



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **BIR/00CN/EOM/2025/0012**

Property : **Romford House, Romford Road Warsash,
Southampton SO31 9GZ**

Claimant : **Jane Amanda Cox**

Representative : **Jenny Cox (authorised lay representative)**

Respondents : **EE Limited and Hutchison 3G UK Limited**

Representative : **James Andrews-Tipler instructed by
Winckworth Sherwood LLP**

Application : **Electronic Communications Code
Part 12, Paragraph 79**

Hearing : **4th June 2026
Havant Justice Centre**

Tribunal : **Judge D Jackson
Mrs J Coupe FRICS
Mr E Shaylor MCIEH**

Date of Order : **16th June 2026**

DECISION

1. The Claimant is the freehold owner of residential property known as Romford House, Romford Road, Warsash. The Respondents are operators pursuant to directions made by OFCOM under s.106 of the Communications Act 2003. The Respondents occupy a telecoms site at Osborne Road Recreation Ground (also known as Warsash Recreation Ground) (“the Recreation Ground”) which is approximately 25m-30m from Romford House. The freeholder of the Recreation Ground is Fareham Borough Council (“the Council”) whose title is registered at HM Land Registry under Title Number HP674760 [154-156]. The Respondents occupy the telecoms site pursuant to a lease dated 17 December 2024 and made between the Council (1) and the Respondents (2) [160-199] and registered at HM Land Registry under Title Number HP892363 [157-159]
2. The Respondents previously occupied a site at Warsash Maritime Centre which was decommissioned in February 2025 consequent on landlord’s redevelopment. Apparatus was installed at the Recreation Ground in or around April 2025. The Respondent’s apparatus consists of a 20m monopole and ground based equipment cabinets which are positioned on the southern boundary of the Recreation Ground on Osborne Road opposite the junction with Romford Road.
3. To assist in reading this decision a copy of HM Land Registry Plan HP892363 [159] is at page 15 of this Decision. The telecoms site is edged red. Romford Road is immediately to the south. Romford House is the second house on the western side of Romford Road.
4. On 25th June 2025 the Claimant served a Notice of objection to apparatus under paragraph 78(1) of the Code. A further Notice dated 15th September 2025 was also served on the Respondents [6-10].
5. A Notice of Reference under paragraph 79(2) together with Claimant’s Statement of Case was filed with the Upper Tribunal on 22 October 2025 [11-17]. By Order of the Deputy Chamber President made on 23rd October 2025 the reference was transferred to the First-tier Tribunal for determination [50-51].
6. A Case Management Hearing took place on 13th January 2026. At the hearing it was agreed that the objection would proceed solely on the basis of the Notice dated 15th September 2025. In order to regularise proceedings, on 13th January 2026 the Claimant filed with the FTT a further Notice of Reference referring Paragraph 78(1) Notice dated 15th September 2025 [35-49]. The Tribunal directed that Statement of Case of Claimant dated 22nd October 2025 and Respondents Response and Statement of Case filed on 16th December 2025 shall stand as the parties’ respective statements of case in respect of the further reference.
7. Further the Tribunal directed that determination in respect of the First Condition set out in Paragraph 79(4) of the Code (including issues in relation to Paragraph 77(5) and (6)) should be heard as a Preliminary Issue [54-56].
8. On 31st March 2026, and pursuant to paragraph 10 of Directions dated 14th January 2026, the Claimant sought permission to adduce expert valuation evidence *“protectively to avoid unfairness if the Respondents elect to rely on expert valuation evidence”* [211]. On 1st April 2026 the Respondent replied to the application by email

indicating that it did not intend to make application to rely on expert valuation evidence [212-213]. The Claimant responded on 2nd April 2026 [214]. By email dated 14th April 2026 the Tribunal notified the parties that: *“The Claimant seeks permission to rely on expert evidence on a “protective” basis should the Respondent seek permission. The Respondent has confirmed that it does not seek permission. Under those circumstances it would appear that neither party wishes to rely on expert evidence. Accordingly, no further Order is required or necessary”* [215-216].

9. The hearing of the Preliminary Issue took place on 4th June 2026 at Havant Justice Centre. The Tribunal conducted a site inspection on the morning of the hearing. The Claimant was represented by her daughter Jenny Cox (authorised lay representative [18]). We are grateful to Ms Cox for her Skeleton Argument. The Respondent was represented by James Andrews-Tipler (Skeleton Argument dated 1st June 2026).
10. The Tribunal received evidence from Jenny Cox (Witness Statements dated 17th March 2026 [74-79 and bundle 80-132] and 7th April 2026 [133-136]) and Philip Harrison MRICS (Estates Manager for the Respondents operating through their shared network manager MBNL. Witness Statement date 16th March 2026 [137-153]). The Tribunal has considered a Bundle of documents [1-216].

The Objection

11. The objection is set out in paragraphs 6-8 of the Statutory Notice “Notice of objection to electronic communications apparatus kept on or over land under the Electronic Communications Code” given under Paragraph 78(1) and dated 15th September 2025 [7]:

6. *I object to the Apparatus on the ground that it materially prejudices my enjoyment of, or interest in, the neighbouring land. It causes serious harm to the outlook, amenity, and value of my property due to its excessive height, intrusive siting, and lack of screening. The mast is out of scale with surrounding buildings and trees, visually dominating a well used recreation ground near homes, a school, and a children’s play area.*

7. *This mast was installed despite refusals of prior approval for erection of a ground-based mast in this location by Fareham Borough Council in both 2018 and 2021, with the Council stating “the siting and appearance [...] would have a significant detrimental impact on the visual appearance of the area, the residential amenity of neighbouring properties and the enjoyment of a valued community facility.”*

8. *I believe that I benefit from a restrictive covenant dated 16 February 1910, which applies to the land known as Warsash Recreation Ground. This covenant expressly provides that no buildings shall be erected on the said premises hereby assured except private dwelling houses. and no building erected thereon shall at any time be used except for the purposes last aforesaid. These restrictions are to be at all times binding on the Council and their assigns and there are no records suggesting they have been discharged. I submit that the installation of the mast currently in situ constitutes a clear breach of this covenant and is incompatible with the designated and protected recreational use of the land.*

Inspection

12. We are grateful to the Claimant for her photo montage of the apparatus when viewed from the property [86]. To assist in reading this decision a copy is at page 16 below.
13. The Tribunal inspected Romford House and the Recreation Ground on the morning of the hearing and was able to observe the mast from several perspectives, namely from inside Romford House itself as well as from its driveway and garden, from Romford Road, Osborne Road and from the Recreation Ground. The weather was cool for the time of year and blustery, but visibility was good and there was no rain.
14. From the front driveway of Romford House, the mast was clearly visible at a distance of between 25 and 30 metres. The lower part of the mast was screened by a boundary fence of standard 1.8 metre height, the upper part being still visible.
15. Inside the property, the first floor front left (viewed from the front of the property) bedroom has a bay window which enabled a view of the Recreation Ground through the left hand return window, including the mast roughly in the centre of the aspect. The first floor front right bedroom does not have a bay window, so the mast is visible to the left if standing close to the windowpanes.
16. The Tribunal observed from the first floor rear right bedroom that standard street furniture was visible from that room in Osborne Road, including 2 telegraph poles and 5 streetlights.
17. The ground floor front left reception room has a bay window corresponding to the room above, with a similar but lower view of the mast as the first floor bedroom, although the presence of slatted blinds on the window considerably reduced the sight line. The Tribunal observed a telegraph pole near the front bay window and a streetlight in Romford Road opposite the property.
18. From the patio situated in the rear corner of the garden, the top part of the mast (roughly the part containing the antenna apparatus) was visible above the roof top of the neighbouring house. The position of the patio in relation to the house was roughly south-west, so the view of the mast was to the north-east. From the middle of the garden and nearer the property, the mast was not visible.
19. The Tribunal walked approximately 50 metres down Romford Road and then walked back towards the Recreation Ground. The mast was clearly visible from Romford Road, being directly opposite the junction, the rising ground providing an upwards view of the mast. In Romford Road there are 2 telegraph poles, with a 3rd pole at the junction with Osborne Road, and 5 streetlights (4 on the opposite pavement to Romford House and 1 on the near side). All the streetlights in the area appeared to be of fairly modern design, on relatively short poles with “downlighter” lanterns.
20. The Tribunal observed the mast from the Recreation Ground, which is a long established open space, with more recent additions of recreational amenities including 4 tennis courts with floodlights on low poles. There were 3 poles, each outside of the 4 courts and 9 double headed poles in between the courts, making 15 poles and 24 lights in total. There is a single storey brick building on each side of the Recreation Ground. The view from the Recreation Ground towards Romford Road is

of a well-established residential area with no houses higher than one or two storeys, including several houses in Meadcroft Close backing on to the western edge of the Recreation Ground. There is a predominance of natural features, such as trees and grass, with approximately 10 trees bordering Osborne Road, most of the trees considerably lower in height than the mast, and 4 trees on each side of the Recreation Ground.

21. In summary, the Tribunal observed considerable natural screening of the mast on western or eastern approaches along Osborne Road, but virtually no natural screening from the north (Recreation Ground) or south (Romford Road). There was some natural screening by trees between the mast and houses on Meadcroft Close.
22. The Claimant complains that since April 2026 a “whirring” noise can be heard “like a lawnmower down the road.” No noise was detected by the Tribunal on inspection.

Planning Background

23. In order to understand the objection, it is necessary to set out the planning history of the site.
24. On 15th August 2018 agents on behalf of the Respondents made application under Schedule 2, Part 16 of the Town & Country Planning (General Permitted Development Order) 2015 (as amended) to the Council for a determination as to whether the prior approval would be required for the siting and appearance of a 15m monopole and other apparatus at the Recreation Ground [57]. On 2nd October 2018 the Council refused the request for prior approval:

“The Local Planning Authority objects to the proposed siting and appearance of the telecommunications apparatus. It is considered that the proposed development would have a detrimental impact on the visual appearance of the surrounding area by virtue of the prominent siting of the apparatus, the height of the proposed mast and lack of screening.”

25. On 15th July 2021 agents for the Respondents made a further application to the Council for prior approval in respect of a 20m monopole and ground based equipment cabinets [58]. On 9th September 2021 Fareham BC refused prior approval on the following grounds:

“The Local Planning Authority objects to the proposed siting and appearance of the telecommunications apparatus at the Osborne Road Recreation Ground. It is considered that by virtue of the prominent siting of the apparatus, the height of the proposed mast and the lack of screening the proposal would have a significant detrimental impact on the visual appearance of the area, the residential amenity of neighbouring properties and the enjoyment of a valued community facility.”

26. However, the application having been received on 15th July 2021, the decision made on 9th September 2021 was made one day outside the 56 day statutory period. The Claimant sought permission to apply for judicial review. Permission was refused on 5th November 2025 [68-72]. The Judge explained [71]:

“The basic point raised by this judicial review is the effect of the Defendant’s failure to respond to the application for prior approval within 56 days. I am satisfied that the Defendant is correct to say that the effect of this failure is that the telecoms mast benefits from planning permission (because the prior approval process was not triggered).”

27. The Deputy High Court Judge made the following observations, with which we respectfully agree [72]:

“This is a patently unsatisfactory situation from the Claimant’s perspective, and she has endeavoured to raise a matter of significant concern to her in a careful and focussed way.... I understand why she has concerns about what has occurred.”

The Claimant’s Case

28. The Claimant is the freeholder of Romford House. The Claimant purchased Romford House in 2002. It was the family home for 13 years. Since 2015 Romford House has been tenanted.
29. Romford House is a 4 bedroom detached house. The mast site is approximately 25m to the north of Romford House. The surrounding area is residential consisting of one or two storey dwellinghouses. There are no industrial or commercial buildings. There are no major roads in the area. Warsash village centre is approximately 500m from Romford House. The Recreation Ground is a valued open green space. Romford House is in the catchment area of an oversubscribed primary school.
30. The mast at 20m in height significantly exceeds the height of nearby trees. There is no screening between Romford House and the mast. Prior to installation the property enjoyed an open outlook toward the Recreation Ground. The mast is visible from the front of the property and the entrance porch. It is visible from the master bedroom window, lounge window and rear garden.

Planning

31. The Claimant was a “neighbour consultee” in the planning process [85]. The Claimant is clear that she is not seeking to relitigate planning matters. She relies on the professional opinion of the Planning Officer in support of her case in respect of the significant harm the apparatus causes to amenity of neighbouring properties. The Claimant relies on the reasons given by the Council on 2nd October 2018 to refuse prior approval for a 15m monopole [57]:

“It is considered that the proposed development would have a detrimental impact on the visual appearance of the surrounding area by virtue of the prominent siting of the apparatus, the height of the proposed mast and lack of screening.”

32. The Claimant also relies on the comments of a local Councillor reported in the Autum 2018 issue of “In Touch with Warsash and Hook” published by Fareham Conservatives [67]:

“I felt that this was the most inappropriate site for such a mast; tall, obtrusive, adjacent to a popular play area and close to our Local Academy. Many local

residents contacted me with similar concerns. This application came in because EE have been asked to remove their existing mast in the Maritime Academy and whilst I appreciate they do need to maintain mobile signals, the proposed site is totally inappropriate”.

33. The Council again refused prior approval on 9th September 2021 [58]:

“It is considered that by virtue of the prominent siting of the apparatus, the height of the proposed mast and the lack of screening the proposal would have a significant detrimental impact on the visual appearance of the area, the residential amenity of neighbouring properties and the enjoyment of a valued community facility.”

34. The Claimant relies on the Officer’s Report prepared in connection with the 2021 prior approval application and in particular the following passages [62-64]:

“The proposed siting of the mast within the Osborne Road recreation ground is considered to be particularly visually sensitive. This is a local greenspace and recreational area providing sports pitches, a play part, and tennis courts. Its proximity to surrounding properties and the local primary school ensure that it is a well-used area of public open space which is provided and maintained for the benefit of the community. It is clearly a valued community facility.”

“Despite adjacent trees the mast and associated cabinets would clearly be visible from Osborne Road, they would also be visible on approach from Romford Road and due to the rising levels along this road the mast would appear as an even more imposing structure within the street scene”.

“Furthermore whilst it is suggested that the location of the proposed mast a “reasonable distance” from residential properties would result in the least impacting of all the sites considered it would only be a little over 20m from the facing properties on the opposite side of Osborne Road, therefore having a detrimental impact on the residential amenity of the occupants of those properties.”

“The perceived impact of the apparatus on those passing through the area would be less significant than the impact to those local residents who regularly utilise the recreation ground or live within close proximity of the mast.”

Restrictive Covenant

35. Ms Cox has researched title to the Recreation Ground and relies upon an Indenture made on 16th February 1910. The original manuscript Indenture is at [106-110]. A helpful typed version is at [102-105]. The indenture contains a conveyance of the Recreation Ground shown on the plan [110] to the Parish Council of Hook with Warsash subject to the following restrictive covenant [104]:

“The Council shall not erect or permit to be erected on the said premises hereby assured any building other than a Cricket Pavillion or a store for the tools and implements required to be used in the upkeep of the said premises as a Recreation Ground.”

Prior to entering into a new lease with the Respondent Fareham BC considered the restrictive covenant in an Executive Briefing Paper dated 3rd July 2023 [116-119]. At paragraph 16 it was noted [118]:

“The Telecommunications Operator has agreed to provide an indemnity policy in respect of the Indemnity Covenant. This would not preclude a claim being made against the Council but would provide protection.”

36. The Claimant accepts that enforceability of the restrictive covenant is not a matter for the Tribunal. The covenant *“forms part of the historical and environmental context which informs the residential character of the area and the reasonable expectations of purchasers”* (see witness statement of Jenny Cox at paragraph 5.4 [77]).
37. In light of the pragmatic way in which the Claimant has put her case we have not heard argument from the parties as to whether or not installation of the mast and cabinets is a breach of the covenant contained in the Indenture of 1910. Our view is that as a monopole is clearly not a “building” i.e. a structure having both walls and a roof, we are doubtful that the covenant has been breached.

Market Perception

38. The Claimant’s case is that loss of amenity and “open greenspace outlook” will deter purchasers and reduce the market value of her interest in Romford House.
39. The Claimant has produced an extract from “Towers, Turbines and Transmission Lines: Impacts on Property Value” (2013) [129-130] and an abstract of “Wireless Towers and Home Values: an alternative valuation approach using spatial econometric analysis” (The Journal of Real Estate, Finance and Economics - published online 18th February 2017) [131]. The Claimant does not rely on those extracts as expert valuation evidence but as “corroborative evidence” as to purchaser behaviour (see witness statement of Jenny Cox at paragraph 6.6 [79]).

Market Stigma

40. The Claimant does not invite the Tribunal to make a determination as to uncertainty about health risks resulting from long term exposure to EMF (see witness statement of Jenny Cox at paragraph 6.6 [78]). The Claimant’s case is that there is publicly available material as to health risks which would be readily accessible to potential purchasers. In particular the Claimant relies on European Parliament Research Service paper (July 2021) “Health impact of 5G” [120-122], World Health Organisation Press Release No. 208 (31st May 2011) “IARC classifies radiofrequency electromagnetic fields as possibly carcinogenic to humans” [123-125] and BMJ press release dated 18th January 2021 “Stop global roll out of 5G networks until safety confirmed, urges expert” based on an online opinion piece in Journal of Epidemiology & Community Health [126-127].

The evidence of Jenny Cox

41. The Claimant’s was represented at the hearing by her daughter Jenny Cox. Ms Cox had planned to move back to Romford House. However following installation of the

mast and her own review of publicly available material she decided not to relocate back to Romford House as her family home. In addition, because of health concerns for her young children she declined a place for her child at Hook-With-Warsash Church of England Academy starting in September 2025 [132].

42. In conclusion Ms Cox submits that the presence of apparatus materially reduces saleability and market value of Romford House.

The Respondents' Case

43. The site replaced an EE radio base station located on the rooftop of the Admiral Jellicoe building at Warsash Maritime Centre which was decommissioned in February 2025. The Recreation Ground was selected as a replacement site following radio planning work, site visits and assessments to provide mobile coverage and capacity to meet the demands of the Respondents' customers in the surrounding area.
44. In his witness statement Mr Harrison reports that radio planners have selected the site based on appropriate height to meet required coverage area and lack of clutter allowing effective radio propagation. Rooftop options did not provide coverage or were outside the target area. Without the Recreation Ground site there would be a noticeable reduction in signal strength and capacity in the area.
45. The mast is a slimline 20m monopole designed for installation in residential neighbourhoods. Antennas are discretely housed to maintain a slimline appearance specifically to minimise visual appearance. Ground level cabinets are in muted colours to blend with the Recreation Ground itself. There are trees either side of the mast which provides screening. The mast sits within a line of existing lighting columns. The mast is not illuminated at night.
46. In conclusion Mr Harrison agrees that whilst the mast is visually dominant it sits comfortably within the overall street scene. The mast blends with other vertical structures and does not stand out in a significant or intrusive way. The mast provides users with access to two of the Uks four electronic communications networks.

Deliberation

47. Rights to object to certain apparatus as set out in Part 12 of the Code. Paragraph 76 which is headed "*Introductory*" provides:

"This Part of this code makes provision conferring rights to object to certain kinds of apparatus, and makes provision about—

(a) the cases in which and persons by whom a right can be exercised, and

(b) the power and procedures of the court if an objection is made."

48. The relevant paragraphs are:

- Paragraph 77: "*When and by whom can a right to object be exercised?*"

- Paragraph 78: “How may a right to object be exercised?”
- Paragraph 79: “What is the procedure if the objection is made within 12 months of installation?”

Paragraph 77: “When and by whom can a right to object be exercised?”

49. Paragraph 77(5) provides:

(5) A right to object under this Part of this code is available where—

- (a) electronic communications apparatus is kept on or over land for the purposes of an operator's network, and*
- (b) the whole or any part of that apparatus is at a height of three metres or more above the ground.*

There is no dispute that the apparatus at the Recreation Ground has been installed for the purposes of the Respondents networks and that the apparatus is more than 3 metres above ground.

50. Paragraph 77 (6) provides:

(6) In that case a person has a right to object under this Part of this code if—

- (a) the person is an occupier of, or has an interest in, any neighbouring land, and*
- (b) because of the nearness of the neighbouring land to the land on or over which the apparatus is kept—*
 - (i) the enjoyment of the neighbouring land is capable of being prejudiced by the apparatus, or*
 - (ii) any interest in that land is capable of being prejudiced by the apparatus.*

Neighbouring Land

51. We deal first of all with the condition in Paragraph 77(6)(a). In **Vodafone Ltd v Icon Tower Infrastructure Ltd & AP Wireless II (UK) Ltd** [2025] UKUT 00058 (LC) (“Steppes Hill”) the Upper Tribunal concluded at [246]:

[I]t seems to us that the reference to neighbouring land is capable of including land which is not actually adjacent to the code agreement land. In our view the reference to neighbouring land is capable of including land within a sufficient degree of proximity to the code agreement land to qualify as neighbouring land, without necessarily having to be adjacent to the code agreement land. What constitutes a sufficient degree of proximity seems to us to be a fact sensitive question, which does not admit of a general answer.

Although Steppes Hill was a Paragraph 31(4)(c) case under Part 5, it was accepted before us that the meaning of “neighbouring land” must be the same in Paragraph 12.

52. Having had the advantage of a site inspection we are satisfied that Romford House is neighbouring land. The mast is 20m in height. Romford House is some 25-30m away from the mast. There is a small strip of land between the mast site and Osborne Road. On the opposite side of Osborne Road are two properties, namely 106 and 110 Osborne Road, which sit either side of the junction with Romford Road. Romford House is the second house on the western side of Romford Road. There is a direct line of sight from the front of Romford Road to the mast. Despite Osborne Road and Romford Road running between the Recreation Ground and Romford House and also the presence of two properties sitting either side of the junction, we find as fact that there is a sufficient degree of proximity to the site for Romford House to qualify as neighbouring land.

Right to a view

53. It is clear from the wording of Paragraph 76 that there is a distinction between Paragraphs 77 and 79. Paragraph 76 is a threshold test to determine whether the right to object may be exercised. Paragraph 79, which we will come to in due course, is concerned with powers of a Tribunal if an objection is made. Having determined that Romford House is neighbouring land for the purposes of Paragraph 77(6)(a) we now turn to Paragraph 77(6)(b):

because of the nearness of the neighbouring land to the land on or over which the apparatus is kept—

(iii) *the enjoyment of the neighbouring land is capable of being prejudiced by the apparatus, or*

(iv) *any interest in that land is capable of being prejudiced by the apparatus.*

54. The view from Romford House towards the mast, some 25-30m away, is unscreened and visually prominent. The siting of the mast takes away the attractive open view of the Recreation ground from those living at Romford House. However, it has been settled law since the time of **Aldred's Case** (1610) 9 Co.Rep. 57 that there is no right to a view.
55. Under Part 16 of Schedule 2 to the GDPO "*before beginning the development ... the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.*" Accordingly, aesthetics is primarily a function of the planning system.
56. Taking the common law position that there is no right to a view together with the role of planning control we find that the loss of the open view towards the Recreation Ground is not something that can be taken into account in determining whether the enjoyment of neighbouring land is capable of being prejudiced. However, the Claimant's case before us is far more nuanced. Ms Cox seeks to argue that the presence of the mast has a direct effect on market perception and accordingly the Claimant's interest in Romford House is capable of being prejudiced because of its nearness to the site.

57. Accordingly, whilst we find that a right to a view is insufficient the Claimants case taken as a whole is sufficient to satisfy the threshold test in Paragraph 77(6)(b).

Paragraph 78: “How may a right to object be exercised?”

58. Paragraph 78(1) Notice is dated 15th September 2025 and accordingly has been given before the end of the period of 12 months beginning with the date on which installation of the apparatus was completed as required by Paragraph 78(2)(a).

Paragraph 79

59. Paragraph 79 of the Code provides:

- (1) This paragraph applies if the notice is given before the end of the period of 12 months beginning with the date on which installation of the apparatus was completed.*
- (2) At any time after the end of the period of two months beginning with the date on which the notice is given, but before the end of the period of four months beginning with that date, the objector may apply to the court to have the objection upheld.*
- (3) The court must uphold the objection if the following conditions are met.*
- (4) The first condition is that the apparatus appears materially to prejudice the objector’s enjoyment of, or interest in, the land by reference to which the objection is made.*
- (5) The second condition is that the court is not satisfied that the only possible alterations of the apparatus will—*
 - (a) substantially increase the cost or diminish the quality of the service provided by the operator's network to persons who have, or may in future have, access to it,*
 - (b) involve the operator in substantial additional expenditure (disregarding any expenditure caused solely by the fact that any proposed alteration was not adopted originally or, as the case may be, that the apparatus has been unnecessarily installed), or*
 - (c) give to any person a case at least as good as the objector has to have an objection under this paragraph upheld.*

60. It is agreed that notice was given on 15th September 2025 and that notice of reference was filed in respect of that notice on 13th January 2026. It is also agreed that apparatus was installed at the recreation ground in or around April 2025. Accordingly, Notice was given before the end of the period of 12 months beginning with date of installation and notice of reference was filed within 4 months of the Notice being given. Accordingly, there is no dispute that Paragraphs 79(1) and (2) are satisfied.

Conclusions

61. This decision concerns the First Condition set out in Paragraph 79(4):

The first condition is that the apparatus appears materially to prejudice the objector's enjoyment of, or interest in, the land by reference to which the objection is made.

There has been no previous decision on the right to object under Part 12 from either the FTT or the Upper Tribunal.

62. The Claimant has not resided at Romford House since 2015. Romford House is currently occupied by tenants. There has been no complaint made by the tenants. Rental income derived by the Claimant has not been reduced. The presence of the mast has had no financial impact on the Claimant.

63. The Claimant argues that her enjoyment of Romford House has been prejudiced because her daughter is no longer able to return to the property as her family home. Jenny Cox explained to us in detail her concerns about potential health effects on her children. Jenny Cox has a mobile phone but takes steps to keep her use to a minimum. She likened the presence of the mast to air pollution caused by car emissions; she drives a car but would not wish to live next to a busy main road. Jenny Cox understandably takes the health concerns of her children extremely seriously. The strength of her feeling is evidenced by the decision she has taken to decline a place for her child at an oversubscribed school adjacent to the Recreation Ground.

64. We found Jenny Cox to be an entirely genuine witness. However, the test we have to apply is whether the apparatus appears materially to prejudice the objector's enjoyment of Romford House. Although we did not hear from the Claimant herself Jane Cox attended at the hearing with her daughter. We have no doubt that the Claimant entirely supports her daughter's decision. The Claimant's use of Romford House is as a dwelling house. The apparatus does not in any way prevent the use of Romford House as a dwelling house. Indeed, that is the use to which it is currently put, occupied as it is, without complaint by tenants as their home. Notwithstanding Jenny Cox's cogently explained reasoning for not returning to Romford House as her family home the presence of the apparatus at the Recreation Ground does not prevent its use as a family home.

65. We are not persuaded that the restrictive covenant is material to our determination. It is not argued by the Claimant that the Covenant is enforceable by her. The covenant evidences the importance of the Recreation Ground as a community asset and the open space amenity it provides. It reinforces the character of the local area. However, in the absence of enforceability by the Claimant, it cannot be said that the presence of the apparatus materially prejudices the Claimant.

66. The extracts at [120-127] in respect of potential health impacts are not expert evidence. Instead, they are relied upon by the Claimant as publicly available information likely to affect purchaser behaviour. We disagree. UK Health Security Agency (UKHSA) recommends that International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines followed. ICNIRP guidelines are

incorporated into Health and Safety legislation and also the National Planning Policy Framework. Both Respondents are operators under are operators pursuant to directions made by OFCOM. OFCOM ensures compliance with the limits in the ICNIRP Guidelines on EMF exposure for the protection of the general public (general public EMF limits). A prudent purchaser when considering purchasing a property neighbouring a mast site will, in most cases, consider UKSHA, Health and Safety and ICNIRP guidelines.

67. We have already confirmed that there is no right to a view. We now turn to consider what view there is of the mast from Romford House and how that would impact on any potential purchaser. The principal outlook from Romford House is of the house on the opposite side of the road. The mast site is visible primarily from the master bedroom and, as the Tribunal noted on inspection, is only visible through the left hand return of the bay window. We find that there is limited visibility of the mast from within Romford House. The view from the garden is of a small part of the mast visible above the neighbouring roof. No noise from apparatus was detected on inspection.

68. Romford House is a 4 bedroom detached property in a quiet residential area of the village of Warsash which lies close to the mouth of the River Hamble. Having inspected the site we are satisfied that, although visually prominent, the mast does not materially affect the character or amenity of the local area. Although we have not had the benefit of expert valuation evidence, we are not persuaded that the presence of the mast detrimentally impacts the market value of Romford House.

69. In conclusion the apparatus does not appear materially to prejudice the Claimant's enjoyment of or interest in Romford House. Rental income is unimpaired. Use of the property as a dwelling house is unaffected. The restrictive covenant is not enforceable by the Claimant. Potential purchasers concerned about the nearness of the mast would be advised to consider UKHSA/ICNIRP/OFCOM guidance. We are not persuaded, following our site inspection and on the evidence before us, that the mast has any impact on the value of Romford House in the open market.

Decision

70. The first condition in Paragraph 79(4) is not met.

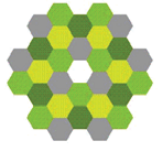
71. The objection, made under Part 12 of the Electronic Communications Code, to the Respondents' electronic communications apparatus presently installed at Osborne Road Recreation Ground (also known as Warsash Recreation Ground) is dismissed.

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this Decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends its written reasons for the Decision to the party seeking permission.

HM Land Registry
Official copy of
title plan

Title number **HP892363**
Ordnance Survey map reference **SU4905NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Hampshire : Fareham**



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