

PLEASE NOTE: THIS LETTER IS INTENDED AS THE BASIS FOR AN INDIVIDUAL LETTER. THE RED TEXT ARE OUR COMMENTS AND SHOULD BE DELETED FROM YOUR LETTER BEFORE POSTING - EDIT THE LETTER TO SUIT YOUR LOCAL CAMPAIGN - OTHER LETTERS ON THE PLANNING SANITY SITE MAY GIVE YOU FURTHER IDEAS/INSPIRATION

Address: _____

_____ - _____ - 2004

Planning & Development Dept

.....Council

.....

.....

FAO Planning Case Officer

Dear Sirs

Re: Application For Development by Telecommunications Code System Operators for Prior Approval Application No. ----- (If it is a full planning application then substitute the words 'Prior Approval' for 'Planning' By ----- (Name of Operator/Operators Agent) For Proposed Telecommunication Development on Land at -----

The follow are my representations on the above proposed development, please take these considerations into account in your deliberations. (If the presentation is on behalf of a community or campaign group substitute the word 'my' for the name of the organisation, and add the post you hold in that organisation, where a group is only just being formed then grant yourself the title of secretary/chair or similar. Letters from groups can be very worthwhile, as they indicate an organised community, even if that is not the case, it also enables you to write two letters, one on behalf of the group and a more personalised one for your family/self).

Observations and Objections:

Check notice (those delivered to homes, site notices and those in local newspapers) for errors, dates, location etc. Any errors put comments on them here (para 1 gives examples).

1. Planning Policy Guidance Note 8 (PPG8), Appendix Para. 9 states that publicity for prior approval should be the same as that for full planning permission -

- **Objection** - The location of the site notice was restricted to members of the public in so far as it was placed on an area of isolated highway verge unconnected to other footway routes in the area. No crossing facility exists (*either controlled or uncontrolled*) to enable ready

access to be gained, as no dropped kerbs are evident for this purpose. This directly discriminates against the mobility or visually impaired members of the local community, hence contravening the Disability Discrimination Act.

- **Objection** - The site notice was situated in an inaccessible and hazardous location. In association with the point mentioned above, the chosen site notice location required interested parties to negotiate and cross one of the busiest arterial routes in the Borough in order to access and view the notice, putting their health and safety in severe jeopardy in doing so. This clearly demonstrates the local authorities **lack** of duty of care, and discredits the planning process, whilst reducing the ability of the public to comment on the proposal.
- **Objection** - The site notice was not **legible**. Although the notice does not appear to have been removed or defaced during the display period, the text of the notice itself was severely obscured by its own tape fixing and condensation build-up in the plastic sleeving it was contained in. We are concerned that the local authority failed to use a professionally laminated notice or sealed bag arrangement if they reasonably expected the notice to remain legible during the period of public consultation.
- **Objection** - The site notice was not **visible**. With most residents working during daylight hours at this time of year, I would seriously question that the notice was visible at all. If people cannot see the site notice, they are effectively dis-empowered of the right to the statutory consultation process.
- **Objection** - The time period for making representations expires after the date the planning decision is due (**or has**) to be made.
- **Objection** - Whilst the notice indicated that the documents relating to the proposed development would were available for public inspection, the locality is remote from the locality of the proposed development, thereby making it difficult for documents to be inspected, and appropriate comments made upon them.

Note that some LPAs now put documents online, so that is worthwhile checking out, but also keep in mind that not everyone has access to a computer and therefore the remoteness of the planning office may still be a problem to those people.

2. **Objection** - Why did the Planning Department, having first decided to contact a few local residents for their views, decide not to do so until 2004 (*with most letters actually being received on or about the 2004*) **The delay in this process has severely reduced the available response time for local residents.** This problem was recognised in the Government commissioned **Stewart Report**, clearly demonstrates that the current arrangements are not working satisfactorily, as people are left feeling "**excluded and dis-empowered**" in this consultative process. Which is arguably a violation of the communities rights to a fair hearing enshrined within Article 6.1 of the European Convention on Human Rights and Fundamental Principles (ECHR) as well as being contrary to the Common Law doctrine of **justice must not only be done, but must be seen to be done.**
3. **Objection** - There appears to have been little or no pre-application consultation with the local community by the Operator, contrary to both the guidance set out in paragraphs 9 to 11 of PPG8, and the industries own voluntary code, the Ten Commitments and Traffic Light schemes. Or at the very least there is no evidence of these consultations having taken place, most certainly as a local resident I have not been invited to participate.

To support the following argument, you can refer the LPA to the decision of Kent County Council and other local authorities not to allow any masts on council property because of health concerns. There are now a growing number of local authorities that are taking this line. With an increasing number prepared to refuse all mast applications.

4. **Objection** - That no one should have their health placed at risk when clear, unequivocal concerns have been raised by nationally appointed health bodies on the long term health effects of constant bombardment by microwave radiation. **This technology has not yet been proved as being safe.** I (and the majority of my neighbours) have deep-seated concerns and worries regarding mobile masts and their perceived detrimental effect on health grounds. Current research on this matter has merely concentrated on the effects of **tissue heating** from microwave emitting antenna. There is, however, a large body of scientific research that now challenges this view with regard to other possible symptoms such as increased cancer risk, sterility, effects on heart pacemakers etc, as well as the biological affects which has only had a limited degree of research, the results of which all point to potential adverse effects.
5. **Objection** - Recent research commissioned by the Dutch Government has demonstrated that there is a risk to health from 'G3' base stations, as well as an adverse effect upon the well-being of local residents. This research adds on to other recent research reports indicating that there is a potential adverse biological effect, not only on the human population, but also on life forms such as the Nemenode Worm, which is a parasite in sheep and cattle, and which is seen to increase its fertility and size, thereby potentially affecting the food chain, as well as having a profound adverse effect upon agriculture.

These point assumes that the LPA are ignoring health concerns.

6. **Objection** - That the "**precautionary principle**" recommended in the Government commissioned **Stewart Report**, which calls for a cessation in the erection of masts close to people until more is known about the possible health effects of mobile phone technology, appears to have been ignored.

The precautionary principle is a main stay of our argument on health, with the simple premise that precaution should be taken until such time as research is complete and a health risk is or is not proven.

7. **Objection** - I note that PPG8 Appendix para 64 states that masts are a particular height which allows signals to clear trees and urban clutter (*houses?*) and that Telecommunications development may need particular locations in order to work effectively. However, it also states that these prominent locations may be exactly the locations that would pose challenges to policies for the protection of high quality landscapes and **quality in urban areas**. The higher outputs required in these localities points to the potential that local residents could be **slow cooked** as they sleep in their beds, which as you will be aware is the purpose of microwaves I, for one, consider the (add name of your area) .. area to be a quality urban area the net result of this development being approved will see a negative impact upon the quality of live of the community which in turn will have a negative impact on local amenity.
8. **Objection** - It would appear that the Code System Operator has given little or no consideration (*more importantly there is no evidence*) have ever considered mast sharing or sharing an existing site in the area as an alternative to developing this site. The Government has attached considerable importance to mast sharing in order to keep the numbers of sites and installations to a minimum **PPG 8, Para. 19 to 23**. Conditions in code operators licences require applicants to explore the possibility of site or mast sharing, from PPG8 it is clear that evidence should accompany any application made to the local planning authority, whether that is a prior approval application under

Part 24 of the GPDO or an application for planning permission under the T&CPA 1990. Other telecommunication operators ((delete as appropriate) 02, Orange, Vodafone, 3) **cannot** refuse a request that mast sharing takes place unless there is a demonstrable reason why not. OFCOM have been granted the power to force shared use for this very reason. If not mast sharing, operators are at least encouraged to site new masts alongside existing ones on sites already deemed suitable for this purpose. **It is not apparent from any correspondence or information available for viewing at the Council Offices that mast sharing was considered to the degree required.**

9. **Objection** - It would also seem that the Code System Operator has given scant regard to the prospect of placing the mast on a site that is more remote from the proposed site. Again PPG8 requires information to be submitted on alternative sites. His Honour Mr Justice Richards at paragraph 41 of *Phillips v First Secretary of State & Ors [2003] EWHC 2415 (Admin) (22 October 2003)* recognises that it is important for decision makers to take the prospects of a more suitable into account:

"Further, although the guidance states that it should not be necessary to consider the health aspects of a development that complies with specified standards for public exposure, it recognises that public concerns about the health implications of a development can still be a material consideration (see paragraphs 97ff of the Appendix). No doubt the existence of such concerns is one of the reasons why the location of telecommunications structures is such a sensitive issue. It seems to me to follow, again as a matter of principle, that if there were two alternative sites each of which was otherwise acceptable in environmental terms, it would be open to a decision-maker to refuse approval for one of those sites if the location of a mast on that site would give rise to substantially greater public concerns than its location on the alternative site. To take an example close to the facts of the present case: if one of the sites were close to a nursery school and residential properties, whereas the other was in an industrial estate some distance away from the school and residential properties, the greater public concern about the former might tip the balance against the grant of approval for it. I am not saying that that is how a particular application would be decided or ought to be decided, but only that it would be lawful for a decision-maker to approach the matter in that way."

Whilst, I make no comment on whether the LPA should or should not approve another site for the proposed installation, or as to the suitability of any such site. There are potentially sites that might be considered more remote in terms of their locality to existing sensitive developments, such as residential premises, schools and medical facilities. I therefore urge the LPA to make inquiries to determine whether such a site does exist and whether the operator has done all they should in taking that or any other site into account. And to investigate why the Operator has failed to give sufficient information to the LPA on those potential alternatives in order that the LPA can take them into account within their determination.

10. Objection That the legal precedent resultant from those court cases where the High Court granted leave to apply for judicial review due to the failure of the respective local authorities to take the concern of the local communities on health effects of masts - *R v Stockport Metropolitan Borough Council ex parte Smith - The Queen on the application of Julia Herman & Others v Winchester City Council and Orange Personal Communications Services Limited* - Mr Justice Hooper & The Honourable Mr Justice Ouseley - Case No. CO/956/2001 - *R v. Forest of Dean Borough Council*. As well as the decision in the Section 288 appeal to the High Court in *Trevett v Secretary of State for Transport, Local Government and the Region* where the court found that it would fetter the

obligation of the decision maker to take the concerns of the public on health into account if they were to restrict their deliberations solely to whether an ICNIRP compliant certificate had been submitted by the Operator. And the fact that the Secretary of State conceded in *Yasmin Skelt v First Secretary of State* that health concerns are a material planning considerations, that the fact that an ICNIRP compliant certificate has been presented by the phone Operator is not sufficient to stop full and proper consideration of health concerns, and such a failure is sufficient to overturn any decision where health is not taken fully into account

11. **Objection** That the proposal represents a loss of amenity to the people of (add town).. The local plan for (add name of council) . should include policies on the siting and external appearance, including any location and landscaping requirements, designed to minimise the impact of such apparatus on amenity as stated in **PPG 8, Para. 40 of the Appendix**.
12. **Objection** - That the applicant for this development has given no care or consideration to screening and planting, as required by **PPG8 Para. 28**. This is restated in Appendix para 78:- "*the boundaries of the site should be drawn **large enough** to accommodate the necessary landscaping*", in effect denying even more of this existing grass amenity area to the residents. **The proposed location as it stands does not have sufficient boundary adjacent to (name roads) to allow suitable landscaping to be implemented. The loss of any of this visual amenity to residents will not be tolerated.**

This point is only used if no consideration is given to screening or planting. Or amend it if insufficient account is taken.

13. **Objection** - That the proposed mast will be an eyesore and that the proposal would have a detrimental effect on the locality generally, and on amenities that ought, in the public interest, to be protected. No consideration, or insufficient consideration has been given to the adverse effect the proposal will have on the amenity of the area, or indeed this particular site.
14. **Objection** - Due to the closeness of the site to the following (schools, hospitals, residential areas, name them) which are considered to be sensitive areas, the LPA should give consideration as to whether they should make a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, in order to ensure that any applications for telecoms installations on this site are processed under the full planning regime, as opposed to less stringent prior approval process.

Use this where a site is close to sensitive locations and it is a prior approval, prior notification or Network Rail installation.

15. **Objection** - That the Council has a biased commercial interest in the development due to the potential rental income generated by this privately owned structure being situated on Council owned/controlled land (council property such as blocks of flats or offices, planing fields Also note that councils can receive income from commercial rates even for sites that are on the Highway).

Include this point if the mast will be on council land.

16. **Objection** - That the proposed development in no way benefits the local community. Mobile phone coverage is more than adequate in this area the new mast is simply a commercial venture by the Operator in order to capture a wider area of the Borough away from this locality. The licence obligation that the operator has for this type of coverage is only 80%. This means that the operator is not required to have full coverage, or even near full coverage, any coverage above that 80% is

effectively only being sought for commercial reasons, and not from any obligation. This clearly counts against the Operator on the question of the need for this specific installation, and they must therefore present sufficient evidence to demonstrate that this site is needed. It is clear that your authority is entitled to discount the need for coverage in the locality by 20%.

17.**Objection** - That the proposed development is out of character with the local area. A mast with little or no screening is not going to blend in at all with the local area, so ensuring further detriment.

18.**Objection** - That with the expected future concerns on mobile phone mast safety being similar to those recently raised regarding overhead power lines and television broadcast antennae, private property values will plummet in areas where masts have been erected in or near to residential properties. It is interesting to note that US and other European countries stipulate a minimum exclusion zone of 500m from mast sites to the vulnerable. The Stewart Report also recommends such exclusion zones **Paras 1.44-1.48 Stewart Report. It is also note worthy that the Ombudsman in relation to an objection over the failure of Swindon Borough Council to follow the correct procedures recommended that to correct the maladministration that the local authority pay the deference in loss of value of the property, which resulted in the local authority making total compensation payments of 119.500.**

Amend this para to take into account any potential adverse effects on road users. The Article 3(6) of the GPDO:- "**or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons**".

19.**Objection** - That the location proposed for the mast is dangerous to road users. Its location, being at the bottom of a steep hill, on a fast moving road and on the outside of a bend is the worst possible place to position a new roadside feature. With loss of control accidents being highly likely at locations containing all three of the aforementioned criteria, the site proposal should again be subject to full Road Safety Audit to DETR guidelines before any other further considerations on the application are made.

20.**Objection** - That the development will cause widespread physical interference and disruption to existing television and other telecommunication services due to the physical obstruction or reflection of the wanted signals. Local Authorities need to have taken into account that the potential for interference has been fully considered in the siting and design of this development, as it would be impossible to correct this situation after the site becomes operational. This also can be material planning consideration according to **PPG 8, Para. 33.**

21.**Objection** - That the proximity of the development to residential property will be invasive and intrusive. And thereby affect the amenity of the area. The site is inappropriate. As is the proposed design for this location. I urge you to consider the effect the size and design of this mast will have on the amenity of the local area, towering as it will some ft into the air, which will contrast with the residential nature/open aspect of the locality. PPG8 makes it clear that a rejection of permitted development permission is acceptable for base stations should the LPA conclude that it would have an adverse effect on the amenity of the area. I also take this opportunity to draw your attention to the factors listed in PPG8 Annex 1 para 13 that may involve siting:

- the height of the site in relation to surrounding land;
- the existence of topographical features and natural vegetation;
- the effect on the skyline or horizon;
- the site when observed from any side, including from outside the authority's own area;
- the site in relation to areas designated locally for their scenic or conservation value;

- the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character;
- the site in relation to residential property; and
- any other relevant considerations.

Use the following two points if the installation is in an area that will be likely to affect wildlife or farm animals

22.**Objection** - The mast has the potential to destroy, or at the very least adversely affect local wildlife.

23.**Objection** - The installation has the potential for adversely affecting livestock, in particular cattle and sheep from the biological effects. Research at the Nottingham University has demonstrated that there is an effect upon the make-up of the nematode worm, which was seen to increase its fertility by 30% and size by 10% when subjected to the non thermal effects of mast emissions. The net effect of this is devastating to the agricultural industry that spends millions every year eradicating the nematode worm. The effect is also potentially apparent in the effect upon the food chain. The present site is such a site that will see these concerns being realised.

Use this section if the mast is 3km or less from any aerodrome boundary.

24.**Objection** - That the development is proposed within 3 km of an aerodrome or airfield (**name aerodrome**) . (**amend this to take account of any such statement**) The applicant states in their supplementary supporting information, in section , that the structure is not proposed within 3km of an aerodrome or airfield and that the Civil Aviation Authority has not, as a consequence, been informed. **There is, however, the very real potential for microwave emissions to interfere with the controls of aircraft, whether full size or model, and cause a catastrophic air crash resulting in a possible loss of life. Part 24 of Schedule 2 to the GPDO Para A.3(2) requires the Operator to have notified the Civil Aviation Authority, the Secretary of State for Defence, or the Aerodrome Operator before submitting the application, as they have failed to do this then the application has not been lawfully made. Therefore if the LPA were to approve this application any decision would be deemed to be ultra vires.**

25.**Observation** - Under current legislation, including the aforementioned relevant Health & Safety Guidelines and the European Human Rights Act, there is already the very real potential for individual litigation processes to be instigated against Local Authorities, corporate bodies or individuals involved in any way in the approval, erection and operation of apparatus proposed in this and similar applications. It is therefore advised that you seriously consider investigating the legality and consequences, whether current or future, of your involvement in any approval of this and other similar applications in this Borough. Particularly in respect of your public liability insurance cover against the effects of emissions. Lloyds of London has recommended to its members that they do not cover the risks from mast emissions.

Use this point if the installation is a prior approval application.

26.**Objection** - Under the provisions set out in Part 24 'A' of the GPDO an applicant must prove that they have control of the site for a period of at least 10 years:-

Part 24 Class 'A' - Development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunication system **in, on, over or under land controlled by that operator** or in accordance with his licence

Part 24 'A.4' - "development in accordance with a licence" means development carried out by an operator in pursuant of a right conferred on that operator under the telecommunications code, and in accordance with any conditions, relating to the application of that code by the terms of his licence;

There is no evidence submitted with this application that demonstrates such control. nor is there sufficient evidence that the application is in accordance with the terms of the operators licence. It is therefore my case that your authority has no legal right to determine the application until that degree of proof is supplied, if in the face of this failure the council was to approve the application then the decision would be clearly ultra vires.

For all the reasons set out above I ask that this application be rejected.

Yours faithfully

Signature: _____

Name (print): _____

Tel: (Daytime) _____, (Evening) _____

Planning Sanity - August 2004 *(can be freely used by local communities within their campaigns. Publication by third parties is permitted providing acknowledgement of Planning Sanity is given).*