
REPORT TO:	ENVIRONMENT AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 7
DATE OF MEETING:	10 November 2005	CATEGORY: DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	Tony Sylvester (Ext. 5743)	DOC:
SUBJECT:	Draft South Derbyshire Mobile Phone Mast Agreement	REF:
WARDS AFFECTED:	ALL	TERMS OF REFERENCE: EDS 03

1.0 Recommendations

- 1.1 That the Committee determines which course of action it wishes to take in the light of concerns raised by the Mobile Operators Association.

2.0 Purpose of Report

- 2.1 The purpose of this report is to seek members' approval of a document relating to the installation of telecommunication base station development within the District. Members will recall agreeing to the formation of a working group to finalise the content of the document. The Group met and their finding reported to this committee in July. At that meeting it was resolved that the draft document be sent for a final time to operators to ascertain their views and to seek agreement with its contents. Those views are now reported here.

3.0 Detail

- 3.1 At the meeting of Council on 16th June 2005 it was agreed that a document entitled 'The South Derbyshire Mobile Phone Mast Agreement' be produced to which all the operators would be asked to sign up to.

The purpose of this draft document is to provide advice for development of telecommunications base stations within South Derbyshire. The document aims to provide guidance to prospective applicants and their agents considering such development within the District. It also aims to be a source of information to all interested parties in explaining the approach taken by the Council on this issue.

- 3.2 This document has been published to supplement Central Government set out in Planning Policy Guidance Note 8 (PPG 8) (revised August 2001) and policy set out in the adopted Local Plan and the increasing need for telecommunications masts within

the District. Within PPG 8 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 itself also has responsibility for protecting public health). This document aims to set out South Derbyshire District Council's approach to telecommunication base station development and how it aims to tackle material issues.

- 3.3 In developing this document procedures have been reviewed. The Council considers it essential, within the legislative framework, to work with the mobile phone operators, local residents, and Parish Councils to attempt to overcome concerns in this area. To this end the document suggests a change to neighbour notification procedure and additional emphasis for prospective applicants to enter into pre-application consultation and discussion.
- 3.4 The document also recognises that Members of the Development Control Committee, in dealing with applications for telecommunication base stations, have consistently held the view that notwithstanding the findings of the Stewart Report on the health effects of mobile phones, compliance with the ICNIRP guidelines (the government test as to the safety of mast equipment) often does not address concerns people may have about health risks from telecommunications development. In preparing the draft document it has been assumed (given members views previously expressed) that such a fear is likely to be exacerbated where the development proposed is sited in close proximity to sensitive land uses, such as educational facilities and residential properties. Members of the Working Group have strengthened the document in this regard by adding comments that reiterate members very serious concerns regarding masts proposed close to schools, hospitals etc. and that such applications tend to be accompanied by vociferous lobbying by members of the community. The revised document also requires operators to use existing structures (including electricity pylons) where possible and to produce robust evidence if they claim they cannot.
- 3.5 In drawing up this document, consideration has been given to other (numerous) texts on the subject. These include: CPRE Briefing document – Telecommunications Development (2004), Code of Practice for Telecommunication Operators (ODPM), Mobile Phone Operators' Ten Commitments to best siting practice.
- 3.6 Following an invitation to comment further on the Draft Agreement, a joint response has been received from the Mobile Operators Association (MOA) via their consultants, which represents the views of all five operators.

3.7 Overview

MOA considers that the document should revert to the title of Supplementary Planning Document rather than 'agreement' which it considers may appear to be a 'deal' between the Council and the operators at the exclusion of other interested parties. However, it states that the operators have no problems with conducting the levels of consultation required by the document as it is in line with both PPG8 and with the advice in the Code of Best Practice. The operators are also committed to sharing existing infrastructure and siting on buildings and other structures where this represents the best environmental solution. This aim is catered for in Local Plan Policy CF4 and also in PPG8 which stresses the importance of sharing existing sites to minimise proliferation.

3.8 Environmental Considerations

With regard to reference to green belt, it is suggested that the document be reworded to indicate that some development may be possible in the green belt without compromising its openness.

3.10 Design

In this section MOA questions the exclusion of developments in conservation areas and in the setting of listed buildings stating that there will be demand for mobile telecommunications services within these areas and indeed the competitiveness of these businesses may be helped, or hindered, by mobile telecommunication coverage as it now forms an integral part of business life (not to mention personal use). As development plan and government advice already deals with development in these locations, it is suggested that it is not necessary to have a presumption against development but rather to treat each case on its merits. It points out that operators have introduced such development in many important historic towns such as York and Bath through the promotion of innovative and sympathetic design solutions. It suggests the deletion of the relevant sentence and reiterates that its members are committed to working with planning officers and English Heritage to find solutions.

3.11 Health Considerations

MOA is concerned about the emphasis in the executive summary on avoiding 'sensitive areas'. It states that

' In this respect demand for services can often come from those areas the Council considers as 'sensitive' including residential areas and hospitals. As a land use planning document we would consider that of more import to it should be sensitive sites as they may relate to a Conservation Area, an SSSI, Listed Building or other planning designations. Often sites near schools or hospitals can represent excellent siting opportunities as they may avoid high amenity areas such as those mentioned above.'

It considers that urging operators to avoid sensitive areas for new mast goes too far and may run contrary to guidance set out in PPG8 which warns against LPAs seeking to introduce their own precautionary principles. Although it agrees that health is capable of being a material consideration, it does not command such weight as to justify the inclusion of the sentence in bold type: *'Operators are urged to avoid 'sensitive' areas for the siting of new masts'*; and therefore it suggests this sentence be deleted from the executive summary. It opines that the statement may also raise an expectation in members of the public that the Council is not allowing *any* mast near *any* school. Calling the document an agreement would further exacerbate this, for example where a proposal was near a school the operator could be accused of breaking any such agreement. It therefore suggests that the second last paragraph of health consideration section be deleted.

3.12 It concludes by agreeing that the document is generally a useful contribution to the policy framework in South Derbyshire and it offers support to the majority of the document but that it has concerns mainly relating to the term 'agreement' and the introduction of 'sensitive' areas and subsequent advice.

4.0 **Financial Implications**

4.1 Financial Implications relate to staff costs associated with the consultation exercise and the changes to procedure were the document to be accepted for development control purposes. These costs will be absorbed into the existing work programme and budgets.

5.0 **Corporate Implications**

5.1 None

6.0 **Community Implications**

6.1 None

7.0 **Conclusions**

7.1 The Council is committed to the continuous updating and improvement of all its guidance in accord with the Best Value Improvement Plan for Development Control. The attached interim document seeks to provide guidance to prospective applicants and their agents considering contemplating base station development within the District. It also aims to be a source of information to all interested parties in explaining the approach taken by the Council on this issue. The operators have indicated that they can mainly support the document but remain concerned about the introduction of the concept of 'sensitive areas' which it states is contrary to PPG8. Their fears about the statements in the document may be unfounded if the Development Control Committee in its use of the document accepts that the expectation to avoid sensitive areas only applies '*... wherever possible...*' In this regard the Local Planning Authority is merely encouraging the operators to adopt a more rigorous approach to the siting of the masts making it clearer the areas that South Derbyshire considers to be the most sensitive through its own experience. The document does not state that the Council will never grant permission in these areas and nor could it do so.

7.2 It appears from the response of MOA's agent that the operators would not sign up to the agreement as it stands unless those deletions it has put forward are made. However, the Members Working Group on the subject was clear that it is those particular statements that it considers to be the most important and therefore it is assumed that the Committee would not be willing to accede to the request of the operators in this regard. As such the members have a choice of two options: either to go ahead with the document and rename it as advice (or some other such title that it feels appropriate); or attempt a compromise with the operators which would result in a negotiation and further report to this Committee. (It should be noted that the name Supplementary Planning Document is not available, as it would involve an entirely different and longer adoption process under the new planning legislation).

8.0 **Background Papers**

8.1 APPENDIX A: Draft South Derbyshire Mobile Phone Mast Agreement (attached).
CPRE Briefing document – Telecommunications Development (2004)
Code of Best Practice on Mobile Phone Network Development (ODPM, 2002)

Mobile Operators' Association Ten Commitments to best siting practice.
Letter of response of the operators through MOA (September 2005).

