



Office of the  
Deputy Prime Minister  

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Creating sustainable communities

# *Review of the Code of Best Practice on Mobile Phone Network Development*

*Final Report*



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Deputy Prime Minister  

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# *Review of the Code of Best Practice on Mobile Phone Network Development*

## *Final Report*

The University of Reading

ARUP

March 2006

Office of the Deputy Prime Minister: London

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Chichester District Council

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Local Government Association

Mast Action UK

Mobile Operators Association

Orange

Three

Welsh Assembly Government

Wrexham Borough Council

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# EXECUTIVE SUMMARY

A study team from the University of Reading and Arup were commissioned by the Office of the Deputy Prime Minister (ODPM) to review the operation and effectiveness of the Code of Best Practice on Mobile Phone Network Development which was introduced in 2002. The research involved interviews with around 30 local planning authorities (LPAs), all five mobile operators, O2 Airwave (responsible for the Police TETRA network), several agents and a number of community groups or representatives with an interest in mobile network development, as well as a literature review and discussions with a Steering Group of experts.

The key findings are as follows:

- the introduction of the Code of Best Practice has significantly improved the process of planning for mobile network development, setting out what is expected of operators, agents and Local Planning Authorities (LPAs), but there remains a lack of trust;
- where operators and their agents comply with the Code, it is considered to be working well;
- LPA involvement varies considerably in terms of their compliance with the Code and involvement in planning for mobile network development: although some are actively engaging with operators and local communities, with very positive results, others are failing to meet the basic guidelines in the Code. Not all of this variation can be attributed to a lack of resources;
- beyond the very active community interest groups, the wider public has very limited awareness or knowledge of the Code or any of its components;
- community representatives feel that the Code as currently drafted does not offer them assurance that their responses to any consultation undertaken will actually be taken on board by the operators; neither is there any form of sanction for non-compliance with other elements of it;
- most sites are assessed by the Traffic Light Model (TLM) to establish an appropriate level of community consultation, but there remain questions over the appropriateness of the consultation methods identified as a result of some TLM assessments, and the extent to which consultation has the scope to influence a given application;
- three main recommendations are made:
  - the Code of Best Practice should be revised to reflect the ongoing evolution of network coverage requirements, consultation practices, design solutions and public awareness of the issues surrounding mobile network development;



- the status of the guidance should be subject to further consideration, in the context of a possible revision of PPG8: some of the elements currently contained in the Code of Best Practice might be more appropriately included in a Companion Guide to a PPS on mobile network development, while other elements may be better placed in a revised Code of Best Practice;
- the identification of an independent adjudication body should also be considered in further detail: this would deal with complaints (from any party) about the operation of the Code and the commitment of both operators and local authorities to meeting the advice and guidance in relation to the siting and design of telecommunications development.

# CHAPTER 1

## Introduction

### 1.1 Introduction

This is the final report of a study into the operation and effectiveness of the Code of Best Practice on Mobile Phone Network Development (CoBP). It presents key findings on two main aspects of the CoBP – how Local Planning Authorities (LPAs) have operated the guidance and the public perception of the effectiveness of the Code. In particular the study examined the extent to which the guidance in the Code has been implemented and how the guidance is operating in practice – both of which have informed our conclusions on how the public perceive the Code of Best Practice and its operation and informed our recommendations on changes to the scope and implementation of the CoBP. Additionally, the study aims to highlight best practice and case study examples, where appropriate.

### 1.2 Study brief

As specified in the study brief, the objectives of the study were:

- To assess how far the aims of the Code have been achieved.
- To evaluate the impact, effect and effectiveness of the Code's guidance.
- To assess the extent to which local planning authorities in England and Wales have effectively operated the guidance.
- To assess the public perception of the Code and its effectiveness, particularly in regard to consultation with local communities and their representatives.
- To gauge local planning authorities' views on the operators' performance in implementing the Code.
- To identify areas or particular issues within the Code that have been successful or have been widely or effectively implemented, and give examples of best practice or learning points that can be shared with other local authorities.
- To identify areas and issues within the Code, or not covered within the Code, that need to be addressed and to make recommendations to improve the effectiveness and implementation.
- To make recommendations for change that would facilitate better community consultation.

## 1.3 Background to study

Mobile operators installing equipment as part of the development of their networks are subject to two distinct regulatory frameworks:

- Telecommunications regulation, in particular the Electronic Communications Code; and
- Planning legislation.

The Electronic Communications Code sets out the rights and obligations of network operators in relation to the installation of equipment in public and private places for the provision of services. In this regard, the Code allows operators access to permitted development rights (PDR) under planning legislation.

Figures from the Mobile Operators Association (MOA)<sup>1</sup> indicate in 2004, approximately one third (34%) of all telecommunication base station development required planning permission, roughly 36% was within the category of permitted development that requires ‘prior approval’ under Part 24 of the General Permitted Development Order (GPDO) and approximately 30% was ‘licence notification’ under permitted development rights. (The ‘licence notification’ figure includes upgrades of existing base stations as well as new development).

In England and Wales, the statutory position is reinforced by guidance on the policies that operators and LPAs should adopt in facilitating network development. For telecommunications in England, the policy guidelines are contained in Planning Policy Guidelines Note 8 (PPG8) dated August 2001. In Wales the guidelines are contained in Planning Policy Wales (March 2002), sections 12.11-12.13, supplemented by Technical Advice Note (Wales) 19, ‘Telecommunications’ (August 2002). These guidelines have been reinforced by a voluntary Code of Best Practice on Mobile Phone Network Development agreed between Government, the mobile operators and the LGA, which was published in November 2002. The CoBP provides clear and practical advice to ensure the delivery of better and more effective communication and consultation between operators, local authorities and local people. The CoBP contains the Mobile Operators’ Ten Commitments to Siting Best Practice (predating the Code itself), which were designed to improve their practices and procedures.

## 1.4 Overview of the approach and methodology

The study has been undertaken in four phases:

Phase 1: literature review and issue identification from interviews with umbrella organisations.

Phase 2: telephone interviews with a selection of local planning authorities, representatives from mobile phone companies and their agents and local community groups.

<sup>1</sup> Direct correspondence from MOA to report authors.

Phase 3: case studies that investigate the use and impact of the code of practice. Again, a range of local authority contexts and ‘best practice’ examples were covered.

Phase 4: identification and ‘testing’ of recommendations to improve the effectiveness and implementation of the Code of Best Practice – including a Focus Group meeting for the purposes of discussing draft recommendations.

### 1.4.1 Phase 1 – Literature Review

The overall aim of this phase was to structure and direct the research through raising issues on the use and impact of the Code. This phase of the research had three related parts. Firstly, a range of recent relevant research and other literature, which highlighted the extensive range of issues of relevance to the use and impact of the CoBP, was identified and reviewed. The most significant were the following:

- Nathaniel Lichfield review of the General Permitted Development Order<sup>2</sup>
- All Party Parliamentary Group report on mobile phone masts<sup>3</sup>
- Government response to the All Party Parliamentary Group report<sup>4</sup>
- Deloitte and Touche research (two separate studies)<sup>5,6</sup>
- MORI work on attitudes of Local Planning Authorities<sup>7</sup>

Stage two of this phase involved discussions with selected stakeholders:

- DTI, Department of Health and Home Office (joint meeting)
- Welsh Assembly Government
- The Planning Inspectorate
- Local Government Association

<sup>2</sup> Nathaniel Litchfield (September 2003) Review of Permitted Development Rights; available online at [http://www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_023856.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_023856.pdf)

<sup>3</sup> All Party Parliamentary Mobile Group (July 2004) Mobile Phone Masts – Report of an Inquiry by the All Party Mobile Group; available online at <http://www.apmobile.org.uk/apmobile%20rpt%203.pdf>

<sup>4</sup> Statement by Keith Hill MP on 20th July 2004; available online at [http://www.odpm.gov.uk/stellent/groups/odpm\\_about/documents/page/odpm\\_about\\_029815.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_about/documents/page/odpm_about_029815.hcsp)

<sup>5</sup> Deloitte and Touche for MOA (July 2003) *Implementation Review of the Ten Commitments to Best Siting Practice for the UK Mobile Industry*; available online at [http://www.mobilemastinfo.com/planning/Implementation\\_Review\\_of\\_the\\_Ten\\_Commitments.pdf](http://www.mobilemastinfo.com/planning/Implementation_Review_of_the_Ten_Commitments.pdf)

<sup>6</sup> Deloitte and Touche for MOA (January 2005) *Implementation of the Ten Commitments to Best Siting Practice for the UK Mobile Industry*; available online at [http://www.mobilemastinfo.com/planning/deloitte\\_240105.pdf](http://www.mobilemastinfo.com/planning/deloitte_240105.pdf)

<sup>7</sup> MORI for MOA (2003) Base Station Planners Research; available online at [http://www.mobilemastinfo.com/planning/MORI\\_Research\\_Results.pdf](http://www.mobilemastinfo.com/planning/MORI_Research_Results.pdf)

- Mobile Operators' Association (MOA)
- Mast Action
- Mast Sanity (telephone interview)

Stage three of this phase included an interrogation of appeals data, decision letters arising from planning appeals in England and Wales and on the use and impact of the CoBP, and a review of relevant Times Law Reports.

Phase 1 concluded with a report to the Steering Group which considered a number of issues regarding the current operation and effectiveness of the Code of Practice – with a view to identifying matters requiring further study and examination in the next stages of the research. In detail the report considered the voluntary nature of the code; the role of agents; annual roll out discussions and plans; pre-application discussions and consultation; the form and content of prior approval and 'full' application submissions; the influence of the CoBP on the determination of applications by local planning authorities; the Ten Commitments; the Traffic Light Model and design and amenity issues.

#### 1.4.2 Phase 2 – The Use and Impact of the CoBP

The objective of this phase was to undertake a representative telephone survey of approximately thirty LPAs in order to identify the key issues faced by them in dealing with mobile phone network applications. The surveys focused on four principal issues:

- LPA views on the scope and effectiveness of the current statutory framework for telecommunication development.
- The perceived role of the Local Authority in the telecommunications decision making process.
- The perceived (and actual) role of the operators and their 'compliance' with current procedures and the Ten Commitments.
- The effectiveness of the CoBP.

Structured interviews were undertaken with LPAs from a range of geographical and 'development' contexts:

##### **'Urban' Authorities**

- Salford
- Corby
- Plymouth
- Newcastle-upon-Tyne
- Leeds
- Lewisham
- Birmingham
- Brentwood
- Harrow

**‘Historic Townscape’ Authorities**

- Lancaster
- Durham
- Stratford-upon-Avon
- Nottingham
- Cambridge
- Mendip
- Canterbury
- Richmond
- York

**‘Rural’ Authorities**

- NW Leicestershire
- East Riding
- Penwith
- Arun
- Blaenau Gwent

**National Parks and other ‘Valued’ Landscapes**

- Lake District NPA
- Wear Valley
- Dartmoor NPA
- Wealden District
- Denbighshire
- Swansea

Interviews were also conducted with the following parties:

**Operators and Agents**

- Orange & Alder King Ltd
- Three & AAP Ltd
- O2 UK
- O2 Airwave
- T-Mobile
- Vodafone

**Community Groups and Stakeholder Representatives**

- Sutton Coldfield Residents Against Masts (SCRAM)
- Witton Against Radiation Masts (WARM)
- Protect Sussex From Tetra
- Ellen Carlin (Durham)
- Simon Preedy (Basingstoke)
- Gower Residents Against Mobile Masts (GRAMM)

**1.4.3 Phase 3 – Case Studies**

This stage developed and examined in greater detail some of the key issues identified in the previous two phases through further consultation (‘case study examples’) with a limited number of LPAs, mobile operators and their agents, community groups and representative individuals. In undertaking the case studies, the consultant team sought to triangulate the interviews in order to obtain a comprehensive ‘picture’ of the a range of issues including ‘good practice examples’, the practical use of the Traffic Light Model, the extent to which the local community was being engaged at the ‘front end’ of the process and the degree to which both LPAs and operators engaged in roll out and pre-application discussions. These findings are presented in this report as separate ‘case study boxes’ under the relevant topic headings.

#### 1.4.4 Phase 4 – Focus Group, Testing and Final Reporting

Interim findings and draft recommendations from Phase 3 were tested in a stakeholder focus group meeting. Representatives attending this meeting included those from LPAs, Office of the Deputy Prime Minister (ODPM), operators and local community groups. Their comments have subsequently informed the preparation of this final report.

### 1.5 Report structure

Section 2 discusses the role and ‘value’ of roll out plans, and the degree to which LPAs and operators are actively engaged in this important initial stage of the planning process.

Section 3 considers the extent of pre-application discussions between LPAs and operators, and the extent to which LPAs are currently engaged.

Section 4 discusses the issues surrounding pre-application consultation between operators/agents and local communities, including the Traffic Light Model – its use (both perceived and actual) and the form and success of community engagement.

Section 5 discusses the information that is submitted in support of proposals, including information relating to health, and the assessment and justification of alternative sites.

Section 6 considers design issues.

Section 7 considers the status of the Code of Best Practice and explores the implications of any change in the future.

Section 8 sets out the team’s key conclusions and recommendations.

# CHAPTER 2

## Roll out plans

### 2.1 Study findings

#### 2.1.1 Roll out plans and LPA engagement

Local authorities and operators both felt that the annual submission of roll out plans was an important and worthwhile part of the CoBP. Although 85% of LPAs interviewed stated that they were invited to discuss roll out plans by individual operators, only 37% indicated that they actively took up these invitations. LPAs attributed this to a lack of resources and the pressure from performance targets in other areas, pushing telecommunications down their lists of priorities. However, the recent Deloitte and Touche report<sup>8</sup> did highlight an increase the number of authorities that participated in roll out discussions over the past twelve months. Deloitte and Touche reported that “as part of the annual review [rollout] process the operators offer to meet the planning officers either alone or with other operators. Interviewed planning officers informed Deloitte that these offers have been increasingly taken up” (2005; p13).

Acknowledged receipt of operators’ roll out plans	19.1%
Sent substantive/detailed responses to operators’ roll out plans	6.0%
Accepted operators’ requests to meet and discuss roll out plans	3.8%

While generally welcoming the roll out plans submitted to them, LPAs did raise some concerns regarding the variation in the information provided by different operators (e.g. levels of detail).

Some LPAs felt that roll out plans were not very informative and it was difficult to have meaningful discussions about such wide search areas: site-specific pre-application discussions were considered to be far more useful. Notwithstanding this, over half of LPAs interviewed considered that the opportunity to raise potential problems at this early stage was valuable. In such authorities there is a view that the LPA can steer the operator to the most suitable type of site profile and this gives the opportunity to select sites on a criteria-led basis. The operators also welcomed roll out meetings as an opportunity to discuss the network development process with key officers.

Operators were keen to continue roll out planning with LPAs, and some were willing to consider improvements to the process. Part of the problem of making the best use of roll out plans related to high staff turnover and a lack of appreciation on the part of LPAs that their input at this stage of the process was more likely to lead to changes in operators’ plans.

<sup>8</sup> Deloitte and Touche for MOA (January 2005): Implementation of the Ten Commitments to Best Siting Practice for the UK Mobile Industry.

<sup>9</sup> Source: MOA internal data.



### **Case study 2.1: Roll out meetings in Durham**

Whilst the City Council actively participates in roll out meetings with operators, it considers that roll out meeting arrangements can sometimes be fragmented – thereby giving the impression of a ‘dislocated process’. It is their experience that roll out meetings have sometimes tended to be held with only one representative from the operator rather than including site finders, network planners, a planning consultant etc. This has led to situations where representatives have not been fully aware of which of their own sites have consent or are in the process of being determined or have been subject to a refusal notice. Similarly, ‘without prejudice’ officer advice has sometimes been misinterpreted by the operator as informal ‘approval’ for an application to be submitted without reflecting the feedback from planning officers at roll out meetings.

## **2.1.2 Post roll out involvement of wider stakeholders**

Once the roll out meeting has taken place, some LPAs hold post-roll out seminars for Councillors and interested members of the public, with a wide agenda and attendance. Some case study examples are discussed below.

### **Case study 2.2: Telecommunications Local Forum, Cambridge City Council**

The City Council held a seminar on Mobile Network development to bring together operators, different council departments and local community representatives. One result of the seminar has been the establishment of a regular Local Forum which has met twice since 2004.

Attendees have numbered up to 12, and include councillors and a range of officers including the DC Manager and Head of Property. There has been increasing representation from the operators, although only one community representative has attended at both meetings.

The agenda purposely excludes discussion of specific sites or applications so as to encourage a broader debate of the main issues: for instance the implications of latest case law, production of local design guidance, and increased monitoring particularly of multiple sites.

All the attendees at the Forum are finding it a useful means of increasing understanding of issues, identifying information needs, and clarifying criteria for the selection of sites.

### **Case study 2.3: Post roll out meetings, Basingstoke & Deane Borough Council**

B&DBC hold annual public meetings, following the private roll out discussion meeting between the Council officers and the operators, to which the wider community is invited. This provides an opportunity for operators to present their roll out plans to the public and to answer directly any questions arising from their presentation. The 2004-05 meeting was attended by approximately 30 people, including Ward Councillors and community representatives. It also provided an opportunity for the officers to present telecommunications application statistics for the previous year and to update the public on the council's policy on mobile mast development on council property.

## **2.2 Analysis**

Roll out plans provide a real opportunity for LPAs to highlight potential issues and prepare for problematic proposals. Operators felt that the roll out stage could be developed further and some of the current problems overcome. As a consequence of the Deloitte and Touche report the operators have agreed to try to move to a joint electronic roll out plan dissemination, in a common format that can be linked to LPAs' geographic information systems.

Even before such a streamlined approach can be prepared, however, the process would be more efficient if a single date could be identified as the national deadline for submission of roll out plans. With a standard submission date (such as 31st October, for example), the industry would have a definite date to work towards and by receiving all the information at once, LPAs would find it easier to analyse. They would also save time chasing up late submissions.

## **2.3 Conclusions and recommendations**

Roll out discussions should continue, as should the ongoing work to improve the processes and secure more meaningful engagement. Further consideration of joint dissemination and formats is also recommended.

A two-stage process (LPA-operator discussions, followed by wider open meetings) is recommended. After the roll out meeting has been held with operators, LPAs should give consideration to making the second stage into a wider seminar, involving all parties (including operators and community groups), in order to update knowledge on the subjects such as mobile technology, recent research and developments in design. This wider seminar might be around 6 weeks after the meeting with operators. In some geographical contexts (such as very dense urban areas) the number of areas identified in roll out plans may mean that a single seminar would become very lengthy; in such cases, it may be more appropriate for LPAs to arrange seminars on a Ward or Planning Committee Area basis.

## CHAPTER 3

### Pre-application discussion

#### 3.1 Study findings

A positive approach can be of value to both applicants and planning authorities, and is advocated by ODPM as good practice. In interviews, 78% of LPAs considered that pre-application discussions with agents or operators were of value in the planning process, especially where there were complex issues that needed to be considered.

Pre-application discussions are not only invaluable in highlighting (and resolving) potential public objections to a proposal but may also deliver time and money savings for the operator/developer by avoiding the need to change plans that have reached an advanced stage. Such discussions can be used to draw the operators' attention to all the relevant regulations and local authority policies and to identify features of the proposed installation which would or would not be acceptable.

Current government policy encourages mast and site sharing by operators. Where LPAs hold a register of masts (such as Basingstoke and Deane BC), planning officers consider this to be helpful in their discussions with operators about a preferable location for new installations. The existing national 'SiteFinder' Mobile Phone Base Station Database of mobile phone bases stations and emissions<sup>10</sup> currently includes only masts which are in operation.

The form of pre-application discussions may often be a matter for the judgement of the planning officer and may take the form of informal telephone conversations between the officer and an agent or more formal meetings with the agent/operator. Of the LPAs interviewed by the study team in the course of this research, around 75% considered that pre-application discussions were of benefit in relation to telecommunications development.

Some authorities (e.g. Basingstoke & Deane – see case study 3.2 below) have found it useful to prepare Supplementary Planning Guidance on telecommunications. This is made available to prospective developers and other interested parties, in order to answer many of the common questions and set out the LPA's requirements regarding submissions for development, thereby maximising the effectiveness of pre-application discussions by enabling officers and applicants to focus on the site-specific issues.

#### **Case study 3.1: Pre-application discussion in Durham**

The City Council positively encourages pre-application discussions and provides informal advice on permitted development installations that require prior approval and telecommunication development that requires planning permission. However, the Council emphasises that advice needs to be sought in a meaningful way.

In some instances, operators have been pre-emptive in consulting with the local community which, whilst alerting the Council to potential issues, has sometimes given the impression that consultation is being carried out on an application that has already been submitted and may unnecessarily alert the community of proposed installations that would otherwise have been subject to 'change' if advice had been properly sought from the Council.

<sup>10</sup> SiteFinder database is available online at: <http://www.sitefinder.radio.gov.uk/>

### **Case study 3.2: Supplementary Planning Guidance (SPG) – Basingstoke & Deane Borough Council**

In April 2004, Basingstoke & Deane published their SPG on Telecommunications Development. This had grown out of a recognition that better-informed applicants submitted better applications, which resulted in efficiency savings and higher quality planning outcomes.

The SPG covers relevant legislation; the planning policy context; the Council's requirements regarding submissions; consultation practices; and the siting and appearance of telecommunications equipment in the Borough.

### **Case study 3.3: Risk inherent in non-compliance with the Code of Best Practice**

As there is at present no independent procedure by which people who feel that an operator or agent has not met their commitments in the CoBP it is difficult to identify such cases and ascribe fault. However, a case in Leeds was brought to our attention where an agent had sought to install a mast that was not included in the roll out plan and was not notified to the local planning authority by way of pre-application discussions or notification to local residents. It was the agent's misfortune that that the location of the mast on a retaining wall was close to a local school and local residents were quick to notify the local planning authority, picket the site and involve the local MP. Adverse local press coverage followed. Had the agent followed the CoBP, the local planning authority would have been able to help identify constraints and likely local reaction. In this case the mast was removed and relocated to another location away from the school and residents.

## **3.2 Analysis**

Findings from the case studies, LPA and operator interviews provided overwhelming evidence of the positive value in the pre-application process. Benefits of pre-application discussions that have been identified included:

- The opportunity to identify problems at an early stage of the application/prior approval process.
- The ability of the LPA to influence site selection and site design.
- The opportunity for the LPA to identify the potential scope of pre-application consultation to be carried out by the Operator and to identify relevant community/resident groups.
- The determination process can be less problematic for the LPA if advice is taken into account and acted upon by the agent/operator.
- Proposals can better reflect planning objectives and policies when operators amend former designs and consider alternatives.

Whilst 78% of those LPAs interviewed generally acknowledged the value of active participation at the 'pre-application' stage, it was acknowledged that limited time and resources did not always allow them to undertake meaningful discussions on prior approvals and planning permissions.

Anecdotal evidence suggests that some LPAs do not offer pre-application discussion on any planning matters, including those in relation to telecommunication development. This is one of the activities measured by Best Value indicator BV205, although the data cannot be disaggregated to a point where the proportion of LPAs declining to provide pre-application advice can be identified.

Operators and their agents expressed their commitment to the principle of pre-application discussions with LPAs, although operators generally noted an extremely low take-up in LPA engagement at this stage of the process, even for site-specific discussions. Where pre-application discussion and consultation is lacking, there are a number of implications for the process of determining telecomm-related applications and prior approvals:

- A lack of opportunity for LPAs to comment on or influence the Traffic Light Model Rating given by agents to potential sites – thereby limiting their capacity to influence the scope and form of pre-application consultation
- A lack of opportunity for LPAs to influence decisions by operators at an early stage – thereby increasing the pressure for LPAs to determine the application within the 8 weeks target whilst also seeking revisions
- Issues such as design may not be explored until an application/prior approval has been submitted and consulted upon

### **3.3 Conclusions and recommendations**

The key conclusions and recommendations are as follows:

- There should be a continued emphasis on consultation between LPAs and applicants prior to the submission of applications for full permission or prior approval.
- Greater engagement in pre-application discussion by LPA officers should be encouraged, whilst recognising the time and resource implications. There is a need for engagement by officers who are familiar with the telecommunications process.
- LPAs should consider the preparation of a Supplementary Planning Document (SPD) on telecommunications, where this would be of benefit. Where there is SPD in place, relatively junior staff should be sufficiently well briefed to engage in pre-application discussions without always requiring the involvement of senior colleagues. Where resources are limited, it may be more appropriate for senior officers to concentrate on roll out discussions.
- When submitting applications for prior approval or full planning permission, applicants should include a summary of any pre-application discussions and their response to LPA informal advice.
- Up-to-date mast registers should be held by all LPAs, to facilitate discussion between LPAs and operators. These should also be made available on the LPA's website.

## CHAPTER 4

# Pre-application consultation and the Traffic Light Model

### 4.1 Study findings

In a press announcement on 9th December 2004, planning Minister Keith Hill stated that “[people] are not against masts in principle, but rather masts going up without any sense of public consultation. People have a right to know where masts are located. ... Operators, local councils and the local community should be discussing telecommunications developments at the earliest stage possible in the planning process”. (ODPM News Release 2004/0308)<sup>11</sup>

The Government’s planning reform agenda actively encourages community consultation on a wider range of applications prior to submission. One of the intended benefits of the Code was its inclusive approach, and the opportunities it offered for wider community involvement alongside the statutory requirements that are set out in primary legislation and regulations. Among the LPAs interviewed for the current study, 78% considered that pre-application community consultation by operators was beneficial, although there were some reservations about the impacts if this process was not managed carefully. Some noted examples where pre-application communication from operators or their agents had led the public to contact the LPA with questions which they were ill-prepared to answer at the time.

The Traffic Light Model (TLM) is the approach set out by the Code to help guide the level of public consultation undertaken by operators and their agents prior to the submission of an application for prior approval or full planning permission. Sites are rated green, amber or red and a consultation strategy is prepared to set out the level of consultation to be carried out by the operator in relation to a proposal. This is in addition to the consultation which the LPA is required to undertake once the application has been submitted. The TLM elicited a range of responses from all those with an interest in mast development and the CoBP.

Of the LPAs interviewed in the course of this research, only 33% reported that they discussed TLM ratings with operators, and only two specifically reported that they challenged operators on their proposed colour ratings, commonly accepting an operator’s assessment rather than engaging them in discussions.

All the community groups interviewed were sceptical about the use of the TLM, feeling that it gave operators or their agents only a veneer of public involvement. However, the broad approach of trying to link the level of public involvement to the identification of issues was supported. Of more significance to these groups was the opportunity for LPAs to re-assess the initial TLM classification in pre-application discussions with operators or agents.

11 Available online at: [http://www.odpm.gov.uk/pns/displaypn.cgi?pn\\_id=2004\\_0308](http://www.odpm.gov.uk/pns/displaypn.cgi?pn_id=2004_0308)

On the whole, local authorities felt that while the TLM is an attempt to explore a range of issues and come to a broad approach to public involvement, it is overcomplicated. It is widely understood by operators and by those LPAs that have prioritised telecommunications issues, but it can appear daunting to the general public. Surprisingly, two LPA officers interviewed appeared not to understand the aim of the TLM, suggesting that it was an indicator of the ‘developability’ of a site, rather than the recommended scope of consultation required.

There was some resentment on the part of LPAs that the TLM raised expectations through a misunderstanding on the part of the public concerning their role: were they being consulted or notified? Such questions tended to be directed at the LPA, as the regulatory body, and not the operators. Confusion was compounded when the LPA undertook further consultation after receipt of the application.

The MOA provided a briefing note to the study team in response to preliminary analysis of the issues and possibilities for model development. The broad thrust of this note was that the TLM is flexible, well understood and unlikely to be improved upon. They also highlighted the recent Deloitte and Touche research (January 2005) that found 99% of proposals were given a traffic light rating. The Deloitte and Touche research suggested that 67% of TLM ratings were re-appraised following consultation with LPAs<sup>12</sup> although it is not reported whether this re-appraisal resulted in a change to the rating or consultation strategy. The Deloitte report also found a lack of evidence that the Traffic Light Rating had been reached through a systematic consideration of the community and planning issues, and reported that across the UK, the LPA case officers’ views were recorded in a consultation plan for only 51% of proposals.

#### **Case study 4.1: pre-application community consultation can influence siting and design**

On 9th March 2005, the Planning Committee of Basingstoke & Deane Borough Council unanimously approved a prior approval application for an 11.8m monopole mast at the edge of a playing field, 150m from the nearest residential properties in the community of Hatch Warren.

Following the satisfactory demonstration of a need for a mast in the area, the agent and operator had looked at a range of sites in discussion with local residents. It is reported that residents discounted some sites as being too close to housing, and the operator discounted some because they were outside of their cell search area.

A site was identified and the subsequent application received only two objections from individuals within this community of over 8,000 residents. The head teacher and governors of the local primary school, less than 100m away, confirmed that they would accept the proposal. Similarly, the local Community Association, which meets 200 metres away, did not object.

The case officer’s report to committee, recommending approval, stated that “significant and prolonged community engagement and consultation has been carried out by the applicant in relation to this proposal prior to the submission of this formal application. As such the exact details of the siting and design of the proposal have been altered at various stages of this process to address the concerns and issues raised by local residents with regard to the installation...” Although it was acknowledged that this could not be a material consideration, the unanimous decision of the planning committee demonstrates the value of pre-application consultation in this case.

12 Deloitte and Touche (January 2005) p41.



**Case study 4.2: Differing operator, officer and community views on optimum siting**

Operators are encouraged by the Code to consult with planning officers and local communities in identifying the optimum locations for their installations. However, it should not be assumed that LPA officer views, informed by the policy framework, will necessarily match those of the local community.

In an example from Wales, an operator identified a site as 'red' and undertook pre-application consultation with community representatives. This led them to identify a location for a base station which was acceptable to local residents and the operator. However, when this was presented to the LPA officer, it became apparent that the location was contrary to local plan policy, and detailed rounds of further negotiation were required in order to reach a solution which was acceptable to all three parties.

Where the local community view differs significantly from the local planning policy framework, the onus is on the LPA to resolve the matter. In such cases it may be of benefit to hold tripartite discussions between the LPA, the applicant and recognised community representatives in order to identify an acceptable solution.

## 4.2 Analysis

The Traffic Light Model (TLM) was developed at a time when applications had to be determined within 28 days rather than 56 days, and was intended to give a 'head start' on consultation prior to the submission date. Whilst there is no longer such a pressing timescale to determine telecommunication applications, operators consider that the Traffic Light Model (TLM) continues to be a useful tool to help identify the extent of appropriate pre-application consultation to be carried out, and appropriate forms of community engagement. However, they noted that there was often a low response rate when letters were sent to Ward members. It has been suggested that Ward members often choose not to engage in discussions at the pre-application stage, but prefer to wait until an application has been submitted for determination. This may, in part, be explained by the increasing prominence of guidance in relation to probity and the role of councillors and officers in the planning process<sup>13</sup>. However, it must be recognised that discussions between an operator and a council prior to the submission of an application can be of considerable benefit to both parties and if properly and transparently undertaken can retain the probity of the LPA in the decision making process.

Further consideration could also be given to methods of contacting local communities, in the event that ward members are not acting as 'gatekeepers'. Further contact information from LPAs might be of assistance in identifying more appropriate consultees.

Under the Code of Best Practice, LPAs are invited to comment on operators' TLM assessments for each site. In interview, one LPA suggested that where an operator has assessed a site as 'green', the LPA may be less likely to review the rating than if it were already amber or red. Consequently some assessments which may merit a review currently go unchallenged, with the result that minimal levels of consultation are wrongly specified in the operator's consultation plan. If LPAs were encouraged to review every TLM assessment, and reply in writing to confirm or amend an operator's rating, this might serve to reduce the likelihood of underestimations in the future. It would not be necessary for the LPA to recalculate the points score for each site, but simply to apply common sense and local knowledge to assess whether the given rating should be revised.

13 Local Government Association (2002) Probity in Planning (update) – the role of councillors and officers.



Experiences of pre-application consultation with communities were not considered to be universally positive. Of the LPAs interviewed, 19% were of the view that consultation with the wider community should only be undertaken at the application stage, and that this should be led by the authorities themselves rather than the operators. Community representatives commented that they felt their responses to consultation were not always fully taken into account when applications were finally submitted.

There is little doubt that the TLM is imperfect though in such a process no approach would meet the requirements of all parties. Familiarity with its operation has grown and operators now consider that their agents and LPAs generally have a good understanding. Its use has also increased significantly over the past two years, according to the Deloitte and Touche study (2005). Nevertheless, there are three areas that could be further developed and/or revised:

- **Colours.** The TLM is categorised by three colours (green, amber and red). There is a widespread perception among community groups that ‘red equals danger’, and this is acknowledged by the operators. In retrospect, the use of the three colours (especially red) is unfortunate, given the general concern about health: the message about consultation tends to be masked by confusion over perceptions of danger.
- **Weighting and scales.** To achieve a ‘red’ classification under the TLM requires a site to score 27 out of a maximum of 30 points for Community Issues, though only 21 out of 30 for Planning and Environmental Issues. The choice of scales and classifications may reflect actual cases (i.e. may have been reached through analysis of previous experiences) but a re-assessment of the ratings would seem worthwhile, taking on board the evolution in experiences and expectations from a range of interests. It is widely acknowledged that public interest in mobile phone mast development has grown in recent years and this should be better reflected by the TLM.
- **Levels and instruments of involvement.** There are two broad issues here. The first relates to the level of involvement linked to the model (e.g., a ‘green’ classification gives rise to a particular level of involvement) and the second to the instruments of involvement (e.g., letters, ‘drop-in’ session, etc.). On the first issue, even in the relatively short period since the CoBP was produced there has been a growth in the expectation of involvement in public decisions on the part of the public. The ‘bar has been raised’ on involvement, particularly with greater availability of electronic information, and the TLM will need to be revisited to reflect growing public awareness of the issues. Second, a number of operators and some local authorities felt that the techniques of public involvement that were linked to the TLM needed to be revisited. While the TLM was always envisaged to identify a minimum level of contact, different operators have developed their own particular approaches. Equally, some methods such as providing leaflets in community centres were no longer felt to be effective.

A recent research report on Statements of Community Involvement and planning applications<sup>14</sup> demonstrates the varying approaches to wider community involvement on planning applications and lists a number of case study examples of potential methods of community consultation. Whilst some of the examples provided (such as 'Enquiry by Design' and 'Planning for Real' exercises) may not be appropriate for pre-application consultation on telecommunication development, the research highlights some alternative consultation methods that may be appropriate – such as surgeries (as a way of engaging the wider community on a planning application of significance) and workshops (which can form part of a continuing process of community involvement and may bring all possible groups together at the draft proposal stage). Further consideration of different methods for positively engaging with the wider community at an early stage of the process may also help to address criticism that pre-application consultation and community involvement is sometimes carried out on an ad-hoc basis with limited opportunity for negotiation and revision.

### 4.3 Conclusions and recommendations

The broad process of undertaking pre-application consultation is one that has brought significant improvement in consultation and information provision, compared to the period before the introduction of the Code. However, the TLM needs revisiting in the light of experience. We feel that two themes should underpin this review:

- **Evolution.** While a range of options and alternatives are possible, the identification and quantification of issues and the subsequent linkage to forms of consultation should be maintained. Considerable knowledge capital has been built up around the model and this should not be lost. Nevertheless, while any revision should take the TLM as its starting point this should not preclude its replacement with a model that is more 'fit for purpose'. For example, the range of consultation techniques should be updated to reflect emerging good practice.
- **Inclusion.** The TLM includes a range of issues and techniques that were developed by the operators, with other bodies invited to respond afterwards. Any revision should be an inclusive process with a range of interests and bodies involved in all stages, to identify different methods of relevant consultation. The review should be guided by the assumption that the TLM needs to meet higher expectations of public involvement and be clearer about the nature of involvement and whether the public is being notified or consulted.

In addition to these changes to the TLM, the following recommendations relate to community consultation more widely:

- Update the standardised letters set out in the Code, to facilitate different types of community engagement and greater clarification on the 'status' of the consultation being carried out.
- Where groups are willing, make resident/community group information more readily available on LPA websites to facilitate community engagement by operators.
- Applicants should include in their application a summary table of comments received from consultees, along with a response to those comments and copies of the actual letters.

<sup>14</sup> ODPM (December 2005) Statements of Community Involvement and Planning Applications; available online at [http://www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_033580.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_033580.pdf)

## CHAPTER 5

### Supporting information

#### 5.1 Study findings

The information supplied with planning applications needs to be readily understood by a range of users including planning officers, Members and the general public.

##### 5.1.1 Improvement since the Code was implemented

All the LPA interviews suggested that since the introduction of the Code of Best Practice, the quality of submissions has improved. Less time is now spent chasing requests for additional information after applications are submitted, a significant efficiency saving for both LPAs and operators. Of the LPAs interviewed, 63% stated that the quality of information is now sufficient to determine submissions. All the LPAs interviewed reported that, where they did have to request further information from applicants, this was provided.

The CoBP (Annex F) includes a template of information that operators are expected to include with all applications for planning permission and prior approvals (the Supplementary Information Template). Operators and agents say they supply this information, although it is not always presented in the same format. In Wales, the GDPO and GPDO go further than the English version by making submission of an ICNIRP certificate mandatory (see section 5.1.3 below for further details on ICNIRP).

Some planning officers reported that they received very large volumes of general information with some applications, including the operators' mission statements and standardised text on how the mobile network functions. Several felt that this was superfluous, as they are by now familiar with the principles of mobile network development. However, it was also argued that this generic information can be useful in answering some of the public's questions when an application is submitted.

##### 5.1.2 Alternative sites

According to figures collated for the MOA<sup>15</sup>, the second most common reason for refusal of planning permission is that alternative sites were not fully considered. The current information template requires operators or agents to give the briefest of explanations why alternative sites were dismissed: 'site provider'; 'redevelopment not possible'; 'technical difficulties'; 'planning' or 'other'. This may be backed up with a planning supporting statement or similar, but this level of detail is not currently required by the Code. Operators suggested that they already collect a considerable amount of data on alternative sites, although this is not always passed on with the application.

The case study overleaf demonstrates an approach taken by one applicant in the Birmingham area.

<sup>15</sup> Source: direct communication from MOA.

<b>Case study 5.1: Treatment of alternative sites</b>		
This is an application (received by Birmingham City Council) which builds on the current CoBP Supplementary Information Template on site selection. The reasons for discounting alternative sites are set out in plain English and six alternatives are included, although there are no grid references.		
<b>Site</b>	<b>Site name &amp; address</b>	<b>Reason for not choosing</b>
RT [roof top]	[provided]	SP – no commitment from site provider to utilise rooftop
GF [greenfield] – various opportunities	[provided]	Site is owned by City Council who have a moratorium in force
ETS [named operator, existing site]	[provided]	Failed due to Council's unwillingness to allow current occupant to sublet, due to moratorium
ETS [named operator, existing site]	[provided]	SP – site share with [named operator] not possible due to lack of space for compound extension. Would result in loss of car parking space which will not be agreed by the landowner
GF [greenfield site]	[provided]	T [tech difficulties] and SP – site provider not interested. Also within close proximity of residential dwellings. As this structure lies at the bottom of the hill a taller structure would be required
GF [as above]	[provided]	T & SP – site provider not interested. This site is situated in close proximity to the above option also at the bottom of the hill. There is a school nearby

The Code encourages operators to engage community representatives, planning officers or even Councillors in site selection (see section 4.2 above). The involvement of Councillors is sometimes seen as desirable, especially in areas where there are particular environmental, (political) or social sensitivities. However, it can become problematic if the community and the planning officers disagree about the optimum location for a mast site.

### 5.1.3 ICNIRP information

The Code states that all applicants for full planning permission or prior approval should certify that the equipment and installation has been designed to be in full compliance with the public exposure guidelines set down by the International Commission on Non-Ionising Radiation Protection (ICNIRP). This assessment covers the effects of all equipment currently on a single mast or building, including the proposed installation, but does not assess cumulative effects of a range of surrounding installations. It is a mathematical calculation to determine that the emissions from a site will comply with the international guidelines, with no requirement for ongoing monitoring except insofar as further applicants for the same site will be required to demonstrate that emissions remain below the ICNIRP threshold.

Local Authorities have in the past been unsure about the extent to which they should be taking health issues into account when determining applications. Recent case law has helped to clarify that issues of health are within the purview of central government, and that if the ICNIRP guidelines are met, then it should not be necessary for the LPA to consider the health aspects further. In planning terms, Local Authorities generally find this restriction in their role to be helpful.

For community groups there are wider concerns. The most active groups have undertaken extensive research to support their claims that there are potentially wider health concerns related to biological effects, which are not taken into account by the ICNIRP measurement. There is also concern that other countries (e.g. Switzerland, Australia) apply more stringent exposure guidelines than the UK. These are issues that need to be considered further, outside this study.

Another health issue relates to any cumulative impact of a range of installations in the vicinity of a sensitive receptor (such as a school or hospital), which the ICNIRP measurement does not address. Although OFCOM offers a service to test the emissions present at a site (such as a school or hospital) on request, the results of these tests are not well publicised and are difficult for the public to find.

Both LPAs and community groups, however, consider that more information needs to be made available on the performance of particular sites in relation to the ICNIRP standard, both when the application is made and to test actual performance over time.

#### 5.1.4 Further information

As reported in section 5.1.1, some 63% of LPAs considered that the supporting information submitted by applicants was sufficient to enable determination. However, suggestions for specific improvements to supporting information included:

- Provision of context illustrations– how the proposed installation would look in the streetscape/landscape.
- Simplified coverage plot maps – these are currently difficult to interpret.
- Fuller demonstration of the search for alternative sites (as discussed above in 5.1.2).
- Cumulative impact assessment – especially with regard to visual impact.
- Provision of alternative design solutions – and justification for the proposed design.

## 5.2 Analysis

Supporting information needs to be expansive enough to answer the public's questions, including general information on the technology and the applicant company, as well as the required information about appearance, emission levels, dismissal of alternative sites, etc. It should be clearly presented and enable the expert reader (e.g. determining planning officer) to quickly find the site-specific information of most relevance, in order to maximise LPA efficiency in processing applications. The Crystal Mark for plain English should be considered as standard when preparing written submissions<sup>16</sup>.

More explanation is required of the reasons why alternatives are dismissed. There is a lack of trust in developers which could, to some extent, be overcome if further information is supplied. It would not be onerous for operators to communicate this information better to the LPA at time of application, and may increase the likelihood of an approval. Letters or other records of communication with landowners who reject operators on their land would also be helpful to demonstrate that such sites are unavailable, where these can be provided.

There is also a need to explain why particular alternatives are considered in the first place: decision-makers (and community interest groups) are keen to see that the alternatives which have been considered are realistic.

## 5.3 Conclusions and recommendations

The introduction of the Code of Best Practice has significantly improved the quality of supporting information supplied with applications, although there is still room for improvement. The Supplementary Information Template (Annex F) should be revised and updated. It may also be of value to consider using the Traffic Light Model as a means of identifying the amount of supporting information that is likely to be warranted for any given application.

The ODPM *Best Practice Guidance on the Validation of Planning Applications* (March 2005)<sup>17</sup> contains a recommended checklist of supporting information (pp25-26) that should be submitted with an application for prior approval or planning permission. The study team would concur with this guidance and recommend the following additional items.

- A table of comments received with notes of any actions taken in response (see also Section 4 on pre-application consultation). This should improve the transparency of the pre-application consultation process between the applicants and the public.
- Scaled photomontages or other illustrations of context (e.g. streetscape and landscape photographs where applicable) would assist both local residents and planning officers in understanding what the visual impact of the proposed installation would be.

<sup>16</sup> See <http://www.plainenglish.co.uk/index.html> for details

<sup>17</sup> Available at:  
[http://www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/page/odpm\\_plan\\_035785.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_035785.pdf)

- Re-worded ICNIRP information: prepare a section of the Code on monitoring, with contact details for OFCOM and information about the SiteFinder database, and encourage Local Authorities to identify appropriate sites for long term testing by OFCOM.
- A statement to confirm that agent/operator has complied with CoBP in preparing the application.
- Plans to show the location of dismissed alternative sites, for a clearer comparison between the application site and the dismissed alternative(s), and more information about why sites have been discarded: the schedule outlined in Case study 5.1 (above) could be combined with a map of the alternative locations considered to provide a fuller picture for decision-makers and other interested parties.
- Reference back to the area as identified in the most recent roll out plan, and an explanation of the change in circumstances if the site did not feature on that roll out plan.
- Summary of consultation responses received during pre-application discussions (LPA) and consultation (more widely).



# CHAPTER 6

## Design issues

### 6.1 Study findings

It is clear from the case studies and interviews with Local Authorities that mast design is of major importance in reaching a decision on an application. Design quality is generally considered to have improved since the 1980s, particularly with the move away from the use of lattice structures. However, aesthetic considerations are one of the most commonly cited reasons for refusal of planning permission.

To some extent, the GPDO as currently drafted appears to discourage innovative design solutions, in the sense that screening is not generally permitted under the terms of a licensed notification. Under the current GPDO, a proposal to provide screening around an installation which would normally be permitted as a licensed notification will require the operator to apply for prior approval, if not full planning permission. Therefore the situation arises where standard equipment can be mounted on roofs etc without the need for negotiation with LPAs, while the permission of the LPA must be sought for screening which would reduce the visual impact of the installation.

LPAs saw value in the Siting and Design section of the Code, on the basis that it did illustrate a wide range of locations and types of provision with some specific examples of good practice. There were, however, some concerns:

- There should be more specific mention of the particular needs of Conservation Areas and Listed Buildings particularly with regard to scale, use of materials, and specific siting in relation to the historic fabric.
- There should be fuller consideration of the opportunities for landscape design to enable the structure to sit comfortably in its setting, particularly in proximity to protected trees, and designated landscape.
- The visual significance of the smaller scale proposals (under 4 metres) and related dishes should also be considered since they can be intrusive in the wrong location, particularly if no measures are taken to ensure they blend with existing buildings.
- The location and finish of cabinets can also have significant impacts on the street scene and there needs to be more advice on size, use of colour and grouping.
- There is a need to illustrate more clearly the implication of mast sharing compared to provision of individual masts, both in terms of the design of the structures and the relationship with the wider setting, perhaps through use of drawings illustrating a wider area.
- Some solutions, particularly those based on simulating trees, have been less successful and reference to these should be altered accordingly.



- There are examples of high quality designs outside the UK and greater consideration should be given to pursuing these examples in the UK where appropriate; there will be other examples of good design developed recently in the UK to which reference should also be made.

#### **Case study 6.1: Design issues in a national park – Dartmoor**

Dartmoor National Park, like other areas designated for its high landscape value and scenic beauty, places a high priority upon design issues in dealing with mobile mast development. The park authority routinely requires the submission of photomontages on proposed sites and finds that these help in the assessment of different locations. Operators and their agents are willing to provide extra supporting evidence. However, such additional information is not normally included in applications in sensitive locations leading the Park Authority to feel that the CoBP and PPG 8 should better reflect a range of different circumstances in the advice and guidance on design issues.

#### **Case study 6.2: Acquisition, Design, Construct principles**

T-Mobile operates a system of 'Acquisition, Design and Construct' agents (ADCs) – this enables all the main stages of network planning and site selection to be undertaken 'under one roof'. Issues such as search area definition, site searching, LPA consultations, option and design selection, and application submission can be carried out within a single office environment – without the need to out-source the many different tasks involved in site selection to an extensive number of other consultancies and agents. This allows the ADCs to solve potential issues quickly and the benefit of continuity in working with individual LPAs.

## **6.2 Analysis**

There are two aspects to the comments received during this study: those suggesting changes to the existing text in the Code to enable fuller coverage of the relevant issues; and those suggesting that the design aspects need regular updating in order to provide inspiration for developing appropriate solutions.

The operators retain designers, as do the agents (particularly if they work on the Acquisition, Design, Construct (ADC) principle – see case study 6.2 above). The operator's design team updates designs to take into account changes in technology and includes the designs with the relevant technical information in the operator's design manual. The agent's designers will work closely with the planners in the agency to provide the appropriate design of installation.

It will therefore be possible to draw on these sources of design information to both revise the Code and provide regular updates on the solutions available.

## 6.3 Conclusions and recommendations

It is suggested that the following proposals are taken forward:

- A central website (e.g. MOA website) should provide up-to-date information on the latest design solutions. This should include designs for masts, monopoles, and examples of design solutions with negligible visual impact (e.g. advocating wider use of GRP fibreboard screening; ‘telegraph pole’ masts). This should be updated as appropriate and submissions from the public should be invited.
- Government should consider revisions to the GPDO to eliminate the anomaly that screening to reduce visual impact of an installation requires prior approval or full permission, while the equipment itself may be installed under licensed notification without any screening.

## CHAPTER 7

### Status of the Code of Best Practice

#### 7.1 Study findings

A common observation from community groups (suggested by all those interviewed) was that the Code as currently presented is only voluntary, with no sanction against non-compliance by either the operators or the LPAs. As discussed in the preceding sections, many of the elements in it are seen to be helpful, but the voluntary nature of the Code is generally seen as a weakness.

This was supported by the interviews with LPAs: 66% of those interviewed stated that they had regard to the CoBP, but acknowledged that compliance with it was not strictly a material consideration in the determination of applications. Conversely, almost a quarter (22%) of LPAs interviewed claimed that they give no weight to the Code when determining applications and prior approvals.

The divergent views were expressed by interviewees in a variety of ways. Comments included:

*"We give [the Code] the weight of any SPG – a material consideration"*

*"Provided the operators have mentioned they've complied with the Code, we pay lip service to it. We wouldn't chase it up"*

LPAs were asked to comment on the status of the guidance and consider the implications of any change to its status. Several possibilities were discussed:

- the status quo: retain the Code as a voluntary document; with minor amendments to bring it up to date and more in line with current expectations and techniques of public involvement;
- adopt Supplementary Planning Guidance based on the Code: this has been the case in Leeds, where the LPA has gone further than the Code in terms of specifying the level of consultation required (letters to town or parish councillors are compulsory for all sites, including those rated 'green'). This would potentially give the Code greater weight in the decision making process and at appeal;
- adopt the Code as an annex to PPG8: this would not be achieved without significant redrafting of the Code, as many of its current recommendations are too detailed to be adopted in this form;
- identify elements in the Code which would be transferred into a Companion Guide to a revised PPG8 (to be revised as a Planning Policy Statement – PPS): this would be likely to be accompanied by a revised Code of Best Practice.

In interview, most LPAs expressed the view that the Code should be strengthened, with 81% in favour of including aspects of the guidance as some form of annex to a PPG or PPS.

## 7.2 Analysis

Maintaining the CoBP as a voluntary code of practice would not address the current lack of sanctions against non-compliance. It could be updated to reflect the increasing public awareness of mobile phone network development and the evolving design solutions available (as discussed in sections 4 and 6), but this would not address the fundamental problem that the Code lacks weight as a material consideration.

If the Code were to carry more weight, LPAs and operators would both be required to have greater regard to its guidance. As a Companion Guide to a new PPS8, it would offer practical advice as to how planning policy could be implemented on the ground and would be applicable to all LPAs in England. A revision to TAN19 in Wales might also be appropriate.

In addition, increasing the statutory weight of the guidance would bring it into the ambit of the Local Government Ombudsman, to whom complaints about non-compliance could be referred. However, this would only apply to LPAs: complaints about operators would not be heard by the Ombudsman. One way to resolve this might be to identify an independent adjudicator to consider representations relating to the actions of operators, LPAs or third parties. Further research is required to determine how the role of such an independent adjudicator would relate to the remit of the Local Government Ombudsman.

## 7.3 Conclusions and recommendations

It would appear that there is support for strengthening the status of the Code of Best Practice. There are several possible approaches which require further consideration:

- Revision of the existing Code of Best Practice.
- Production of a Companion Guide to a new PPS8 on Telecommunications (and revised TAN 19).
- Identification of an independent adjudicator.

## CHAPTER 8

### Headline conclusions and recommendations

#### 8.1 Key issues

The preceding sections of this report contain a range of conclusions and recommendations that have emerged from our research. The broad approach is one that endorses the concept of a Code of Best Practice and acknowledges the impacts upon ensuring local authorities and communities have a much greater say than would otherwise be the case. However, like any area of policy and best practice, circumstances evolve and regular review and revision of such documents is necessary if they are to continue to meet their objectives.

This section takes each of the study objectives in turn, and notes our summary conclusions.

##### 8.1.1 How far the aims of the Code have been achieved

Since the Code was published, there have been significant improvements in the process of planning for mobile network development, especially in relation to information dissemination and consultation, but there remains a lack of trust, especially between the public and the operators, which needs more work to be overcome.

##### 8.1.2 The extent to which local planning authorities in England and Wales have effectively operated the guidance

LPAs vary in the extent to which they engage in planning for mobile network development as set out by the Code of Best Practice. The most involved authorities engage the operators in roll out and pre-application discussions and invest resources to foster the involvement of the local community. By contrast, others do not acknowledge receipt of roll out plans, and decline operators' invitations to engage in pre-application consultation, thereby impeding operators' ability to comply with the requirements of the Code. Some of this lack of engagement is attributable to scarce resources.

##### 8.1.3 The public perception of the Code and its effectiveness, particularly with regard to consultation with local communities and their representatives

Community representatives feel that the Code does not offer them assurance that their responses to any consultation undertaken will actually be taken on board by the operators. The study team found examples of good practice, where community representatives have worked together with operators to identify appropriate sites for mobile mast development, although these are rare.

Some members of the public suggest that a failure to accord with the Code of Best Practice should be a material consideration of considerable weight that justifies the refusal of an application or the refusal of an appeal. The non-statutory nature of the Code frustrates community groups wishing to object to operators' actions, as there is no formal requirement for compliance with it. The most common community concerns relate to possible health effects of the technology, about which the Code says little. Whilst a number of Planning Inspectors are aware of this perspective, the CoBP is not given as much weight as PPG8 or TAN 19 in Wales.

Beyond the very active community groups, the wider public has very limited awareness or knowledge of the Code or any of its components.

#### **8.1.4 LPA views on the operators' performance in implementing the Code**

LPAs were very positive about the impact of the Code on the operators' performance, commenting on significant improvements in the information submitted with applications, and increased transparency in consultation. However, a third of those LPAs interviewed felt that not all agents complied with the whole Code.

#### **8.1.5 Areas or particular issues within the Code that have been successful or widely or effectively implemented**

According to the most recent Deloitte and Touche study, operators are using the TLM to identify appropriate levels of community consultation in 99% of applications for planning permission or prior approval. However, there remain questions over the appropriateness of the consultation methods identified as a result of some TLM assessments, and the extent to which consultation has the scope to influence a given application. Site-specific pre-application discussions are of considerable value, where LPAs have the resources to offer such a service.

#### **8.1.6 The impact, effect and effectiveness of the Code's guidance**

The CoBP has had a significant positive impact on mobile phone mast development. This impact is increasing as awareness of the Code and its requirements becomes further embedded within the operating practices of the industry and LPAs. However, the expectations of the general public have moved on. Like all forms of guidance it needs updating and improving in some areas.

As noted in 8.1.3, there is some frustration that the Code does not carry sufficient weight at present. Elements of the guidance in the CoBP could be incorporated in a Companion Guide to a revised PPG8 (i.e. PPS8) which would include procedural advice to be taken into account by LPAs in drawing up their Local Development Frameworks or in reviewing existing policy.

### **8.1.7 Areas and issues within the Code, or not covered within the Code, that need to be addressed**

We would recommend a revision of the Code to include information on monitoring (i.e. reference to sources of monitoring information and the OFCOM service) and further consideration of the introduction of an independent industry wide complaints procedure for those who feel that the Code has not been followed. The existing sections of the Code covering design, consultation and supporting information (especially with regard to alternative sites) need to be reviewed and updated.

### **8.1.8 Recommendations for change that would facilitate better community consultation**

A variety of different techniques and mechanisms are currently used by the operators and their agents to facilitate community consultation. We feel that there could be greater sharing of information between operators and agents to encourage the emergence of ‘best practice’ on these techniques and processes. There should also be greater cooperation between the industry and LPAs on the status of consultation and the possible development of joint consultation strategies (see sections 4.2 and 4.3).

## **8.2 Recommendations**

We would make three main recommendations as a result of this review of the Code of Best Practice on Mobile Phone Network Development.

### **8.2.1 Revision of the Code of Best Practice**

Our first recommendation is for revisions to the Code. We have taken what we would term an evolutionary approach in our recommendations concerning revision of the Code building upon many of the positive aspects and suggesting a range of possible changes and additions. These are detailed in relation to each stage of the process of planning for mobile network development, and summarised below:

- Roll out planning should continue and the ongoing work to improve the process should also continue.
- There should be a continued emphasis on ‘front loading’ the consultation process with more involvement of senior officers at the roll out stage.
- The Traffic Light Model should be reviewed based on the principles of evolution and inclusion.
- The consultation techniques recommended by the Traffic Light Model should be updated.
- There should be greater clarification of the status of the ‘consultation’ being carried out, and what it is intended to achieve.

- The amount and nature of supporting information required could be linked to a site's Traffic Light Rating.
- The Code needs to be revised to specify the fuller information that needs to be provided with any application. The Submission Information Template should be revised to reflect the recommendations on additional information, and further information on alternative sites should be included with applications.
- The Code's design information should be updated and expanded.
- A range of mast design options should be made available on a central internet site, updated and revised annually.
- The Code needs to clarify the issue of monitoring: the different means available (with clearer 'signposts' to the OFCOM service); who should be responsible; and the nature and scale of any ongoing surveys.

### 8.2.2 Revision to the status of the Code

Our second recommendation relates to the status of the Code. At present the Code is an informal guide and there is no sanction for non-compliance. It was suggested by a number of interviewees that the Code, or parts of it, become more 'formal' and be included in a revised PPG8 or a companion guide to such a document.

There are advantages and disadvantages to this. On one hand such a move would ensure that operators and LPAs were held to account on the commitments in the Code more effectively through the Local Government Ombudsman or planning appeal process. On the other hand a lot of what is good about the Code, including its tone and much of its innovative content, might be lost if parties became more sensitive about being held to account over the commitments it contains.

If PPG8 is to be revised as a Planning Policy Statement (PPS), we would recommend that some of the guidance currently contained in the Code be included in a Companion Guide to the PPS. Exactly which elements would be transferred into such a Companion Guide would need to be the subject of further study, and would be closely linked to the revision of the Code of Best Practice discussed in section 8.2.1 above.

### 8.2.3 Independent adjudication

Our third recommendation is to consider bringing the Code into line with other Codes of Best Practice through the identification of an independent body to deal with complaints from members of the public about the operation of the Code and the commitments of both Operators and local authorities. This would help remove some of the suspicion and scepticism currently felt concerning the development of mobile phone masts. At present, individual operators deal with complaints and while this may provide some recourse for individuals there is a need for a more independent body that is more typical of other industries' approaches to self regulation. We do not think that the monitoring body should have recourse to sanctions against breaches of the Code. Instead, breaches would be published in an attempt to 'name and shame'. This recommendation is in line with that of Stewart Report in 2000 and the 2004 NRPB report which stated that:



*"The Board is aware of the significant role of Ombudsmen in other service industries, such as water, electricity and gas, and considers that there is a useful place for such a role in the mobile telecommunications industry" (paragraph 146).*

We do not feel that such a process would undermine or duplicate other appeal and ombudsmen systems that cover local planning authorities.

In considering this further, the following points should be noted:

- the review body would not be able to levy fines, make compensation payable, or call a halt to development;
- any such independent body would need to have the remit to investigate complaints against LPAs as well as against operators;
- an individual making a complaint would need a single contact point, as he or she would not necessarily know whether it was the operator or the LPA that was at fault;
- the terms of reference for such a body would need to be tightly defined, to guard against frivolous, repeated or vexatious complaints;
- the funding for the adjudication body would need to be carefully considered.