

# All Party Parliamentary Mobile Group

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## Mobile Phone Masts

### Report of an Inquiry by the All Party Mobile Group

July 2004

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## Contents

1.	Introduction .....	1
	Terms of reference .....	1
	Structure of report.....	2
2.	The telecommunications industry.....	3
	How do mobile phones work?.....	3
	Mobile phone operators.....	4
3.	What are the procedures for granting or refusing permission to locate telecommunications installations?.....	4
	General Permitted Development Order of England and Wales.....	4
	Views on permitted development rights.....	6
	Permitted development in devolved parts of the UK.....	8
	Temporary consents.....	9
	Notification procedures.....	9
4.	What arrangements are in place for community consultation?.....	10
	Consultation during the production of the development plan.....	10
	Consultation during the passage of an application for planning permission or prior approval.....	11
5.	How is the decision to approve or refuse an application for prior approval or planning permission made by the local planning authority?.....	13
	Visual impact.....	14
	Alternative sites.....	14
	Mast sharing.....	15
	Health issues.....	16
6.	How well-equipped are local planning authorities to make a decision on the siting and location of telecommunications installations?.....	18
	Technical expertise.....	18
	Time limits.....	19
	Fees.....	19
	Local authority as planning authority and land owner.....	19
7.	European comparisons.....	20
8.	How will new technology affect the siting and location of telecommunications installations in the future?.....	21
	Microconnect distributed antennae.....	21
	De minimis.....	21
	Growth of 3G network.....	21
	Health considerations.....	21
	Private Members' legislation.....	22
9.	Conclusions.....	22
10.	Summary of recommendations.....	24
	APPENDIX 1: Terms Of Reference	
	APPENDIX 2: The Ten Commitments	

## 1. Introduction

1.1. The All Party Parliamentary Group on Mobile Phones (apMobile) was set up under the chairmanship of Phil Willis MP to look at issues in the mobile communications sector and their impact upon users. The group is open to all Parliamentarians from both the House of Lords and the House of Commons. Every year, the group holds a series of seminars looking at various policy issues including mobile phone spam, mobile phone content and using mobile phones whilst driving. The aim of the seminars is to bring together Parliamentarians, industry groups, consumer groups and other interested individuals. In November 2003, the group decided that it would hold a parliamentary inquiry to investigate planning legislation as it affects the provision of infrastructure required for the support of mobile phone networks in the UK. There is currently a high level of public concern about the siting and location of mobile phone masts and transmitters, and this is having an impact on all stakeholders involved in the process of developing the network - including local planning authorities, the Planning Inspectorate, the operators and their developers, as well as the public, many of whom have formed interest groups around the issue. The apMobile group was set up in an attempt to understand the issues and in particular, to investigate whether or not (explicitly) changes in planning law would reduce the amount of public disquiet, and enable the industry to operate efficiently in the interests of users, operators and the community.

### *Terms of reference*

1.2. The Group issued a press release (see Appendix 1) on 10 April 2004 announcing its intention to hold an inquiry into all aspects relating to the siting and location of mobile phone masts and base stations, including the operation of current guidelines and regulations; the role and extent of public consultation; the part played by the industry and local planning authorities; and in particular to hear of any good practice in the UK and Europe. The terms of reference stated that the inquiry would confine itself to planning law issues and would "not be inviting specific evidence relating to the impact of mobile phone masts on health".

1.3. An inquiry was held on 11<sup>th</sup> and 12<sup>th</sup> May 2004 at Portcullis House before a committee of members of both Houses of Parliament, under the chairmanship of Phil Willis MP, and including Brian White MP, Paul Truswell MP, and Lord Lucas of Crudwell and Dingwall, at which oral evidence was heard from:

Alan Meyer, Mast Action UK  
Chris Maile, Planning Sanity  
Michael Bell, Radiation Research Trust  
Eileen O'Connor, Radiation Research Trust  
Dr. Gerard Hyland, Radiation Research Trust  
Andrew Mitchell MP  
Jill Wilder, Action Against Byron Avenue Mast, Winchester  
Janine Abiss, Action Against Byron Avenue Mast, Winchester  
Andrew Darke, PLACE  
Graham Knights, Evergreen Tree Towers  
Roy Thompson, Basingstoke and Deane Borough Council  
Simon Preedy, Individual  
Saleem Shamash, Crown Castle UK Limited  
Councillor Stewart Stacey, Birmingham City Council and Local Government Association

Councillor Susie Kemp, West Berkshire Council and Local Government Association  
Lee Searles, Local Government Association  
Mike Dolan, Mobile Operators Association (MOA)  
Jane Evans, 3  
Simon Grossman, Orange  
Paul James, T-Mobile  
Brian Truman, Vodafone  
Alan Freeman, O2  
David Robinson, Airwave  
Josh Berle, Airwave  
Ian Morfitt, BT  
Liz Walsh, BT  
Joanna Tansley, BT

In addition, written evidence was received from :

Dr John Cooper, National Radiological Protection Board  
Pamela Chapman, Porthcawl 4M Group  
Ann Mobley, W.A.R.T.  
Alan Cameron, Scottish Executive  
Craig Stevenson, MOA  
Angi Lewis, BT  
Bill Taylor, Solace  
Nick Clegg MEP

and the following individuals:

Anne Silk  
John Fairbrother  
Sue Fairbrother  
Jack Brooks  
R Ashmore  
Philip Watts  
Councillor David Nation  
Brian Kumm  
Jan Drinkwater  
Natalie Wells

1.4. The group is grateful for the written and oral evidence received from all the participants, and wishes it to be recorded that we were very impressed with the knowledge and expertise shown by the respondents. This greatly assisted us in our understanding of a complex and controversial issue. Thanks are also due to Janet Askew from the School of Planning and Architecture at the University of West of England, Bristol, who wrote the report on our behalf.

#### *Structure of report*

1.5. In this report, evidence received by the All Party Parliamentary Group on Mobile Phones (apMobile) from a wide variety of respondents is examined. The main issues are identified, and each is investigated in turn before arriving at conclusions and recommendations. The report

includes background information on the operation of mobile phones, and incorporates descriptions of the current legislation and non-statutory planning guidance that is in force in respect of telecommunications installations.

1.6. The aim of the inquiry was to identify good practice, and to make recommendations accordingly. Although the terms of reference for this inquiry extended to the whole of the UK, it is noted that legislation differs between England and Wales, Scotland and Northern Ireland. Most of the evidence received referred to the situation in England and Wales, but many respondents drew parallels with Scotland and Northern Ireland, some suggesting that the whole of the UK should be brought under one set of regulations. The group's recommendations relate mainly to England and Wales, although reference will be made to the devolved parts of the UK.

1.7. We were made aware of the plethora of good practice guidance produced by the Government, the industry and by some local planning authorities, in addition to legislation and Government policy. We determined that there were five main issues arising out of the evidence we received:

- the procedures for granting or refusing permission for telecommunications installations;
- consultation arrangements;
- reasons for refusal and what constitutes a material consideration;
- technical expertise of local planning authorities;
- best practice elsewhere, especially in the rest of Europe.

## **2. The telecommunications industry**

2.1. It is estimated that there are in excess of 50,000,000 (fifty million) mobile phones in use in the UK (Ofcom, 2003), and this number is likely to continue growing according to industry predictions. The growth in mobile phone use results in an increasing demand for mobile phone infrastructure, (usually called mobile phone masts, but see below for further definitions), of which there are approximately 40,000 in the UK at the time of writing, with a predicted rise to 48,000 by 2007 (Mobile Operators Association, 2004). The current technology for the operation of mobile phone networks is known as 2G or GSM, and the supporting infrastructure for that is in place. The next generation of mobile communication systems, currently being rolled out, is known as 3G (UMTS), and it will create a demand for more installations, as different technology dictates that existing masts cannot be used for the new networks which will offer access to the internet and video viewing. Eventually, old masts will become redundant and will be replaced. In addition, the new digital communications network for the police, the terrestrial trunk road system (known as TETRA), requires 3,500 masts, some 3,100 already erected.

2.2. Many local communities, concerned about the potential health risks and visual intrusion emanating from mobile phone masts, have formed campaign groups and have become very well-informed about a wide range of issues. Local planning authorities are responsible for considering proposals to erect masts according to procedures laid down in legislation and government policy guidance. They must seek to reconcile the different interests of the industry and local communities which requires considerable resources and specialist expertise. The pressure exerted upon politicians by their constituents has resulted in the need for this inquiry in an attempt to influence the Government in the preparation of new planning guidance.

*How do mobile phones work?*

2.3. We were informed about the way in which mobile phones work by the Mobile Operators Association (MOA), and some guidance is offered in the Government's Planning Policy Guidance No.8 (PPG8). Mobile phones operate on a system of cells, each cell supported by a radio base station, which is a facility that provides transmission and reception for radio systems. Each of the five mobile phone operators divides the UK into thousands of individual geographic areas or 'cells'. The cells overlap at the edges to prevent holes in coverage. There are three types of cell: macrocells which provide the main structure for the base station network with a range of up to 35 kilometres; microcells which infill and improve the main network, with a range of up to a few hundred metres; and picocells which have a much smaller range and are used in busy areas such as inside buildings, airports and shopping centres. The systems are demand-led, and to achieve coverage, each cell has to be provided with a base station, which hands the calls over from one area to another. If they are too far apart, calls are interrupted or dropped when mobile phone users are on the move. Increased usage of mobile phones also results in a higher demand for base stations, as each has a limited capacity, and this can be expanded by the addition of more base stations within macrocells or microcells.

2.4. Radio base stations are commonly called masts, and although the terms are used interchangeably, they are in fact two different things. Radio base stations are sites that enable mobile phones to work. They can be big or small, and always have transmitters or receivers in a cabin or cabinet connected to antennas nearby. A base station (i.e. transmitters, receivers and antennas) can be mounted on a large mast or tower, on existing buildings, rooftops or in street furniture. There are currently about 40,000 radio base stations in the UK. Strictly speaking, a mast is the freestanding structure which supports antennas at a height where they can transmit and receive radio waves. A mast is typically 15m high and plays no part in itself in the transmission of radio waves.

2.5. A mobile phone is a low-powered two-way radio, converting human voice and data messages into radio waves. When making a call, the radio signals are transmitted from the mobile phone to the nearest base station. Once a signal reaches a base station it is then transmitted to the main telephone network where it is transferred to the network of the person receiving the call.

2.6. The cells in a new third generation (3G) network will be smaller because 3G uses a higher radio frequency. These cells also expand and contract in size depending on the number of simultaneous calls being made. For this reason, 3G cells will have to overlap more than the current 2G cells, and although it is anticipated that operators will be able to re-use some of their existing infrastructure, they will also need to develop a substantial number of new sites.

*Mobile phone operators*

2.7. Powers to run telecommunication systems are granted under the Telecommunications Act 1984, and the right to erect telecommunication installations is conferred upon the operators under the Electronic Communications Act 2003. Five mobile phone operators in the UK are licensed to deliver the networks – Orange, Vodafone, 3, T-Mobile and O2 and they are represented by the Mobile Operators Association (MOA). A sixth operator, O2 Airwave Service, will deliver the TETRA network. It is the consensus that the UK telecommunications industry is the most

successful in Europe, and that the swift introduction of the new third generation of mobile phones will be the key to maintaining the UK's 'competitive edge'.

### **3. What are the procedures for granting or refusing permission to locate telecommunications installations?**

#### *General Permitted Development Order of England and Wales*

3.1.The ODPM, Planning Sanity, and the Mobile Operators Association (MOA) provided us with a detailed analysis of the law relating to the process of granting or refusing permission to locate and site telecommunications masts. A brief summary of the planning procedures follows.

3.2.Planning permission is required for the carrying out of any development of land, sometimes as a result of an application to the local planning authority, or in certain cases, by a development order made by the Secretary of State. The General Permitted Development Order (GPDO) grants permission for a wide range of developments without the need for a planning application for express permission.

3.3.Where express permission is required, application is made to the local planning authority, which has to follow certain procedures before reaching a decision on the proposal. These include registration of the application, publicity for the proposal, notification of the proposal to various bodies and by various means of advertising, and consultation with a wide range of consultees. Local planning authorities aim to make a decision within eight or thirteen weeks (depending upon the size of the application), primarily in accordance with the statutory development plan unless material considerations indicate otherwise. In practice, they will have regard to a number of other factors, including Government policy, the results of the consultation, other non-statutory guidance, and any other issues deemed to be 'material considerations' as defined by law. The application can be refused with clear and precise reasons, or granted with conditions relating to a wide variety of issues. It is acknowledged that the erection of mobile phone masts is an emotive one, but moral or emotive issues are not material considerations in the determination of a planning application.

3.4.In the event of a refusal of planning permission, an appeal can be made to the Secretary of State, who appoints an inspector to decide the outcome of the application. In some cases, if no decision has been reached by the local planning authority after eight weeks, an applicant may decide to pursue the appeal process, making the assumption that the application is deemed to have been refused. Increasingly higher numbers of applications for planning permission are determined within the time limits, and the appeal procedures are not usually invoked under such circumstances, but in the case of very large or controversial applications, local planning authorities can and do take longer to reach a decision. In the event of refusal, an appeal to the Secretary of State adds up to four months (at the shortest) to the process, and in some cases, considerably longer.

3.5.In England and Wales, the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (as amended by SI 2115/2003) lays down the classes of telecommunications development which are permitted under the Order, and these are known as 'permitted development rights'. Part 24 of the GPDO confers upon operators and developers the right to

erect telecommunication installations within certain size limitations without the need for express permission.

3.6. However, some telecommunications developments which are permitted under the GPDO are subject to a 'prior approval procedure'. This procedure applies to the construction, installation, alteration or replacement of:

- a. a ground-based mast of up to 15 metres in height;
- b. a mast of up to 15 metres in height installed on a building or structure;
- c. an antenna which exceeds the height of the building or structure by more than 4 metres;
- d. a public call box;
- e. radio equipment housing with a volume in excess of 2.5 metres;
- f. development ancillary to radio equipment housing (eg, fencing, access roads);
- g. certain development on Article 1(5) land.

3.7. In some designated areas, known as Article 1(5) land –national parks, conservation areas, sites of special scientific interest, areas of outstanding natural beauty - permitted development rights are reduced, with more development, including masts, requiring express planning permission. In the event of other particularly sensitive locations, and if there is a real and specific threat to an interest of acknowledged importance, an Article 4 Direction (of the GPDO) allows local authorities to withdraw permitted development rights, subject to approval by the Secretary of State.

3.8. Permitted development rights in relation to telecommunications in England and Wales were amended in 2001, following the report of the Independent Expert Group on Mobile Phones, chaired by Sir William Stewart. In his report of May 2000, (commonly referred to as the Stewart Report) it was recommended that permitted development rights be revoked for all base stations, requiring them to be subject to the normal planning process. In its evidence to us, the ODPM stated that careful consideration was given to this recommendation and that it was decided to strengthen the planning arrangements for telecommunications development, but not to revoke the permitted development rights. This included some of the measures such as lengthening the time limit to 56 days for local planning authorities to consider the requests for prior approval, and to require them to carry out public consultations in the same way as would be done for full planning permission. The ODPM is satisfied that this meets the concerns expressed in the Stewart Report, and that the only difference between the prior approval and planning permission procedures is the *deemed consent* after 56 days.

#### *Views on permitted development rights*

3.9. Most respondents held a view on permitted development rights, making this the main issue of the inquiry, with the operators largely endorsing the current regime in England and Wales, and local planning authorities, campaign groups and individuals calling for the revocation of permitted development rights and a requirement for full planning permission.

3.10. We were told by the ODPM that a requirement for full planning permission was not imposed because of the failure of many local planning authorities to meet Best Value targets for determining planning applications within 8 or 13 weeks. The concern, also expressed by the MOA, was that an increase in applications brought about by mobile operators' requirements would considerably add to the burden of local planning authorities, many of which are struggling with

staff shortages to prevent unnecessary delays to development. Given the strength of feelings aroused by telecommunications proposals, it was argued by the MOA that there is a real possibility that local planning authorities would take much longer than 56 days to determine applications.

3.11. It was the view of the MOA, representing the five mobile operators, that there should be no further changes to the GPDO in England and Wales, and that the industry's success was partly based upon the permitted development rights regime. BT thought the permitted development rights were "essential" and O2 Airwave Service felt that the permitted development rights have been a successful part of the broader planning regime. Crown Castle UK Limited who own some of the telecommunications infrastructure suggested that taken together, there are enough controls within the planning system, including the amendments to the GPDO, to ensure that there is no threat to amenity with the current permitted development rights. Indeed, it was their view that the new 3G network has been successfully developed and launched in a remarkably short period of time because of the provisions of the GPDO. They also put forward the view that the GPDO limit of 15 metres had shaped the form of installations, and a revision of the regulations could encourage different forms of development.

3.12. The Local Government Association was firmly of the view that permitted development rights for telecommunications installations should be removed, and they gave several reasons for this. First, they suggested that a wider review of permitted development rights should be undertaken, as the legislation was framed in an earlier era when public sector utilities were delivering services. It is clear that the permitted development rights were helpful when the industry was in its infancy, but now that it had matured, they may no longer be appropriate. This is particularly true for private commercial companies, such as mobile operators, who are promoting their business in competition with each other. Second, they considered that 15 metres is high for permitted development, going well beyond the limits normally requiring planning permission. Third, the LGA suggested that the period of 56 days for the consideration of proposals for mobile phone masts and ancillary equipment, after which there is a deemed consent, is an "arbitrary deadline" and that this is unhelpful to communities. The requirement for a full planning application without the time limit of the 56 day deemed consent would allow more time for local authorities and affected communities to properly consider the application, consider alternative sites, and if necessary, mount an objection to the proposal. The LGA argued that because of the controversy around applications for mobile phone masts, local authorities are spending disproportionate amounts of time on the applications for prior approval. This view was reiterated by Basingstoke and Deane Borough Council which felt that the prior approval procedure offered only limited benefits to the operators, and that other stakeholders, including communities, would be able to engage better in the planning process and pre-application discussions if full planning permission was required.

3.13. We heard from the LGA, Sefton Borough Council, Wednesbury Action for the Removal of Telephone Masts (WART), Action Against Byron Avenue Mast (AABAM) (Winchester), Porthcawl 4M Group, Weoley Open Network, Jack Brooks (Leicester), and David Nation (Tiverton and Honiton) that the GPDO is too complex and that permitted development rights (for base stations at least) should be removed. We were alerted by various respondents, including Planning Sanity, to three Private Member's Bills which have been before Parliament in 2004: Town and Country Planning (Telecommunications Masts) Bill 2004, Town and Country Planning (Permitted Development Rights) (Amendment) Bill 2004 and Masts (Registration) Bill 2004 which call respectively for the revocation of permitted development rights, amendments to the GPDO, and for the registration of all additions to masts and base stations (not just sites).

3.14. Evidence submitted by local government interests, campaigners, residents and individuals indicated a lack of confidence in the prior approval procedure, partly due to what they perceive to be lack of time to properly consider the applications. There is a view that the process of prior approval leading to deemed consent gives the operators more freedom to develop than would be the case for other types of development. Many residents' groups do not feel that the procedures for erecting telecommunication installations are transparent and open, with the consequence that local authorities have to face hostile opposition when proposals are made.

3.15. We accept that the difference between the prior approval procedure and full planning permission appears to be minimal, but this is not the perception of the majority of the respondents. Despite similar consultation requirements, the need to make a decision in 56 days does not allow for proper and full consultation with affected parties, nor does it allow for the consideration of alternative sites. Any application for telecommunications apparatus attracts a great deal of interest, and appears to create a disproportionate effect on the locality. Those respondents who called for the revocation of permitted development rights and the prior approval procedure believe that if full planning permission had to be sought for those developments listed above, including all base stations and some antennas (subject to limits), this would make the procedure more fair and transparent and thus would increase confidence in the system and legitimacy of decisions made.

3.16. We were made acutely aware that Sir William Stewart's recommendation for a requirement for planning permission for all base stations was not fully implemented, and this further reduced the respondents' confidence in the legislation. We understand that the Government had considered his proposal in some depth, and had amended the GPDO to improve the consultation arrangements for example, as well as increasing the time limit for decision to 56 days. We consider that the need for planning permission represents a minor amendment to the legislation but that this relatively small measure would *significantly* improve relations between local planning authorities, the operators and communities. The main benefit would be a higher level of engagement and subsequent ownership of the process by local communities and concerned individuals, resulting in less objections, less likelihood of rejection of the proposals, and less confrontation between operators and objectors, especially if this is combined with other measures outlined below regarding pre-rollout consultation and pre-application discussions to ensure that decisions are made without undue delay. In view of the evidence heard, we do not believe that the 2001 amendments made to the GPDO satisfy the concerns of local authorities and residents as they do not allow for effective consultation because of the deemed consent after 56 days.

**R1. We recommend that the Government implements the proposal made by Sir William Stewart in the Independent Expert Group Report on Mobile Phones that permitted development rights be revoked for the erection of all base stations.**

3.17. In addition to the issue surrounding the demand for full planning permission for base stations, we heard evidence from many respondents to suggest that the GPDO in its current form is over complex and difficult to interpret. Crown Castle UK Limited, the company which provides the infrastructure for the industry, stated that the greatest priority should be on simplifying and improving the current legislation and policy framework, a view supported by Sefton Borough Council who said that the GPDO was much in need of simplification. Planning Sanity drew our attention to the London Borough of Harrow survey of all English planning authorities on telecommunications issues, (2002) in which 77% of respondents replied that current legislation is unsatisfactory.

3.18. Basingstoke and Deane Council's view was that the regulations in the GPDO are technical, in legal jargon and open to different interpretations and in particular, considered to be unclear with regard to existing installations and ancillary equipment (a point also made by the LGA and Sefton Borough Council). Mast Action UK drew our attention to telecommunications guidance to planning inspectors, in which it was stated that some recent decisions had cast doubt on the interpretation by some operators on the meaning of the 15 metre height limit, and whether or not this could be taken from a raised concrete base. Another concern of some respondents was the need to separate development within the curtilage of a dwelling house (eg. television aerials, satellite dishes) from other types of telecommunications for cellular radio networks, since the two are very different.

3.19. Basingstoke and Deane Council gave us some examples of their recommended suggestions for proposed alterations to the GPDO. These included removing the requirement for consent to add equipment to a mast which does not increase its height or extend the ground level compound as this may not significantly affect the visual impact. Although Planning Sanity and Mast Action UK (amongst others) called for amendments to the GPDO, this particular proposal would not help in meeting their concerns over the potential health risks associated with an increase in emission levels from higher numbers of antennae on one structure. One further example of the confusion caused by the GPDO, given by the LGA and Basingstoke and Deane Council is the reference to the combined volume of existing equipment at the site. They told us that it was almost impossible for a local planning authority to keep an accurate record of equipment on site, due to some being permitted development and some not. We were made aware of the more stringent requirements on Article 1(5) land, (by Beddgelert Community Action Group for example) and the need to review permitted development rights in these areas.

**R2. We recommend that the provisions of the GPDO in respect of telecommunications should be comprehensively reviewed and revised using plain English with a view to making them easier to interpret, including a review of permitted development rights on Article 1(5) land.**

*Permitted development in devolved parts of UK*

3.20. Many respondents drew our attention to the different situation regarding permitted development rights in Northern Ireland and Scotland. The Scottish Executive submitted evidence outlining the current law in Scotland which is explained in Circular 5/2001, the Town and Country Planning (General Permitted Development) (Scotland) Amendment (no.2) Order, 2001: Development by Telecommunications Code System Operators, revokes some of the previously held permitted development rights. The main change introduced in Scotland in 2001 was the requirement that all new ground-based mobile phone masts were to be the subject of applications for planning permission, along with a requirement for local planning authorities to be notified each time a new antenna is installed, even upon existing masts. The MOA argued that the Scottish regulations are significantly more complex than those in England and Wales, although no particular reasons were given for this. An evaluation of the effects of the introduction of reduced permitted development rights (on the operators and on local planning authorities) is currently being undertaken and will be published later in 2004. We await this with interest.

3.21. Similarly, although no evidence was received from the Department of the Environment in Northern Ireland, the MOA, Crown Castle UK Limited, and BT drew our attention to the lack of permitted development rights there. Many respondents thought that the regulations should be the

same throughout the UK, with interest groups suggesting that the Scottish model be adopted, and the industry making a case for the Scottish and Northern Ireland systems to be brought into line with legislation in England and Wales.

**R3. We recommend that the ODPM should take the lead on a comparative review of relevant law and practice across the UK in collaboration with the responsible authorities in the devolved administrations with a view to ensuring consistent best practice and a common approach where this is beneficial.**

#### *Temporary consents*

3.22. The GPDO, under Part 4, allows for temporary consent for installations in connection with and for the duration of operations, provided that notice is given in writing to the local planning authority. Under Part 24, telecommunications apparatus can be located in an emergency for up to six months, even on article 1(5) land. Basingstoke and Deane Council suggested that emergency should be better defined. The erection of masts and antennas under these circumstances were perceived to be causing problems for local authorities, as well as being an issue for the campaign groups who gave evidence to the inquiry. Mast Action UK, Planning Sanity, along with Sutton Coldfield Residents Against Masts (SCRAM), and Simon Preedy (individual witness) accused the operators of using emergency provisions and temporary consents to avoid going through the prior approval procedures. The view was that once a mast was erected under emergency or temporary provisions, it became difficult to remove it if its location was found to be unsuitable, and that local authorities then had to resort to time-consuming and wasteful enforcement procedures. Sometimes, operators resorted to evoking emergency measures when their application for prior approval had been refused – Rogate, Sussex and Lincolnshire, were examples given by Mast Action UK.

3.23. We heard enough evidence to convince us that temporary consents and the emergency provisions create distrust and anger in communities and cause costly and time-consuming problems with enforcement for local authorities. Whilst there may be a need for emergency procedures, operators need to be aware of a more stringent set of regulations regarding the removal of the installation and the reinstatement of the land, in the event of planning permission not being given.

**R4. We recommend that in a revised GPDO, the Government investigates the ways in which emergency provisions can prevail, but with more stringent regulations regarding what constitutes an emergency, and with suitable penalties for operators who do not comply with these procedures. In addition, we recommend that temporary consents be reviewed.**

#### *Notification procedures*

3.24. We were alerted to a problem with notification letters where a local planning authority has made a decision to refuse approval within the requisite time, but does not send out the letter until after the 56 day period has ended. PPG8 advises caution to local planning authorities who may delay sending out their letters. Mast Action UK and Basingstoke and Deane Council gave evidence to the effect that in Sevenoaks, Test Valley and Swindon, operators had gone ahead and erected the mast as soon as the 56 day period was over, without waiting for a decision in

writing. Basingstoke and Deane Council told us that that the current regulations make enforcement very difficult as any unauthorised installation can remain on site for up to two years while enforcement procedures and appeals run their course. This happened during a judicial review (Jodie Phillips -v- First Secretary of State, Havant Borough Council and Hutchison 3G (UK) Ltd) of a mast in Havant, where the operators erected the mast before the decision of Mr Justice Richards had been issued. Other examples were given of this happening at Overton, Whitchurch, Nately Scures, Picket Piece and at Viabes Industrial Estate (all Basingstoke and Deane Council area), where in some of these cases, inspectors had allowed the masts to remain after lengthy appeal procedures. The operators did not express a view on this matter.

#### **4. What arrangements are in place for community consultation?**

4.1. There prevails a very strong view that communities are not consulted in the process of the development of the telecommunications network for mobile phones. This has already been alluded to above in the discussion of permitted development rights, in which communities and others considered that the requirement for full planning permission would result in more effective, open consultation arrangements. Consultation can occur at different points in the process : in devising policies (strategically and locally) for the rollout of telecommunications networks, and during the passage of a planning application or application for prior approval. The ODPM referred to the consultation arrangements contained in the Code of Best Practice on Mobile Phone Network Development (2002), produced jointly by central and local government and the industry. The Code of Best Practice provides clear advice to ensure the delivery of significantly better and more effective communication and consultation and incorporates the industry's 'Ten Commitments'. (see Appendix 2 for copy of Ten Commitments). The MOA told us of their determination to make these work, and we were told that they include procedures to deliver significantly improved consultation with local communities, both in pre-rollout and pre-application discussions and during the passage of seeking consent. We heard evidence about the current statutory and non-statutory requirements for consultation, and the extent to which these arrangements are working.

##### *Consultation during the production of the development plan*

4.2. Planning Policy Guidance Note 8 (PPG8) advises that individual development control decisions should be made in accordance with the development plan, unless material considerations indicate otherwise. It states that development plan policies should take account of the need to minimise the impact of the development whilst enabling the operation of the networks. Strategic requirements should be contained in policies in structure plans, (and unitary development plans, part 1), while local plans (and unitary development plans, part 2) should set out policies and proposals for the location of telecommunications installations in accordance with the strategic plans, including the allocation of sites for some of the larger developments. The statutory development plan has to go through a rigorous process of consultation, during which time communities and others are given the opportunity to participate in the formulation of policies and to formally object to policies and proposals. Having been publicly scrutinised, the plans are adopted by the council, and the policies provide a framework for the development and use of land within the local authority area.

4.3. This process, however, takes a considerable time to complete, and may not lend itself to the demands of the mobile phone industry whose operators need to prepare their own strategies quickly for the roll out of telecommunications sites (partly to meet the requirements of their licences). PPG8 points out that the operators have made a commitment to provide local planning authorities with annual roll out plans and the Government urges annual discussions between authorities and operators based upon these plans, but does not suggest public consultation at this stage. Whilst consultation is a statutory requirement during the preparation of the development plan, additional arrangements suggested in PPG8 are only advisory.

4.4. We were made aware of different practices in various local authorities for consultation. Basingstoke and Deane Council told us about a 'telecommunications inquiry', held in October, 2002, attended by representatives of the industry, councillors, officers, academics and residents, one recommendation from which was the preparation of Supplementary Planning Guidance. We were impressed with this guidance which refers to three stages of consultation : rollout, pre-application and when prior approval or permission has been applied for. Basingstoke and Deane Borough Council told us that it has been its practice to co-ordinate a joint annual meeting with all operators leading to the production of a joint rollout map which is available for the public to view. This included a discussion of alternative sites, resulting in more certainty for local communities, thus reducing objections later in the process. The main benefit of this would be earlier engagement with the process by all stakeholders. We asked operators if this posed any issues over commercial confidentiality, and we were informed by the MOA that it did not.

4.5. We consider that PPG8 needs revision to offer clearer guidance on pre-rollout consultation, and the formulation of policies. We endorse the stance taken by Basingstoke and Deane Council to publicise pre-rollout plans, and suggest that ways of initiating the earlier publication of strategic rollout plans are investigated, and incorporated into a revised PPG8.

**R5. We recommend that a revised PPG8 should specify much more clearly the arrangements for public consultation during annual pre-rollout discussions to encourage local planning authorities, in conjunction with the operators, to publicise the strategic plans for mobile phone networks.**

4.6. The requirements for the preparation of statutory development plans are set to change as a result of the Planning and Compulsory Purchase Act of 2004. There will be a requirement for a spatial strategy at the regional level, and at the local level, planning authorities will have to prepare a local development scheme (LDS) included within which will be local development documents (LDD) relevant to their area. Under Section 17 (7) of the Act, the Secretary of State can specify (through regulations) the documents to be included in a local development scheme. The new local development documents are not intended to be lengthy documents, and the aim is to prepare them in a short period of time. Each will have the weight of the statutory development plan for the purposes of making development control decisions, as it would have to be prepared with consultation between all parties and open to public scrutiny before being adopted. One such plan could be a telecommunications plan produced annually or biennially jointly between the operators and the local planning authority.

**R6. We recommend that all local planning authorities are obliged by the Secretary of State to include a 'Telecommunications Plan' as a local development document (LDD) in their local development scheme (LDS).**

*Consultation during the passage of an application for planning permission or prior approval*

4.7. The requirements for consultation were recently strengthened as a result of the revised GPDO (2001) and Planning Policy Guidance 8 (PPG8) of 2001. This introduced the 56 day period for the consideration of applications for prior approval, with the same requirements for consultation as laid down for a planning application. Although the ODPM considered that these requirements were now sufficient, we heard from residents and local authorities that there remains a pressure on local planning authorities to complete the passage of the application within 56 days because of the *deemed consent*, giving them no leeway for lengthier consultation with affected communities, especially when the infrastructure is being provided within residential areas or near to schools or hospitals for example. The LGA pointed out that the sensitive nature of some applications for telecommunications masts demands a greater level of consultation and engagement with local communities, which is set against a backdrop of record numbers of planning applications and staff shortages. The level of work (including consultation) undertaken on the prior approval applications can be out of all proportion to their size. The LGA argued that the current fee levels were inadequate, although under the new Planning and Compulsory Purchase Act 2004, local planning authorities may be able to charge for pre-application discussions (see below).

4.8. We were introduced to the 'Traffic Light Model' which determines the level of public consultation that will be required for each site selected. The MOA illustrated this to us with its handbook on consultation, 'Working with the Community' (2004), in which it outlines how best to use the model. 'Working with the Community' is a comprehensive document, the main tenet of which is "addressing community concerns effectively and gaining public trust". It explains that green rated sites are the least controversial, usually away from residential property and schools, on industrial land or alongside major highways; amber sites are in mixed residential/commercial areas, on rooftops, or ground-based towers on green field sites; red sites include street works and masts close to residential properties, schools or colleges, or in proximity to heritage sites and historic buildings. The rating of each site dictates the extent of consultation and the sensitivity with which the planning authority and local community are approached. BT endorsed the need for more constructive dialogue with communities, and O2 Airwave stated that it believed that community consultation had improved since the introduction of the 'Ten Commitments'.

4.9. PPG8 strongly encourages local planning authorities to undertake any additional publicity that they consider necessary to give people the chance to comment on the proposal. In particular, the ODPM pointed out that specific mention is made of the necessity to take into account relevant views when a mast is to be located on or near a school or college. PPG8 urges the need for pre-application discussions with interested parties, including residents' groups, within the context of the operator's strategy for telecommunications development in the area. The LGA pointed out to us that local planning authorities often do not have time to engage in pre-application discussions, especially as they are unable to charge for these.

4.10. We heard evidence of good practice in community consultation, in particular from Basingstoke and Deane Borough Council, who agreed that the introduction of the 'Ten Commitments' had improved community consultation, particularly in respect of the standard and amount of information submitted at application stage. Basingstoke and Deane's guidance goes further in suggesting that all neighbours (and schools) within 200 metres of a mast proposal will be consulted. O2 Airwave referred us to good practice in Winchester Council where a dedicated sub-committee to deal with telecommunications applications ensures that councillors are better informed to engage in dialogue with the community.

4.11. However, we heard much evidence that the good practice guidelines are not being followed by the operators or by local authorities. Porthcawl 4M Group stated that community consultation is poor with only a minimum of home-owners being consulted, and this was reiterated by the Weoley Open Network (Birmingham), Brian Kumm of Loughborough, Phillip Watts of Market Drayton and the Beddgelert Community Action Group – the latter in the Snowdonia National Park, where requirements are more stringent. Many respondents reported not knowing about the siting of a mast until engineers arrived on site to construct it. In its evidence, Planning Sanity reported this happening, as did Eileen O'Connor of Wishaw, near Birmingham, Natalie Wells of Gravesend, and Simon Preedy from Basingstoke; and Mast Action UK suggested that pre-application discussions were not the norm. In the Wishaw and Sutton Coldfield cases, additional antennae were attached to existing masts without any further community consultation, as reported by Mr. Ashmore and Eileen O'Connor, both residents.

4.12. Many respondents expressed the view that they did not have confidence in the guidance and regulations regarding consultation, and thought it could be clearer, resulting in more engagement by communities in the process of siting and locating telecommunications installations. Planning Sanity said that it did not have any fundamental opposition to the siting of mobile phone masts but that it wanted a statutory structure to the way in which consultation is carried out. The Radiation Research Trust and Byron Avenue Residents reiterated that they did not want to ban mobile phone masts – they recognised that mobile phones were here to stay, but that the processes of determining the location of them should follow formal statutory procedures of consultation. In this way, communities would feel a greater sense of ownership with the process.

4.13. We were made aware of the measures that the government and the industry have gone to in respect of community consultation, and we were impressed with the industry's own guidance to the operators in its handbook and with the 'Ten Commitments' (See Appendix 2). Although the Government endorses the 'Traffic Light Model', it may be that the emphasis contained therein is on how to minimise objections rather than genuinely engage in debate and consultation with communities, part of the problem being the criteria against which a site is designated as red, amber or green. This judgement is made by the operators. This happened in Beddgelert, where the community group did not agree with the designation of the site. Despite the guidance and the efforts of the operators, many individuals, residents' groups and campaign groups remain unconvinced that they are part of the process, and they do not have confidence in the procedures. Local authorities find themselves between operators and objectors, the latter claiming not to know the facts until it is too late. However, where consultation is carried out properly, people have been more engaged with the process, leading to less conflict.

**R7. We recommend that a revised PPG8 includes further guidance on pre-application discussions, with a view to allowing local planning authorities to charge for these; and that consultation and advertisement arrangements are widened to ensure that everyone who might be affected by a proposal is well informed.**

## **5. How is the decision to approve or refuse an application for prior approval or planning permission made by the local planning authority?**

5.1. Local planning authorities draw upon various policies to assist in determining applications, whether for prior approval or planning permission. These include Government guidance and

policies in the statutory development plan i.e. the structure plan, local plan or unitary development plan. Under Section 54A of the Town and Country Planning Act, 1990, all applications for development must be made in accordance with the statutory development plan unless material considerations indicate otherwise. PPG8 requires local authorities to include policies on telecommunications in the development plan, although Basingstoke and Deane Council also produced supplementary planning guidance on telecommunications to add more substance to the policies.

5.2.PPG8 (2001), which should be read in conjunction with the Code of Best Practice on Mobile Phone Network Development (2002) and the industry's own "Ten Commitments" (2001), is the Government's planning policy statement on telecommunications. The ODPM told us that the aims of the policy are twofold : to facilitate the growth of electronic communications systems while protecting the environment, as well as offering guidance on community consultation and the siting and location of masts and other structures. Interest groups and some local authorities suggested that the dual aims of PPG8 to encourage the growth of telecommunications systems whilst protecting the environment were incompatible, and that the guidance did nothing to remedy these conflicting aims.

We received evidence to suggest that in parts, this policy is unclear to operators and local authorities, and that it contains some anomalies.

5.3.We heard considerable evidence from all respondents about the basis for decisions (whether for prior approval or planning permission) on telecommunication installations. Witnesses explained what they understood to be material considerations in this matter, pointing us to PPG8, which offers guidance on this subject. In this connection, we were reminded by Mast Action UK, Planning Sanity and other residents' groups of the recommendation in the Stewart Report that decision makers should adopt the "precautionary principle", particularly with regard to potential and unknown health risks.

#### *Visual impact*

5.4.PPG8 states that local planning authorities and operators should work together to find the optimum environmental and network solution on a case-by-case basis, a factor which Crown Castle UK Limited suggested was a higher test than is usually applied to applications for planning permission. Further advice in PPG8 urges local planning authorities to keep environmental impact to a minimum, and to seek to arrive at the best solution for an individual site. It urges operators to use sympathetic design and camouflage. On sensitive Article 1(5) land, as well as in the countryside, green belt and in public open spaces, the ODPM stated that design is of increased importance and the aim should be for apparatus to blend into the landscape. Siting and appearance are important considerations in Basingstoke and Deane, where the supplementary planning guidance produced by the Council makes a number of recommendations, stating that the type of installation and its siting should be the 'least visually intrusive technical and structural solution'.

**R8. We recommend that local planning authorities lay down policies and guidance in the development plan on the siting, design and appearance of telecommunications**

**installations with the aim of minimising the visual impact of mobile phone masts and base stations.**

5.5. We heard evidence on the visual impact of masts from "PLACE", a group of artists who have campaigned for the past nine years to reduce the environmental intrusiveness of 'mobile telephony' in urban and rural landscapes. They stated that the ever increasing number of base stations is now causing significant damage to views and vistas in rural areas, and is compromising roofscapes and architectural form in urban areas. They believe that it is possible to significantly reduce the environmental impact of base stations, and showed us examples of using living and dead trees for the siting of masts in Norway. Further evidence of how to reduce visual impact was given to us by Mr Knights of the Evergreen Tree Towers Company which disguises masts to resemble trees which are particularly useful for both sensitive rural landscapes and urban areas. In his experience the operators were receptive to alternative designs, and these types of solutions only add about 15 or 20 percent to the cost of establishing the site.

5.6. Further good practice was outlined for us in the concealment of telecommunications equipment in the roofs of buildings, and on pylons. Some suggestions to reduce visual impact were made, including the use of a larger number of more innovatively designed, smaller and less powerful base stations with a greater emphasis on picocell installations, such as those in lamp-posts and other street furniture. The issue of the design of masts was raised by various respondents, many of whom were aware that changing technology could result in different designs. BT gave evidence about some new innovations in mast design and this is discussed in more detail below.

**R9. We recommend that the ODPM and mobile phone operators undertake research into the potential of alternative design solutions for telecommunication apparatus, and their implementation to reduce visual intrusion, and that this forms the basis for best practice guidance in a revised PPG8.**

*Alternative sites*

5.7. The ODPM told us of policy in PPG8 which advocates the exploration of alternative approaches to the location of mast sites. The broad tenor of the guidance is to accept the principle of telecommunications structures where they are needed for coverage, but to acknowledge the sensitivity of the location of such structures and to emphasise the importance of searching in each case for the *optimum* location. Alternative sites could be sought at the stage of pre-development (rollout) discussions, or later when applications are made for prior approval or planning permission. Campaign groups did not consider that the way the industry operates is conducive to this happening. Pre-development (or pre-rollout) plans are not discussed in consultation with communities, and the 56 day period for consideration of applications does not allow for sufficient time to consider alternatives. Local residents at Byron Avenue, Winchester stated that an alternative location had not been sought in this case, but many respondents considered that the search for alternative sites depended upon local planning authorities taking a much more proactive stance.

5.8. Mast Action UK and Planning Sanity referred to case law regarding the consideration of alternative sites. In the Jodie Phillips -v- First Secretary of State, Havant Borough Council and Hutchison 3G (UK) Ltd (October, 2003), Mr. Justice Richards stated that PPG8 makes the consideration of alternatives an integral part of the process of assessment of an application for the

approval of the siting of telecommunications structures. In his view, as well as guidance on mast and site sharing, alternative new sites also fall within the scope of the guidance. Mast Action UK thought that the court's ruling could lead to additional challenges if alternative sites are not given due consideration, and this view was endorsed by Basingstoke and Deane Borough Council. Crown Castle UK Ltd considered that PPG8 raises unrealistic expectations in suggesting that the optimum solution must be found in each case of location of a mobile phone mast, which might compromise operations due to higher costs.

5.9. One opportunity for seeking alternative sites is offered by the requirement for rollout plans to be discussed by local planning authorities and operators, as outlined in PPG8. The MOA referred us to the Ten Commitments, the second of which states that pre-rollout and pre-application consultation should be carried out with local planning authorities. The ODPM told us that this particularly applied to any masts near schools, colleges, hospitals or residential areas, where relevant bodies must be consulted before any application is submitted.

5.10. There is no national roll-out plan produced on a national basis. Although we asked the MOA for this information, we were informed that each local planning authority should have a roll-out plan for their own area, which could be made available to the public. In addition, it is possible to obtain information on the location of masts from the Ofcom website at [www.sitefinder.radio.gov.uk](http://www.sitefinder.radio.gov.uk). The accuracy of the latter is questionable, particularly as it does not have an ordnance survey base. Our attention was drawn to arrangements that prevail between public utility companies through the National Joint Utilities Group (NJUG). In an agreement drawn up in 1994, the ultimate aim of that group was for all utilities to adopt common digital mapping techniques so that records could be exchanged by electronic means. It is suggested that a similar aim be adopted by the mobile phone operators.

**R10. We recommend that the mobile phone operators adopt common digital mapping techniques to enable a national map of the location of mobile phone masts and base stations to be produced on an ordnance survey base.**

5.11. In addition, our recommendation for a 'telecommunications plan' as part of the LDS, and including the annual rollout plan, would result in the consideration of alternative sites, potentially leading to optimum environmental and network solutions. If local residents, local planning authorities and other consultees could see the annual plans for telecommunications installations before application is made, this would reduce conflict, provide a greater level of certainty for communities and the operators, and a reduction in the number of refusals for applications and appeals. It would then not normally be necessary for alternatives to be discussed at the stage of application.

#### *Mast sharing*

5.12. Many witnesses were of the view that the sharing of masts and sites would reduce visual impact, as well as reduce the numbers of masts generally. We heard that there was a difference between mast sharing (many antennae from different operators on the same mast), and site sharing (more than one mast in one location). The ODPM stated that it was government policy to encourage the sharing of masts and sites, and that this is reflected in PPG8 and the Code of Best Practice. PPG8 'strongly encourages' mast sharing, although it also states that authorities will have to consider the cumulative impact upon the environment of additional antennae sharing a mast or masts sharing a site. Sefton Borough Council expressed concerns that sharing would

lead to larger, taller and more intrusive masts. It became clear to us that the issue of mast or site sharing is not straightforward. The MOA told us that considerable progress has been made with site sharing, and they estimate that around 40 percent of base stations on ground-based masts are sharing. Airwave O2 stated that site sharing has been possible for its TETRA masts, with some three quarters of the 2,300 developed so far making use of existing sites or structures. However, Crown Castle UK Ltd pointed out that very often the planning system confines the original new development to a minimum, and that this makes no allowance for future sharing between operators. They recommended better management of sites by radio site management companies. This coincided with evidence from Basingstoke and Deane Council who considered that further guidance on site and mast sharing would be useful for local planning authorities. Again, better consideration of rollout plans can take sharing into account.

5.13.A concern expressed by community groups was that the addition of antennas on existing masts to allow for sharing might result in higher emission levels. MOA pointed us in the direction of the Zmirou Report of the French Health General Directorate (2001) which did indeed confirm this. There were many other technical issues brought to our attention, and it appears that it is necessary to carry out further research to clarify this – particularly as mast sharing seems to be one way of reducing visual impact which may be at the expense of increasing potential health risks. We did not receive a wholly satisfactory response from the operators on this issue and various questions remained unanswered. For example, why is not possible to make more use of existing high structures such as pylons? To what extent do commercial considerations prevent mast and site sharing?

**R11. We recommend that further research is carried out in the field of mast and site sharing in order to better inform the Government in its formulation of policy guidance and local authorities in their dealings with applications for masts. In the meantime, we recommend that sharing solutions continue to be pursued by the industry in conjunction with local planning authorities.**

#### *Health issues*

5.14.The terms of reference for the inquiry specifically excluded the consideration of the health risks associated with mobile phone masts but we were presented with evidence that health is a material consideration in the determination of applications for masts and base stations. PPG8 states that health considerations and public concern can in principle be material considerations, but that it is for the decision-maker to determine what weight to attach to such considerations in any particular case.

5.15.We acknowledge that extensive research continues to be carried out into this matter. Dr John Cooper of the National Radiological Protection Board (NRPB) referred us to a report on the latest research in the field of the health effects of masts and base stations. Certain standards already exist which dictate the emission levels throughout the European Union. These were brought to our attention by the ODPM, Planning Sanity and others who referred to the Stewart Report, which made two important recommendations with regard to public health: a precautionary approach to the use of mobile phone technologies; and the need for the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines to be adopted in the UK. The latter are standards relating to exposure to electromagnetic frequency, and we heard evidence that different standards exist across Europe as countries are free to set their own national limits. (See discussion below on what is happening in Europe and elsewhere). The operators informed us they

had adopted the 'Ten Commitments', one of which is to provide a certification of compliance with ICNIRP public exposure guidelines.

5.16. However, we recognise that the major concern of interest groups and many individuals is the possibility that there might be a risk to health from mobile phone masts and base stations, and that it is this that is causing the conflict and delay in the consideration of applications. By far the greatest weight of evidence came from individuals, interest and residents' groups whose concerns about the siting and location of base stations and masts derived from their fear of the potential health risks. This fear was compounded by factors alluded to above, particularly with regard to their participation in the decision-making process, and it is this that is largely driving the protest and causing the conflict.

5.17. Planning Sanity and Mast Action UK stated that a major uncertainty in PPG8 is the degree of consideration decision-makers must give to the health aspects of telecommunication applications. The Radiation Research Trust referred us to an open letter to the ODPM from Emrys Jones, the Chief Planning Officer of Birmingham City Council, in which he expressed concerns about the lack of clarity in Government guidance on the health implications of telecommunications development. Advice in PPG8 (paragraphs 29 and 30) states that 'Health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval', but paragraph 30 continues '...the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health'. Emrys Jones concluded that this advice provided little help to local planning authorities, especially when there are now appeal court decisions indicating the opposite.

5.18. Case law was quoted at length by many individuals and groups who concluded that the *perception* of a risk to health is material to the consideration of applications for the erection of masts. Planning Sanity referred to Newport County Borough -v- Secretary of State for Wales, the first case in which health was accepted as a material consideration. In Yasmin Skelt -v- The First Secretary of State and Three Bridges District Council and Orange PCS Limited (September, 2003), the court ruled that the defendant's Inspector failed to adequately consider the weight to be given to the health concerns of the claimant. This has the effect of questioning the validity of the ICNIRP certificate, and suggests that the certificate in itself does not amount to an adequate consideration of health fears and concerns. Mast Action UK and the Radiation Research Trust referred to decisions made by various local authorities for whom the issue of the health effects was misunderstood.

5.19. Mast Action UK quoted further inconsistency in the interpretation of Government guidance by inspectors at appeals. For example, in the case of the application by Hutchison 3G for a mast in Havant, the local planning authority refused the application for reasons of visual amenity and public perception of danger to health. At appeal, the Inspector acknowledged that health implications were material to the decision, but he did not think that the proposal would conflict with the aim of safeguarding residents and those using facilities in the area from any harmful health effects of the development, especially as they did not provide a sufficiently strong basis to outweigh recent technical advice and current national policy. In another recent case (2004), T Mobile (UK) Ltd, Hutchison 3G UK Ltd, Orange Personal Communications Services Ltd -v- First Secretary of State and Harrogate Borough Council, the High Court held that an inspector had misinterpreted health guidance in PPG8, and upheld an appeal by the claimants, remitting the inspector's decision to the First Secretary of State for reconsideration. Notice has been given that the Secretary of State intends to appeal against this judgement on the grounds of inconsistency

with earlier judgements. This judgement creates yet more uncertainty for communities, local planning authorities and the operators.

5.20. There are many different views arising out of extensive research on the potential risks to health from the siting and location of mobile phone masts. The role of the planning system is to resolve the conflict between different land-uses, and in the case of telecommunications masts, there is strong evidence to suggest that this use of land causes conflict. It is our view that as long as the risk to health remains unknown, the planning system has a duty to reduce risk perception by adopting the precautionary approach to the siting and location of mobile phone masts. We have made recommendations to involve communities more in the process which we believe will help to reduce risk perception. However, we believe that we must reduce the risk itself, until conclusive research dictates safety limits for telecommunications installations.

**R12. We recommend that the perceived risk and fear arising out of health concerns could be reduced by the adoption of consultation methods which are aimed at involving communities and others more.**

**R13. We recommend that until much more detailed and scientifically robust information on any health effects from the use of mobile phone technologies becomes available, the precautionary approach be adopted when discussing and allowing for the siting and location of masts, in line with Sir William Stewart's recommendation in the IEGMP Report of 2000, and that this be reflected in a revised PPG 8.**

## **6. How well-equipped are local planning authorities to make a decision on the siting and location of telecommunications installations?**

### *Technical expertise*

6.1. We heard evidence from all respondents relating to the experiences of local planning authorities in dealing with plans and proposals for mobile phone masts. We recognise that the subject is complex, and that it may not be possible for all local authorities to have the necessary expertise to deal with rollout plans or applications. The LGA acknowledged that it was not possible for local planning authorities to have technical expertise in all areas, but their policy was to encourage sharing of knowledge in areas such as telecommunications. PPG8 states that local authorities have to take the technical data on trust from the operators, and this was confirmed by the LGA.

6.2. Nevertheless, they pointed to problems of trust between the operators and communities in which local authorities had to convince people that the technical specifications met with Government guidelines on health. On the controversial issue of health, Councillor Stacey, the Deputy Leader of Birmingham City Council, and representing the LGA, told us that the problem was compounded by the fact that there is no public trust in the current advice from the Government. Furthermore, they also had to take on trust the need for the masts in particular locations and any reasons why alternatives or mast sharing could not be implemented.

6.3. In addition to the technical knowledge required to understand the demands of the industry, many respondents thought that interpreting and applying the regulations required further expertise on the part of planning officers, and recommendations to simplify these are outlined above. Taken from the London Borough of Harrow survey of all English local planning authorities (2002), Planning Sanity told us that 84% of respondents supported the principle of a Local Authority Telecoms Network to exchange information, act as a local authority lobbying group, identify research needs and commission projects, liaise with technical and scientific bodies and liaise with interest groups.

6.4. These issues of technical expertise relate particularly to the smaller authorities, and it was suggested that local authorities could share expertise, although funding of such an initiative may be a problem.

**R14. We recommend that methods of providing technical advice to local planning authorities are actively sought. These might take the form of a dedicated adviser/expert employed by the Government who can act as an independent source of knowledge and expertise for local authorities and a government-sponsored website offering independent information on all issues relating to mobile phone masts. In addition, the Government should identify sources of funding for local authorities to share an expert, especially in rural areas, and investigate sources of funding for specific training for local authority planning officers who deal with telecommunications applications.**

#### *Time limits*

6.5. We heard of good practice in Basingstoke and Deane Council in its supplementary planning guidance (see above), and in Winchester Council with its dedicated sub-committee. There were varying accounts by residents' groups of the consultation regimes in different authorities. One of the main problems arises out of the staff shortages in planning departments which prevent the necessary level of pre-rollout and pre-application discussions. In addition, the LGA told us of the need for local planning authorities to meet Best Value targets in respect of planning applications and this pressure, along with the deemed consent for prior approval cases, does not give enough time for proper consultation over telecommunications. The MOA sent us evidence of a sample of local authorities, namely Perth and Kinross Council, Arun District Council, Bristol City Council and Guildford Borough Council which were not able to deal with pre-application discussions owing to various pressures. The unauthorised erection of masts, enforcement issues, and planning appeals all add further to the local planning authority's workload and conspire to create difficulties in the entire area of telecommunications.

6.6. Recommendations are already made in this report, specifically to produce a telecommunications plan, to revoke some permitted development rights, and for technical expertise to be provided, which will improve the ability of local planning authorities to deal with the applications for telecommunications installations.

#### *Fees*

6.7. The inquiry heard evidence relating to fees for local authorities, especially in the area of pre-application discussions. Despite evidence from the ODPM to tell us that fees have been increased from £35 to £190 for a prior approval application, the LGA pointed out that the level of

work undertaken is out of all proportion to their size, so costs are significant and not reflected in the current fees. At present, local planning authorities are not allowed to charge fees for pre-application discussions, but this is set to change as a result of the Planning and Compulsory Purchase Act 2004. Section 53 allows for local planning authorities to seek permission from the Secretary of State to charge for pre-application discussions in certain circumstances, and it may be that some authorities do this for telecommunications applications.

**R15. We recommend that fees are increased to reflect the resource demands on local authorities in their consideration of telecommunications applications, and that further guidance be published by the Secretary of State on the circumstances under which charges can be made for pre-application discussions.**

*Local authority as planning authority and land owner*

6.8. We also heard evidence relating to the dual role of local authorities as planning authority and landowner. In some instances, in its role as landowner, an authority had imposed a moratorium on the erection of masts on its own land and buildings. This had happened in Birmingham, and the operators expressed disquiet about this, especially when PPG8, paragraph 22, encourages local authorities to make available their own land and property for mast sites. One dilemma here, pointed out to us by Planning Sanity, is the financial benefit to land owners who allow a mast to be erected on their land. This might be very attractive to a school or church for example.

6.9. We do not think it is appropriate for a local authority or other public authority to impose moratoria on its own land. Neither do we think it is appropriate for PPG8 to suggest that local authorities should make sites available to set an example to other land owners.

**R16. We recommend that through the pre-development discussions and the production of a 'telecommunications plan', the process of searching for and allocating sites follows a more rigorous procedure, independent of ownership, to enable the location of optimum sites.**

## **7. European comparisons**

7.1. We heard evidence to suggest that other European countries adopt a different approach to the location of telecommunications installations. Although it is not the remit of this inquiry to carry out a detailed comparative investigation into practice elsewhere in Europe issues, some respondents did refer to the situation in other countries. They had observed at least four main areas where there was a difference in the approach to the siting and location of telecommunication masts: timescales for consideration of applications for masts, and more generally the necessity for special types of permission; consultation – statutory or otherwise; exclusion zones around masts; and emission levels. It is not possible to report these in detail, but we do feel that a better understanding of the situation in other countries may assist us in making recommendations to the Government. It is recognized that each country has the right to set its own standards in this regard, but it may be that there is good practice elsewhere which could be adopted in the UK.

7.2. We sought further information on this, and both the MOA and Nick Clegg MEP provided us with some European comparisons, including a report, published by the GSM Association, an

organization which represents mobile operators throughout the world. In this, a comparison is made between the timescales for the grant of permission for masts. This shows that most countries have legal requirements which differ considerably across Europe. It states that the UK's typical timescale for granting permission for a mast is 119% higher than the target timescale, but in Sweden, Belgium and France this may be as high as 500%. The legal requirement for consideration of mast applications varies from 30 days (Portugal) to 180 days (Spain and Austria). At 56 days, the UK has one of the lowest target durations.

7.3. In evidence, Mast Action UK referred to Switzerland and Sweden, suggesting that there is more consultation with local communities, where, outside the towns, residents are given the choice whether or not they want the new 3G masts. According to GSM, most countries have in place some kind of consultation arrangements, and these vary from consultation in response to complaints only (in France), or none at all (Portugal), to a legal requirement (Poland) and various mandatory requirements (Germany, Italy, Netherlands, Switzerland, UK). Public consultation of some kind appears to take place in most countries, but further work is necessary to discover the impact of different forms of consultation on the rollout of masts.

7.4. Other evidence received referred to consultation arrangements within a specified zone around the proposed mast. Mast Action UK told us that in Switzerland, neighbours living up to 300 – 750 metres from a mast can initiate the legal process, while in Austria, a third party right of appeal exists for all adjoining owners.

7.5. Further evidence from The Radiation Research Trust referred to emission levels, where in other countries, exposure limits are much lower than in the UK, and according to the GSM Association, this has prevented the rollout of 3G systems there. However, Gerard Hyland (RRT) wanted us to recommend that operators operate at the lowest possible levels and that they should show this to local authorities in addition to the ICNIRP certificate that has to be provided with applications.

7.6. Although many respondents referred to differences in approach in other European countries, there are many factors affecting the siting and location of telecommunication masts, not least of which is the planning system itself and the consultation arrangements. Different legal and political systems prevail and best practice may not be easily transferred between different countries. We have heard some evidence of different approaches in other countries, but it is not possible at this stage to draw conclusions regarding any practice that is better than in the UK.

**R17. It is recommended that further research be carried out to identify best practice in other European countries for possible application in the UK.**

## **8. How will new technology affect the siting and location of telecommunications installations in the future?**

### *Microconnect distributed antennae*

8.1. We heard evidence to suggest that the industry is rapidly changing and that new technology will shape the type, siting and location of future telecommunications systems. BT told us about their 'microconnect distributed antennae', a system of very small masts which can be disguised in

street furniture with particular application, such as in historic towns or where visual impact is more important in urban areas. The signal from the base-station equipment housed in the local BT exchange is transported to the distributed antennae over existing fibre optic networks, and radio waves are only used between the small antennae and the mobile phones. BT informed us that they want to promote this as part of a wider solution to encourage sharing by mast operators.

#### *De minimis*

8.2. Whilst technology such as this may be a solution to the issue of visual amenity, other problems may occur. Under current arrangements, such small antennae may be classed as *de minimis* and may not need any kind of permission at all, although operators are required to notify the council of their intention to carry out such works under the Electronic Communications Code. This is particularly relevant for the individuals and community groups who are concerned to know more about the health risks associated with masts. If masts do not need permission then communities are not consulted about their location. This has happened already when operators share masts, for example in Wednesbury and Sutton Coldfield, where residents told us of additional antennae being added to masts without being informed. The fear is that the addition of antennae increases emission levels, as reported above. Permitted development rights do exist for some small installations and it was the view of Basingstoke and Deane Borough Council that these should be simplified for clarity of interpretation.

#### *Growth of 3G network*

8.3. The third generation of mobile phones (3G) will demand different technology for its operation. For example, the MOA told us that the cells are smaller so more base stations will be needed; the cells expand and contract in size depending on the number of simultaneous calls being made, so the 3G cells will have to overlap more than the current 2G cells; higher radio frequencies are used; sharing with 2G systems is not possible and new sites will have to be found; the use of mobile phones and their ownership continues to grow. To further expand this network, more smaller masts can be placed in between existing cells to create additional smaller cells. All this will have an impact on the rollout of the networks.

#### *Health considerations*

8.4. Research is being carried out all the time into the impact on health of mobile phones and the telecommunications installations which support them. It may be many years before there is any conclusive evidence about the health effects, and in any event, as new technology is rolled out, the effects might be different again. Dr John Cooper of the National Radiological Protection Board drew our attention to the newest report on the effects of emission levels. Our attention was drawn to the fact that there might be a different health risk arising out of the third generation networks. Conflicting reports from the Netherlands brought to our attention by the MOA and residents in Gravesend referred us to evidence which stated, respectively, that masts do not constitute a health hazard, and that the new 3G masts may have adverse effects on health.

8.5. In addition, as noted above, case law is emerging which dictates that the health effects are a material consideration in the determination of applications for mobile phone masts.

*Private Members' legislation*

8.6.As the issue of the siting and location of masts becomes of greater significance for communities, Members of Parliament are put under more pressure from their constituents and there are three Private Members' Bills before parliament in 2004 demanding changes to planning law. If these do not succeed, there are likely to be more concerning telecommunications, along with more protests from well informed communities and interest groups trying to influence the Government to change the law.

## **9. Conclusions**

9.1.We believe that one of the main problems with regard to planning for the location of mobile phone masts is a lack of trust between communities and the Government, the industry and local authorities. We have heard a wide range of evidence, much of which represents good practice that can be built upon to find solutions to the problems that have been identified.

9.2.We have made a number of recommendations, some of which demand changes to legislation. Others build on the goodwill already established between the Government, the operators and local authorities to strengthen decision making and consultation procedures. It is our view that the proposed changes would assist in managing the conflicting objectives of protecting environmental and community interests whilst allowing the industry to maintain its competitive edge. We acknowledge that mobile phone technology will continue to evolve rapidly and it is therefore necessary to keep legislation and policy and the development of networks under constant review.

9.3.We acknowledge that joint bodies exist in other planning-related matters. In particular, our attention was drawn to the National Joint Utilities Group (NJUG), which, for example, has an agreement for the exchange of records between utilities companies.

**R18. We recommend that a formal joint body be established between the Government and the industry, with representatives from local authorities and the regulator (currently known as Ofcom) and that this body will:**

- **aim to build confidence between all parties and the community;**
- **sign a concordat regarding working practices;**
- **lay down and monitor informal processes for consultation;**
- **monitor the implementation of the Ten Commitments;**
- **monitor annual rollout plans;**
- **co-ordinate the production, through common digital mapping techniques, of an annual map on an ordnance survey base showing all mobile phone masts and base stations in the UK;**
- **sponsor joint research;**
- **produce an annual report.**

**R19. We acknowledge that changes to legislation can take some time to implement, but that in order to restore confidence in the planning system, we recommend that a ministerial statement be made as soon as possible to add strength to the requirements for consultation on pre-development and pre-application proposals for telecommunications installations.**

## 10. Summary of recommendations

- R1. We recommend that the Government implements the proposal made by Sir William Stewart in the Independent Expert Group Report on Mobile Phones that permitted development rights be revoked for the erection of all base stations.
- R2. We recommend that the provisions of the GPDO in respect of telecommunications should be comprehensively reviewed and revised using plain English, with a view to making them easier to interpret, including a review of permitted development rights on Article 1(5) land.
- R3. We recommend that the ODPM should take the lead on a comparative review of relevant law and practice across the UK in collaboration with the responsible authorities in the devolved administrations with a view to ensuring consistent best practice and a common approach where this is beneficial.
- R4. We recommend that in a revised GPDO, the Government investigates the ways in which emergency provisions can prevail, but with more stringent regulations regarding what constitutes an emergency, and with suitable penalties for operators who do not comply with these procedures. In addition, we recommend that temporary consents be reviewed.
- R5. We recommend that a revised PPG8 should specify much more clearly the arrangements for public consultation during annual pre-rollout discussions to encourage local planning authorities, in conjunction with the operators, to publicise the strategic plans for mobile phone networks.
- R6. We recommend that all local planning authorities are obliged by the Secretary of State to include a 'Telecommunications Plan' as a local development document (LDD) in their local development scheme (LDS).
- R7. We recommend that a revised PPG8 includes further guidance on pre-application discussions, with a view to allowing local planning authorities to charge for these; and that consultation and advertisement arrangements are widened to ensure that everyone who might be affected by a proposal is well informed.
- R8. We recommend that local planning authorities lay down policies and guidance in the development plan on the siting, design and appearance of telecommunications installations with the aim of minimising the visual impact of mobile phone masts and base stations.
- R9. We recommend that the ODPM and mobile phone operators undertake research into the potential of alternative design solutions for telecommunication apparatus, and their implementation to reduce visual intrusion, and that this forms the basis for best practice guidance in a revised PPG8.

- R10. We recommend that the mobile phone operators adopt common digital mapping techniques to enable a national map of the location of mobile phone masts and base stations to be produced on an ordnance survey base.**
- R11. We recommend that further research is carried out in the field of mast and site sharing in order to better inform the Government in its formulation of policy guidance and local authorities in their dealings with applications for masts. In the meantime, we recommend that sharing solutions continue to be pursued by the industry in conjunction with local planning authorities.**
- R12. We recommend that the perceived risk and fear arising out of health concerns could be reduced by the adoption of consultation methods which are aimed at involving communities and others more.**
- R13. We recommend that until much more detailed and scientifically robust information on any health effects from the use of mobile phone technologies becomes available, the precautionary approach be adopted when discussing and allowing for the siting and location of masts, in line with Sir William Stewart's recommendation in the IEGMP Report of 2000, and that this be reflected in a revised PPG 8.**
- R14. We recommend that methods of providing technical advice to local planning authorities are actively sought. These might take the form of a dedicated adviser/expert employed by the Government who can act as an independent source of knowledge and expertise for local authorities and a government-sponsored website offering independent information on all issues relating to mobile phone masts. In addition, the Government should identify sources of funding for local authorities to share an expert, especially in rural areas, and investigate sources of funding for specific training for local authority planning officers who deal with telecommunications applications.**
- R15. We recommend that fees are increased to reflect the resource demands on local authorities in their consideration of telecommunications applications, and that further guidance be published by the Secretary of State on the circumstances under which charges can be made for pre-application discussions.**
- R16. We recommend that through the pre-development discussions and the production of a 'telecommunications plan', the process of searching for and allocating sites follows a more rigorous procedure, independent of ownership, to enable the location of optimum sites.**
- R17. It is recommended that further research be carried out to identify best practice in other European countries for possible application in the UK.**
- R18. We recommend that a joint body be established between the Government and the industry, with representatives from local authorities and the regulator, (currently known as Ofcom) and that this body will:**
- aim to build confidence between all parties and the community;**

- **sign a concordat regarding working practices;**
- **lay down and monitor informal processes for consultation;**
- **monitor the implementation of the Ten Commitments;**
- **monitor annual rollout plans;**
- **co-ordinate the production, through common digital mapping techniques, of an annual map on an ordnance survey base showing all mobile phone masts and base stations in the UK;**
- **sponsor joint research.**

**R19. We acknowledge that changes to legislation can take some time to implement, but that in order to restore confidence in the planning system, we recommend that a ministerial statement be made as soon as possible to add strength to the requirements for consultation on pre-development and pre-application proposals for telecommunications installations.**

## APPENDIX 1: Terms Of Reference

12<sup>th</sup> March 2004

Press Release – All Party Parliamentary Mobile Group to hold public inquiry on planning

The All Party Parliamentary Mobile Group (apMobile) is to hold a public inquiry into planning law as it affects the location and siting of mobile phone masts.

The group is keen to hear from all interested parties and particularly on the following issues:

- How well are the current guidelines and regulations, including those in England, Wales, Scotland and Northern Ireland working?
- Should there be amendments to the regulations regarding the use and application of permitted development rights and the prior approval procedures?
- How consistently are current planning guidelines applied? Can guidelines be applied more consistently to ensure maximum transparency?
- How well are government and industry working together? Are there any good examples of best practice that can be shared?
- How well is industry working together i.e. is site sharing possible and practical?
- How well is planning guidance working around sensitive sites? Are there any best practice examples that can be shared?
- Are local authorities facilitating community consultation? Are there any examples of best practice that can be shared?
- Has the introduction of the 10 commitments improved community consultation and cooperation between industry and government?
- Is there any good practice from parts of the UK which could be shared?
- Is there any good practice in other European countries which could inform debate in the UK?

Please note the inquiry will confine itself to planning law issues and will not be inviting specific evidence relating to the impact of mobile phone masts on health.

apMobile calls upon interested parties to present written evidence to the inquiry before April 8<sup>th</sup> 2004.

Parliamentarians will hold oral evidence sessions with industry, Government, community groups and the public in the House of Commons on the 11<sup>th</sup> and 12<sup>th</sup> May.

Phil Willis MP, Chair of the All Party Parliamentary Mobile Group said:

"Planning law and associated regulations continue to confuse and frustrate both the industry and local residents. The apMobile inquiry into the state of planning law as it affects the siting of mobile phone masts will afford a much needed opportunity to present the Government with an appraisal of its current policy."

Note to Editors:

Phil Willis MP is the Liberal Democrat MP for Harrogate & Knaresborough. He is a leading campaigner on mobile communication issues in Parliament.

The All Party Parliamentary Mobile Group exists to provide a discussion forum on issues in the mobile communications sector as they impact users. The Group encourages debate through meetings both inside and outside of Parliament bringing together all relevant stakeholders including consumers, industry, parliamentarians and other organisations with an interest. The group is open to all Parliamentarians.

Enquiries about the work of apMobile:

Claire Gray, Administrative Secretariat  
Telephone: 020 7233 7377  
Fax: 020 7233 7294  
e-mail: [Claire@apmobile.org.uk](mailto:Claire@apmobile.org.uk)

Media enquiries:

John Alker, Researcher to Phil Willis MP  
Telephone: 020 7219 5709  
e-mail: [alkerj@parliament.uk](mailto:alkerj@parliament.uk)

apMobile Inquiry: Guidelines for Witnesses

The All Party Parliamentary Mobile Group announced its inquiry into "planning" on March 12<sup>th</sup> 2004. The inquiry is anxious to receive as wide a range of submissions as possible.

1. More information about apMobile can be found at <http://www.apmobile.org.uk>

2. Documents of relevance to the inquiry include:

Planning Policy Guidance 8  
[http://www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_606918.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_606918.hcsp)

The Code of Best Practice  
[http://www.odpm.gov.uk/stellent/groups/odpm\\_control/documents/contentservertemplate/odpm\\_index.hcst?n=2348&l=2](http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=2348&l=2)

3. Written submissions should be concise and address the matters raised by the inquiry concentrating on the issues with which the witness has a special interest. A typical length would be about 1,000 words. Essential statistics or further details can be added as appendices.

4. Written submissions in electronic format should be in plain text (ASCII), PDF , .DOC or .RTF format. Ideally, pages and paragraphs should be numbered. Submissions should be dated and include the name, address and telephone number of the person in the organization who is responsible for the submission.

5. It is at the inquiry's discretion to publish any evidence it receives. Any information that a witness would not wish to be considered for publication should be clearly marked.

6. The inquiry has asked for all written evidence to be submitted by 8<sup>th</sup> April 2004. The Officers of apMobile following consideration of written evidence, will decide, which organisations and individuals to invite to give oral evidence.

Hard copies of written evidence may be submitted to:

apMobile Secretariat,  
23 Palace Street,  
London  
SW1E 5HW

Electronic submissions (in plain ASCII, Adobe PDF or Microsoft Word .DOC or .RTF formats) are preferred and can be emailed to [Claire@apmobile.org.uk](mailto:Claire@apmobile.org.uk)

## **APPENDIX 2 : The Ten Commitments : MOA 2001**

1. Develop with other stakeholders, clear standards and procedures to deliver significantly improved consultation with local communities.
2. Participate in obligatory pre-rollout and pre-application consultation with local planning authorities.
3. Publish clear, transparent and accountable criteria and cross-industry agreement on site sharing, against which progress will be published regularly.
4. Establish professional development workshops on technological developments within telecommunications for local authority officers and elected members.
5. Deliver with the government, a database of information available to the public on radio base stations.
6. Assess all radio base stations for international (ICNIRP) compliance for public exposure, and produce a programme for ICNIRP compliance for all radio base stations as recommended by the Independent Expert Group on Mobile Phones.
7. Provide, as part of planning applications for radio base stations, a certification of compliance with ICNIRP public exposure guidelines.
8. Provide specific staff resources to respond to complaints and enquiries about radio base stations, within ten working days.
9. Begin financially supporting the government's independent scientific research programme on mobile communications health issues.
10. Develop standard supporting documentation for all planning submissions whether full planning or prior approval.