
REPORT TO:	DEVELOPMENT CONTROL COMMITTEE	AGENDA ITEM: 10
DATE OF MEETING:	5 OCTOBER 2004	CATEGORY: RECOMMENDED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	TR DENING EXTN 5748	DOC:
SUBJECT:	TELECOMMUNICATIONS DEVELOPMENT	REF: TRD/Telecoms
WARD(S) AFFECTED:	All	TERMS OF REFERENCE:

1.0 Recommendations

1.1 It is recommended that: -

The report is noted and that Supplementary Planning Guidance relating to Telecommunications Development in South Derbyshire be prepared for consideration by the Environmental and Development Services Committee.

2.0 Purpose of Report

- 2.1 To inform Members of research undertaken by officers regarding questions raised at Committee regarding the possible introduction of exclusion zones around sensitive areas, such as schools or sheltered accommodation, within which telecommunications apparatus would not be acceptable to the Authority on health grounds.

3.0 Detail

- 3.1 The Council has a policy in both the adopted Local Plan (Community Facilities Policy 4) and the emerging replacement Local Plan (Policy C7) that guide its determination of applications for telecommunications equipment. The supporting text to the emerging policy draws attention to the advice in PPG 8 regarding the health issue: *"..... if a proposed mobile phone installation meets ICPRN guidelines for public exposure it should not be necessary for the Local Planning Authority, in processing an application for planning permission or prior approval, to consider further health aspects and concerns about them."*
- 3.2 The Committee raised the issue of whether an exclusion zone could be imposed around schools and other accommodation where vulnerable people are living. In particular, it was suggested that a Scottish Authority had adopted such a policy.

- 3.3 Officers have undertaken a review of the Scottish Office Web site and that of Glasgow City Council. Neither had any reference to any exclusion zones as mentioned above. By chance a publication by Orange called Network has arrived in the offices. It is a newsletter for Councillors. The following is an extract from the newsletter about exclusion zones: -

"No country has imposed an exclusion zone, as there is no scientific reason for doing so.

It is a common misunderstanding that Sir William Stewart and his expert science review panel, in 2000 recommended that the UK should use a 'precautionary approach' to keep masts away from schools. There was no such recommendation. What he said was, the 'beam of greatest intensity' should not fall on any part of a school without agreement from the school and parents'.

The Government did not accept the recommendation exactly as proposed but did accept that schools should be consulted where base stations are to be erected nearby. In the Government's view, as expressed in paragraph 31 of PPG8, local planning authorities should not implement their own precautionary policies.

Since Stewart reported, Ofcom has checked the radio levels at about 100 new sites a year, normally schools and hospitals, to check compliance with UK emission limits.

In the three years of the survey, the highest reading recorded was less than one seven hundredth of the guidelines. To put this in perspective, an annual salary of £25,000 reduced by 700 times would amount to £35 a year. In fact, radio field levels were generally found to be thousands of times lower.

Another well rehearsed argument claims that exclusion zones have been adopted abroad, and cites Australia as an example. Actually this is not the case at all.

What happened was in 2000, a 500-metre exclusion zone was demanded in New South Wales by the Regional Association of Local Government, but rejected by the state government. To date, no country has adopted any form of exclusion zone."

- 3.4 That represents the view of one operator and the views of the Government Office on the statements made in the article have been sought:

"...Stewart recommended a precautionary approach to the development of this technology and made proposals for further research. The Group's report does not recommend the introduction of a cordon sanitaire/exclusion zone between masts and existing development and we have no plans to introduce such a requirement. The report does not provide any basis for precautionary actions beyond those already proposed. In the Government's view, local planning authorities should not implement their own precautionary policies e.g. by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development."

- 3.5 An independent consultancy has reviewed the opinions expressed in appeals and in the courts. The review acknowledges that although many cases regarding health issues have been considered, the overall conclusion is that if the mast or apparatus is below the guidelines of the ICNIRP, Inspectors and judges overturn decisions to refuse planning permission or prior consent if they have been rejected on health grounds. This was most recently tested in May last year in a case involving the Diocese of Ripon and Leeds regarding mast equipment on two churches at Hawes and Knaresborough. The conclusions on the health issue was as follows:

"Conclusion on the Health Issue

84. *For the reasons I have already given I prefer the expert evidence of Dr Matthews to that of Dr Hyland on the crucial issue as to the maximum permitted level of radiowave. Further I accept Mr. Turrall-Clarke's submission that, in the absence of compelling evidence of a real risk to human health as a result of transmitting radiowaves up to the levels set by the UK Government in their adoption of the International Commission on Non-Ionizing Radiation Protection guidelines, it would be wrong to adopt lower guidelines for a base station just because it happens to come under the jurisdiction of the Consistory Court in addition to Planning Requirements.*
85. *In my judgment, the factual evidence does not persuade me that, if the proposals go ahead as forecast, particularly since the predicted levels are very much maximum levels only rarely, if ever, reached, that there is such compelling evidence of risk to health. I note Dr Matthews' evidence "The calculations made by Vodafone are a theoretical worst case scenario; in fact when the base station is in operation the levels will be several hundred, if not thousands, of times below those of the theoretical calculations."*
86. *It is clear that in respect of Knaresborough, those levels will always be well within the Guidelines and that in respect of Hawes they will be far below them, indeed below the levels suggested by the Salzburg Resolution. I accept Dr Matthews' evidence, nevertheless, that there is no difference in terms of risk to health whether the levels are 300 times below the Guidelines or 5000 times below.*
87. *I am satisfied on the key issue that, so long as the base stations conform to the International Commission on Non-Ionizing Radiation Protection guidelines there is no compelling evidence of real risk to health; that stress or anxiety, real enough in itself, is attributable to the perception of risk and will not be attributable to the levels of radiowaves. [Officer emphasis]*
88. *For these reasons I resolve the 'health issue' in favour of the Petitioners."*
- 3.6 A full copy of the judgement is available for inspection in the planning offices. The case was heard on 1 March 2003 and the judgement was given on 21 May 2003.
- 3.7 In January 2004 a private members bill was laid before the House which proposed requiring operators (inter alia) to submit with applications a certificate which would set out the area and maximum range of the Beam of Greatest Intensity, and that where such a beam falls on any part of any premises or land occupied by or consisting of an education or medical facility, or of residential property, planning permission is not be granted without first taking into account the information contained in the certificate and any representations received.
- 3.8 However, in July the bill failed to gain sufficient support at its second reading and is therefore now abandoned.

- 3.9 A further bill is also before parliament for consideration which proposes that planning permission can only be granted where a Local Planning Authority is satisfied that there is a need for a mast in the location and that it would not be a threat to health and safety. The second reading of this bill has been deferred until 15 October 2004.
- 3.10 Members will also recall that the leader of the Council presented to the last committee a reply from Mark Todd MP which stated that it was not appropriate for each Council to take its own view of health issues relating to masts but that it was possible to consider anxieties about health which is why guidelines as drafted exclude schools [although officers are unsure where the guidelines state this].

4.0 Planning Assessment

- 4.1 In the light of the above it is considered that the imposition of an exclusion zone would be contrary to the advice issued by Government in PPG 8. The advice is clear and where there is no evidence that there is a risk to health, and that equipment complies with the ICNIRP guidelines, then the planning system is not the arena to decide that health is an issue where the planning permission should be refused. More simply expressed: if the equipment is certified to comply with the exposure guidelines, then permission should not be refused on health grounds or the perception of health risk. Attached is a paper prepared by an independent consultancy, and available on its web page, that deals with the perception of risk in relation to telecommunication equipment.
- 4.2 Clearly, if operators submit applications that do not certify that the equipment complies with ICNIRP guidelines, then a refusal could be justified. However, it is unlikely that even this would be successful in the courts given that the recent case (as referred to above) where the highest reading was 300 times lower than the guidelines and the judge accepted the argument that it did not matter whether the readings were 300 times or 5000 times below the guidelines, the fact remains that the emissions are below the guidelines.
- 4.3 The objective should be that in all cases applicants provide the Local Planning Authority with all the necessary information and that the appropriate level of pre-application consultation takes place, not only with the Authority but also schools, parish councils and Elected Members. To this end it is recommended that a Supplementary Planning Document (SPD, formerly SPG) be prepared that sets out the Council's minimum expectations in the submission of applications and prior notifications. It would be the intention that if submissions were received that did not comply with the Supplementary Planning Document, then the applications would be returned to ensure that the guidance is followed. It would be necessary to carry out consultations with the operators, Parish Councils and other stakeholders and go through the new prescribed procedures prior to adopting such a document.
- 4.4 The Committee has recently expressed a wish to consider employing consultants to advise on those applications where there is concern about the location of a mast because of its relationship to a school or other sensitive locations. This is currently being investigated. The basis for proceeding with such consultation, however, would be to improve the Council's ability to deal with applications solely on the basis of the more sustainable planning issues, like amenity.
- 4.5 Attached at annexe A is an Institute of Electrical Engineers Factfile note on Electromagnetic Fields and Health. The Institute draws similar conclusions to those set out above.

5.0 Legal Implications

- 5.1 There are no legal implications arising directly from this report. However, if there are cases where the Council chooses to refuse an application because of health issues and there is no corroborated expert evidence to substantiate the refusal, then there may be a risk of incurring costs at appeal or, in the case of granting permission, at a judicial review.

6.0 Financial Implications

- 6.1 Financial implications relate to planning staff costs and the employment of expert advice as outlined above.

7.0 Conclusions

- 7.1 Members should be aware that it is not within their remit in the determination of planning applications as the Local Planning Authority to be the arbiters of public health issues and that the concept of defining exclusion zones is not an acceptable option for a Local Planning Authority. To this extent Members need have no sense of responsibility for the consequences arising from any future discovery of health risks. However, the introduction of SPD should provide a more rigorous test for applications and ensure that operators provide the necessary evidence recommended by the Government's *Code Of Best Practice*.

8.0 Background Papers

- 8.1 Papers held in the planning department referred to in this report.
- 8.2 Annexe A – IEE paper: Electromagnetic Fields and Health.

