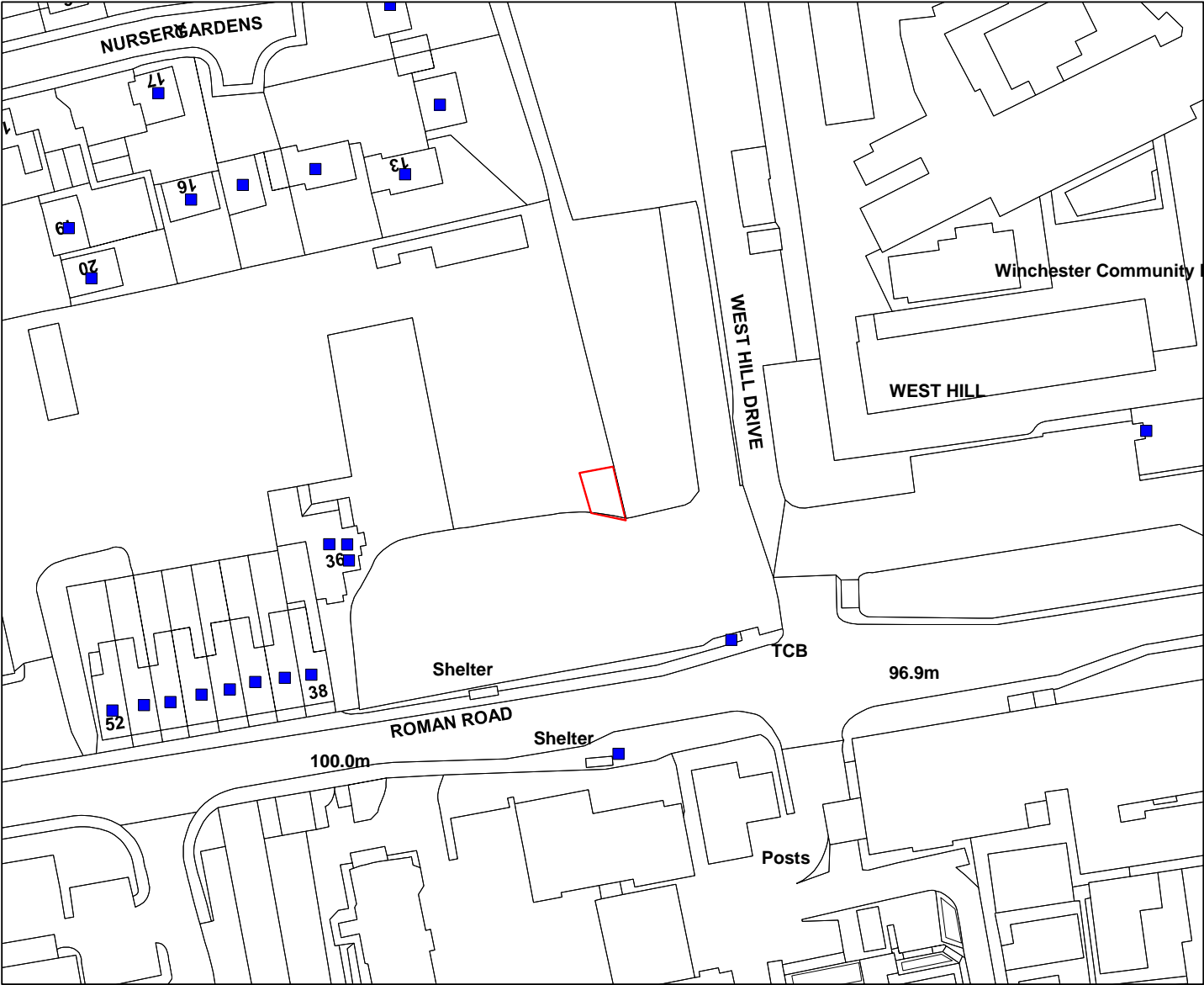


Hillier Garden Centre, Romsey Road, Winchester

09/01686/FUL




Winchester
City Council



Legend

Scale: 1:1000

N



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Winchester City Council © 2007.

Organisation	Winchester City Council
Department	Development Services
Comments	
Date	25 November 2009
SLA Number	00018301

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

Item No: 2
Case No: 09/01686/FUL / WTC/172/01
Proposal Description: Installation of a 15m street works pole upon a 19cm concrete plinth, supporting 3 antennas and 2 no. 600m dish with equipment cabinet at ground level and ancillary development (Resubmission) (Retrospective)
Address: Hillier Garden Centre, Romsey Road, Winchester, Hampshire SO22 5DL
Parish, or Ward if within Winchester City: St Paul
Applicants Name: Airwave Solutions Limited
Case Officer: Mr Nick Fisher
Date Valid: 14 August 2009
Site Factors: Conservation Area

Recommendation: Application Permitted

General Comments

This application is reported to the Committee because of the number of objections received.

The application is retrospective, as the mast was erected at the site in the early part of this summer (possibly May or June 2009).

This full planning application is a resubmission of a telecommunications prior notification application (ref: 09/01344/TCP), following the unauthorised erection of the mast. The application was withdrawn by the applicant, further to the advice of the Local Planning Authority. It was established that, due to inaccuracies between the description, plans and the mast on site, the application could not be formally considered. Furthermore, full planning permission was required, due to the height of the mast.

When the mast was erected, it was powered by an on-site diesel generator. The Council received a number of complaints from nearby residents regarding the noise and fumes emitted from the generator. The Council's Environmental Protection Team investigated the complaints and subsequently secured the removal of the generator. The mast is now connected to the mains power network.

The mast is operated by a company called Airwave Solutions Ltd. The mast provides coverage for the police, fire and ambulance services. Airwave serves all the major organizations responsible for UK safety and security, including the MOD, HM Revenue & Customs, Immigration and Borders, the Department of Work and Pensions and many other public safety organizations. The mast is not for domestic calls and is only being used by Airwave. It is not handling calls for the main operators, namely Orange, O2, T-Mobile, 3, and Vodafone.

Site Description

The site is located within the urban area of Winchester. The mast is erected within the south eastern corner of the Hillier Garden Centre's car park. The mast is to the east of the car parking area and informal outdoor storage area. It is immediately to the south of a

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

single storey timber storage building and adjacent to a wall and belt of established trees which are located to the south and east. The prison buildings are located to the east of the mast. Romsey Road is located approximately 26m. to the south of the compound; there are trees adjacent to the highway. The prison car park is located between the road and the mast site.

There are dwellings to the west of the mast; the nearest house, No. 36 Romsey Road, is approximately 31m to the west. Nursery Gardens, a residential housing estate, is to the north of the garden centre, and the nearest rear garden is 42m. from the compound.

Proposal

It is proposed to retain the existing unauthorised mast at the site. The mast provides coverage for the emergency services and other Government services.

The mast has a height of 15m. and stands upon a 19cm (approx) concrete plinth. There are 3 no. airwave 4 stack dipole antennae and GPS antennae mounted upon the mast; they have a maximum height of 17.5m. There are 2no. airwave 600mm. microwave dishes, mounted at approximately 14.5m. height. The mast is located within a fenced compound area, which includes an equipment cabin. Access to the compound is gained from Hillier Garden Centre.

Relevant Planning History

09/01344/TCP: Installation of a 15m high street works pole supporting 3 antennae and 2 no. 600m dishes with an equipment cabin at ground level (Retrospective) - Withdrawn - 13/08/2009.

Consultations

Environmental Protection Team:

No objection to the proposal. The Officer has stated that the guidance set out in PPG8 states that, if the emissions from a proposed development meet the International Commission on Non-Ionizing Radiation Protection guidelines (ICNIRP), it should not be necessary for an Authority to consider health effects further. The Officer notes from the applicant's ICNIRP declaration that non-ionising radiation emissions meet ICNIRP guidelines. The Officer, therefore, has no adverse comments in respect of health effects.

With regard to noise generation, the Officer considers that the proposal is acceptable. Initial concerns regarding noise nuisance arose from the unauthorised diesel generator that was introduced to the site to serve the mast. The generator has been removed and the mast is now served by a mains supply from Hillier's Garden Centre. Since the removal of the generator, there have been no further complaints regarding noise.

Landscape Team – Tree Officer:

No overall objection or recommendation to withhold planning permission. The trees are not protected by a Tree Protection Order or within a Conservation Area. Whilst the trees are not outstanding specimens, they do provide a screen to the site, and, in accordance with BS 5837 -2005, the trees individually are C class trees, but as a group they are class B grade trees, due to their screening effect and their amenity value.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

A concrete plinth has been constructed on which to erect the mast, and a mini digger was used during the construction process. The use of this machinery to remove topsoil will probably have broken surrounding roots and compacted the soil beneath. This is likely to have damaged or disrupted the roots. It may be the case that, in approximately two years, the trees will begin to show signs of stress. One of the signs of stress is die-back within the crown, and this may lead to the eventual death of the trees.

Arboricultural information should have been provided for approval before work at the site commenced. On the basis of the current situation, no further pruning of the trees should take place without approval and the trees should be monitored on a regular basis. If permission is granted, there should be a condition that no further tree works shall be undertaken without the prior consent of the Council.

Natural England:

No objection raised. The Agency refers the Council to its standing advice regarding development and protected species (in particular, bats).

HCC Ecology:

No objection. The trees around the site are not mature and ivy is present. It is unlikely that they are suitable for roosting bats. Any damage to the trees from the construction of the mast will have already occurred.

It is likely that bats are present in the vicinity of the site and possible that the trees form a corridor/bat commuting route. It is likely that the trees are used by birds for feeding and, possibly, nesting. Concerns have been raised by local people about electromagnetic radiation originating from the mast and impacts on species such as bats. There is some evidence from research in America and Scotland that, in areas exposed to radiation from larger scale operations such as radar stations, there is a reduction in the number of birds and bats, due to the impacts of that radiation. However the Ecologist is not aware of research specific to smaller scale operations such as this one. The Ecologist has consulted the Bat Conservation Trust, which has confirmed that there is currently no conclusive evidence that antennae such as this one do have a detrimental impact on species such as bats.

In this instance, because this is a retrospective application, there is no way of being able to determine now whether the development is having an impact or not, as in the vicinity of the site there are other tree lines and areas along which bats can commute, and other vegetation which birds can use. The Ecologist has stated that she is not especially concerned, as any adverse impact would be very localised. Ecological information regarding protected species should have been submitted with an application prior to any development occurring, to allow the impacts to be addressed.

Representations

City of Winchester Trust:

No comment.

16 letters received objecting to the application, for the following reasons:

- The application would be out of keeping with the area's Fulflood Design

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

Statement;

- The location is unsuitable for the proposed plinth antennas and dish, due to the health implications for the many people who and live or work nearby;
- The location is too close to the University - including halls of residence - primary and secondary schools, prison, hospital, Police headquarters and nearby houses;
- The proposed application is inconsistent with the character, natural beauty and wildlife, and amenity of the local shared space. This installation fails to conserve both the built and natural environment around our home. As you are aware, our neighbourhood contains protected trees originally planted by Sir Edmund Hillier. The antenna detracts from the rare trees planted around our house and its position is discordant with their special nature;
- The proposed elevation plan (16th July 2009) shows that the top of the antenna measures 17.5m and the tree tops reach only 14m. The difference is even more marked as the pole has been erected on a concrete plinth. The pole and antennae are clearly visible from our house above the tree line. It's appearance is ugly and spoils the residential feel of the area. Once the trees lose their leaves in the autumn, the antenna will become even more obvious;
- The planning process is clearly not being applied, as the requested installation has already been fully erected, eradicating any confidence from the public that the planning process can empower public comment and consent. The City Council is being presented as ineffective and impotent in applying planning processes when dealing with the telecommunications industry;
- The applicant / agent has not effectively consulted with local groups prior to the submission of the application. The consultation process does not accord with the Government code of Best Practice and the federation of electronic industry's 10 commandments;
- There are significant health concerns expressed by emergency-services unions on the health implications to their members of TETRA systems;
- There is scientific evidence that relatively close proximity exposure to electromagnetic radiation can significantly affect the health of birds and bats, increasing vulnerability to disease, and I raise concern for the resident bat community on Home Nursery Green, utilising the bat nesting boxes provided as part of the long-term development of the site;
- The effect on the enjoyment of neighbouring properties and design, appearance and layout. The mast is a complete eyesore;
- The mast may have potential long-term health effects upon the local community. There are legitimate concerns about the reported biological effects of exposure to radiation from TETRA Masts. There are concerns that the TETRA masts are particularly harmful due to the frequencies that are used;
- The justification for the mast is that it is needed because it can no longer be operated from the Police HQ. The Police are not due to move to their new HQ in Chandlers Ford for some years yet and hence there is no reason why the current location on top of their HQ cannot continue to be used. Further, the land around the HQ is surely theirs, so consideration for putting it there first should be given. Or would that devalue the land that they hope to develop?
- In terms of the effect on the enjoyment of neighbouring properties, the mast can be seen by many homes in the area and from my son's bedroom window. This will reduce the enjoyment from within people's homes as well as spoil the feeling in the local area when people are in their gardens;
- The mast may have damaged adjacent trees;

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

- The mast is visible from surrounding residential properties. The mast is an eyesore, overbearing and has a negative impact on the skyline. It is detrimental to the enjoyment of neighbouring properties and the local area. PPG8 paragraphs 24 *et al* state that “*sympathetic design and camouflage*” should be used. The design is neither sympathetic nor camouflaged;
- I would further point out that the adverse impact of this construction will be more pronounced in the autumn and winter months when the local trees have lost their leaves. PPG8 Supporting Guidance paragraph 78 recognises this and states that the effect of seasonal leaf fall should be considered. There is no evidence that this has been taken into account;
- There is insufficient evidence presented to form a view as to why the other potential sites have been unwilling to accommodate the applicant. There is no evidence that a rigorous process has been employed for the consideration and rejection of alternate sites. In particular, the rationale for the rejection of some of the sites, including installation on existing buildings and structures, is inadequate and therefore not open to scrutiny. In addition, consideration does not seem to have been given to the obvious solution of re-mounting the mast at the existing site on the Police Headquarters, once re-development of that site has been completed;
- Local residents are already concerned by the noise levels that are likely to be associated with this installation. Again, have appropriate studies been done to measure such noise levels?
- There are concerns about potential interference with electronic equipment, including television aerials and home computing solutions.

HM Prison Winchester:

The prison states that it has encountered increased interference on the channels that are used for the Maintenance Department's radio system since the temporary mast has been installed. It is anticipating that this problem will continue if the mast is made permanent. The internal radio system for the Main Prison could possibly also be affected, but nothing has been recorded to date.

Relevant Planning Policy

South East Plan 2009:

CC6

Winchester District Local Plan Review:

DP1, DP3, DP4, DP10, DP14

National Planning Policy Guidance/Statements:

PPS 1 Delivering Sustainable Development

PPG 8 Telecommunications

The Stewart Report and other ministerial guidance.

PPG8 – the following summarises the guidance:

- The Government takes a proactive approach, asking Local Planning Authorities to facilitate development;
- Local Planning Authorities have to understand the requirements and needs of telecommunications operators;

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

- Mast and site sharing must be explored and justification for the site of the application must be included (this is discussed below);
- Health considerations and the public perception of danger can be taken into account (further advice on this is below);
- The Government's response to the recommendations of the Stewart Report has been adopted in the guidance;
- The Government advises Local Planning Authorities against implementing their own precautionary approach, such as imposing a moratorium on telecommunications development.

Planning Considerations

Principle of development

The principle of retaining the existing mast (erected without consent) and associated equipment within the compound is considered to be acceptable. The Government takes a proactive approach to telecommunications development and asks Local Planning Authorities to facilitate development. It is considered that the development accords with adopted planning policy, particularly Local Plan Policy DP14.

The mast serves the emergency services and other Government agencies and it is considered that the need for the mast and benefit to the public is a robust material planning consideration. It is understood that the Police Headquarters used to act as a site to accommodate the equipment that covered the area and the applicant has been asked to vacate the site; thus, the requirement arose for a site within the area that provided similar levels of coverage.

The mast is located within a private car park (open to members of the public visiting Hillier Garden Centre). The area is urban in nature and Romsey Road is a main route into the city. The proposed mast will not alter the urban character of this part of the city. The trees that are adjacent to the compound and adjacent to Romsey Road upon the prison's boundary offer a good level of screening and softening of views of the mast, particularly in the summer and autumn.

Policy DP14 states that development should be permitted, provided that 5 criteria are satisfied; It is considered that the proposal accords with the criteria, as follows:

1. Examination of alternative sites.

The applicant has examined 17 other sites / options within the area. This site has been primarily chosen because it offers good coverage of almost all of Winchester and is comparable to the coverage offered by the previous equipment which was located upon the Police HQ. The other sites have been discounted because they either did not offer the required levels of coverage, the site owner was not prepared to proceed or it was considered that it would be difficult to gain planning permission.

2. Site sharing.

The use of site sharing was considered during the above-mentioned examination of alternative sites and was dismissed as a viable option for technical reasons. The main considerations in the process are: is the existing structure able to accommodate the weight of the equipment, is there sufficient ground space nearby

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

which can be easily accessed to erect cabinets etc and can aerials be mounted so that they are in an unobstructed position?

3. The environmental / visual impact of the development is minimised.

The location within a private car park is considered to be acceptable. The mast is located in a set-back position in relation to Romsey Road, so that it is not excessively prominent. The nearby trees offer good screening and softening of views of the mast. The immediate area of Romsey Road is urban in nature (the prison and hospital are nearby) and there is existing street-furniture within the area; the addition of a mast does not materially alter the appearance or character of the area.

4. Cables and equipment are located where they will not harm local ecology and archaeology.

The location of equipment is considered to be acceptable; the equipment is located within the secure cabinet.

5. Where appropriate a satisfactory landscape / restoration scheme is proposed.

Due to the nature of the site, it is not possible nor considered necessary to provide further landscaping. The existing trees within the area offer good screening of the development. It should be noted that the trees are outside of the control of the applicant. It is not clear if the erection of the mast has caused damage to the trees (see below).

The prison has objected to the mast on the grounds of alleged interference with its works / maintenance radio network. The prison was asked to provide evidence of the alleged interference, but no evidence has been provided. The prison's response has been put to the applicant, and the applicant maintains that the alleged interference was taking place prior to the mast being first used.

PPG8: Telecoms states that "*significant and irremediable interference with other electrical equipment can be a material planning consideration... Only if there is clear evidence that significant electromagnetic interference will arise, or will probably arise, and that no practicable remedy is available, will there generally be any justification for taking it into account in determining a planning application.*" At the time of writing, there is no clear evidence demonstrating that significant electromagnetic interference has arisen from the mast subject to this application. Therefore this matter is not considered to be a credible material consideration or defensible reason for refusal.

Siting and appearance of the mast

The proposed development comprises one 15m mast that supports three antennae above the central structure. The mast also supports two microwave dishes. There is an equipment compound at ground level. It is considered that the adjacent walls and tree canopies and trees next to Romsey Road, offer good screening and softening of views of the mast from public locations upon Romsey Road. Only the upper sections of the mast are visible from certain positions. During the winter months, the screening provided by the trees within the area is reduced. However, due to the set back location of the mast and compound from Romsey Road (the mast is set back by 26m) and the number of tree trunks and branches, the mast is not excessively prominent within the street-scene or an incongruous feature.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

Romsey Road is a main route into the city and is urban in character and appearance. Large public buildings / facilities are noticeable within the area. It is noticeable that there is a substantial amount of street-furniture in the area (signage serving the prison and hospital, bus shelters, lamp posts, CCTV equipment serving the prison, flag poles and road signage) and the addition of this mast does not materially harm or alter the character of the area.

The mast has greater prominence when viewed from within Hillier Garden Centre. Whilst the trees do not soften / shield the mast from view from within the car park or dwellings to the north, the trees do offer a backdrop, which reduces the prominence of the mast. Due to the distances to neighbouring dwellings (approximately 31m to the west and 42m to the north) it is considered that, whilst the mast is visible from certain positions within nearby garden areas and windows serving nearby dwellings, it does not appear to be overbearing or excessively prominent.

Ecology / wildlife considerations

Based upon the information available and information provided by consultees, the mast is not considered to harm local wildlife, protected species or wider ecological interests and consent could not reasonably be refused on this basis. Hampshire County Council's Ecologist has reviewed the proposal and has not objected to the retrospective development. Although pruning of the surrounding trees has taken place, it is unlikely, that they would provide a habitat for roosting bats, due to their size.

There is no evidence to suggest that the development will significantly harm bats or birds within the area. Whilst ecological information should have been supplied with the application, the County Ecologist has examined the development and has raised no objection.

With regard to the Habitats Regulations and derogation from the law tests, the following is considered :

1. The mast serves a public need;
2. Other alternative sites have been evaluated and were not considered to be satisfactory to accommodate the development; and
3. The mast is not detrimental to the maintenance of the population of protected species.

Tree Considerations

The mast has already been erected, and as stated above, the existing trees adjacent to the site do provide good screening of the mast in public views. However, works undertaken to install the concrete plinth may have caused irreparable damage to these trees and such damage may not be evident for at least two years. In addition, the trees are outside the red line delineating the application site, and it is therefore not possible to control their replacement by means of a planning condition.

It is therefore recommended that the applicant enters into a Section 106 Legal Agreement with the Council to secure either the replacement of trees that have died or those that are dying due to the digging process to install the concrete plinth or, in the event that the applicant is unable to secure this, then the mast and associated structures must be removed from the site, and the land reinstated to its former condition.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

If consent is granted, the Arboricultural Officer recommends that a condition is placed upon the development that requires construction information regarding the erection of the fencing and information regarding any future tree pruning (Condition 2)

Environmental Protection considerations.

Since the removal of the diesel generator that originally powered the mast, there have been no complaints regarding noise or fume emissions from the site. The installation does not now appear to represent a noise nuisance to passers-by or to the occupants of nearby dwellings. Should this situation change, the Environmental Protection Team are satisfied that any problems that may arise can be dealt with under environmental protection legislation.

An ICNIRP certificate has been provided by the applicant to confirm that the equipment conforms with the requirement of the radio frequency exposure guidelines. The Environmental Health Officer has reviewed the certificate and associated information that accompanies the application and has no adverse comments to make in respect of health effects / matters. Health is a material consideration, but the Government has stated in PPG8 (Telecommunications) that, if a proposed telecommunications station meets the ICNIRP certification, it should not be necessary for a Local Planning Authority to consider health aspects and concerns.

The perception of health risk can be a material planning consideration. Concern has been expressed locally that the facility may give rise to adverse health impacts. Due to the location of the mast away from nearby properties, it is not considered that it is excessively close so as to appear to be overbearing. This matter is therefore not considered to be a strong material planning consideration.

Planning Obligations/Agreements

In seeking the planning obligation(s) and/or financial contributions for the Local Planning Authority has had regard to the tests laid down in Circular 05/2005 which requires the obligations to be necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

Recommendation

Application Permitted, subject to

- (i) The securing by appropriate legal agreement (the terms of which are to be approved by the Head of Legal Services) of the following provisions under Section 106 of the Town and Country Planning Act, and any other relevant provisions as set out below:**

To secure the replacement of trees that are within 10m of the compound if they die or become seriously defective (in the opinion of the Local Planning Authority) as a result of the erection of the mast and associated equipment. Replacement trees must comprise the same species and be well established when planted. If the applicant is unable to secure the replacement of the trees, then the mast and associated structures shall be completely removed from the site within 6 months of instruction from the Local Planning Authority.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

(Note: If the Legal Agreement is not completed within 6 months, then the application may be refused without further reference to Committee);

and

(ii) the following conditions:

Conditions

1. No additional equipment shall be introduced to the compound / into the cabinet without the prior written approval of the Local Planning Authority.

Reason: To protect the amenities of the occupiers of nearby properties.

2. The permanent fencing serving the secure compound shall be erected within three months of this consent unless otherwise agreed in writing by the Local Planning Authority. Full details of the method of construction / implementation shall be agreed in writing with the Local Planning Authority prior to the erection of the fencing. The approved details shall be fully adhered to, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the facility is secure and in the interests of tree protection.

3. If the facility should become disused (i.e. no longer used for the purposes of supporting a telecommunications network to serve the emergency services and other governmental bodies) the mast and associated equipment shall be removed from the site within three months of the facility becoming redundant, unless otherwise agreed in writing by the Local Planning Authority. The concrete plinth shall be removed and the land returned to its previous state, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the mast is removed if it is no longer required, in the interests of visual amenity.

Informatives

1. This permission is granted for the following reason:

The development is in accordance with the policies and proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following Development Plan policies and proposals:-

Winchester District Local Plan Review 2006: DP1, DP3, DP4, DP10, DP14
South East Plan 2009: CC6