/antennae would be unsightly and would destroy the peaceful and pleasant surroundings; it is totally unacceptable in the midst of bungalows, directly opposite front windows and overdominating the view. It is misleading to refer to it as a telegraph pole, as it would be obviously a mobile phone mast;
- it would be too near the nearest bungalow (No.50);
- sycamore trees would have to be cut down;
- it would be a health hazard, ruining the safety of the area as a place to bring up families; information is requested on what are the RF exclusions;
- it may interfere with television reception;
- there would be loss of property value (NB. not of itself a valid planning consideration). It is questioned whether compensation would be payable (NB. there is no such provision in planning law)
- it would be better sited at the Holmbush roundabout, away from dwellings.

(NB. The residents of 45 & 48 Overhill request to speak at the committee meeting)

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-16 (WSCC 2005): LOC1, NE23, CH1, DEV1
Adopted Adur District Local Plan (ADC 1996): AG1, AB29
PPG8 "Telecommunications" (DTLR 2001)

Planning Assessment

The main issue to consider is 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 a significant 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 raised by third parties relating to the effects on human health also need to be considered.

Policies

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.

Local Plan policy AB29, specifically relating to telecommunications development, 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).

Structure Plan policy NE23 similarly 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.

PPG8 (Telecommunications) 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.

Visual effect

The applicants have given attention to the design of the mast, proposing a small slimline monopole closely replicating a timber telegraph pole in its appearance. The proposed vertical sheathed antennae would be unobtrusive, being the same overall width as the pole (0.25m).

Being only 8.5m in overall height (reduced from the 12m initially proposed on preliminary consultation), the proposal would be relatively short, similar to the adjacent deciduous tree immediately to the east. There is an existing 6m high telegraph pole about 35m to the north which stands on higher ground, plus another on lower ground 45m to the south.

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).

Nevertheless, whilst the proposal would cause a degree of harm to the streetscene, it is not considered that the visual impact of the proposal would be detrimental to a degree warranting a determination that approval of the siting and design details is required (or a decision to refuse those details).

Whether a less harmful site is available

The proposal would only serve a relatively small area but, on the information available, there is no disputing the case that the applicants have deficient coverage in Southwick (for non-outdoor 3G coverage). They are required by their license to provide adequate coverage and meet reasonable demands placed upon their network. The applicants existing nearest installations are at Mile Oak Road (allowed on appeal), Kingston Broadway and the Transmitter site off Middle Road.

As to whether there is an alternative less harmful site, the applicants have listed various alternatives which are either unavailable or unsuitable and which, in some instances, seem more objectionable than the present site. 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 (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).

It is considered that this provides sufficient evidence to show that a less harmful site is unlikely to be found.

Health

With regard to the possible effects on health, which are generally recognised as being a relevant planning consideration, 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 – 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.
Nevertheless, PPG8 states that this does not mean that individual local authorities should introduce their own precautionary policies for determining applications (including any minimum distances between installations and existing development) or a moratorium on mobile phone applications on health grounds. The PPG recognises that health considerations, in principle, can be a material planning consideration in determining applications but states that whether such a matter is material in a particular case is ultimately a matter for the Courts. It states that "the planning system is not the place for determining health safeguards" and 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."

There have been 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. However, a relatively recent Court of Appeal case in November 2004 (*T-Mobile and others v First Secretary of State and Harrogate Borough Council*) upheld the High Court's decision to quash an Inspector's decision to refuse the mast on health risk grounds. This was on the basis that the reason the Inspector had given (which was that a precautionary approach should be adopted because the mast was near 3 schools) was not sufficiently exceptional as to justify departure from the Government's view that the ICNIRP declaration of conformity is all that is necessary. The Court was of the view that the ICNIRP declaration was ample to cover the case.

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 (at a distance of ~~174m~~ 150M), the submitted emissions profile states that the emissions would ~~be 4,703 times less than~~ be 0.18% of the ICNIRP standard. There is no evidence to indicate that there would be an actual risk to health and nothing to demonstrate that the present case is in any way exceptional. It is further away from houses than many other existing masts. The Council has not been presented with evidence by the objectors which would be sufficient to substantiate refusal on health grounds.

There have been a few cases where Planning Inspectors have dismissed appeals because the mast applied for would be so close to or prominent from houses 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 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."

In the present case, however, as stated above, it is considered that the applicants have adequately searched the locality for alternative sites and, taking all factors into account, that the application site is the least harmful location within the search area and that the design is the least harmful option.

It is not considered that the proposal would be prejudicial to the possible future development of the adjacent field with housing.

Recommendation

That a Determination be given that prior approval of the details of siting and design is NOT required.

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