

London Borough of Bromley

Report No.
E&LS 05149

PART 1 - PUBLIC

Agenda
Item No.

7

Title:	NOTICE OF MOTION: MOBILE TELEPHONE MASTS		
Decision Maker:	Development Control Committee	Decision Date:	14 Jun 2005
Decision Type:	Non-Urgent	Non-Executive	Non-Key
Budget/Policy Framework:	Within policy and budget		
Chief Officer:	Stuart Macmillan		
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Ward:	All wards		

1. SUMMARY

A Notice of Motion expressing concerns at the proliferation of mobile phone masts, the Council's inability to act in the best interests of residents and asking for support for a recent Private Member's Bill was referred to this Committee on 19th April. A fuller report has now been prepared making suggestions for a way forward. Members' views are requested on a revised notice of motion based on the comments in this report.

2. RECOMMENDATIONS

- 2.1 Members are invited to amend the Notice of Motion in the light of changing circumstances.
- 2.2 Members are asked to consider whether the suggested improvements to the present planning arrangements should be passed to the Secretary of State (ODPM) for his consideration.

3. COMMENTARY

3.1 The following Motions was moved by Cllr Maines at the Council meeting on 21st March 2005:

That this Council:

- concerned at its present inability, through the planning process, to act in the best interests of local residents in relation to the proliferation of mobile telephone masts;
- welcomes the Private Members's Bill recently introduced by Andrew Stunnell MP to give local Councils greater powers in this regard, and in particular (a) to prohibit any development without planning permission and (b) to allow a local Council to have regard to health issues on a precautionary basis; and
- instructs officers to investigate ways in which the Council can affect legislation so that it is changed to meet the aims of the private members bill.

3.2 The motion was referred to the Development Control Committee on 19th April where it was deferred to the 14th June Committee for a fuller report; it was agreed that, in the meantime, a factsheet would be prepared to explain government guidance and the Council's responsibilities concerning mobile phone masts and for a seminar to be held to explain current issues. This has been arranged for Thursday, 2nd June (7.30pm at the Civic Centre) and all members have been invited.

3.3 Members will know that the Private Member's Bill introduced by Andrew Stunnell MP to give local Councils greater powers to control mobile phone masts fell because of the announcement of the General Election.

3.4 There is a considerable and growing level of concern at the environmental impact of the proliferation of masts, as well as perceived effects on health. Local authorities currently have to deal with a confusing planning system and are restricted in the controls that they have over the development of the mobile telecommunications infrastructure.

3.5 There are currently four levels of planning relating to telecommunications:

- **De minimis:** This includes the smallest telecommunications developments that can be disguised or hidden inside external fixtures such as advertising signage or alarm bell boxes. There is no requirement for a planning application or any formal notification.
- **Permitted development not requiring prior approval:** This category includes antennae below 4 metres in height attached to a building, and equipment boxes with a volume below 2.5 cubic metres.
- **Permitted development requiring prior approval:** Ground based masts up to 15 metres in height and antennae attached to a building which exceed its height by more than 4 metres may be permitted development requiring prior approval. Local authorities have 56 days to decide whether prior approval is required and to issue any decision. Failure to act within this timescale gives the operator a deemed permission.
- **Planning permission:** Everything else requires an application for planning permission. This differs from permitted development requiring prior approval in that there is no 56 day statutory decision period beyond which the operator gains a deemed consent.

3.6 As far as 'permitted development' is concerned if the Council objects in principle (rather than to siting and appearance) it is open to the Council to apply to the government for an Article 4 Direction to prevent permitted development being exercised. These can only be issued in exceptional circumstances and before work commences, and compensation may be payable.

- 3.7 There are a number of suggestions that can be put forward to improve the present arrangements:
- Full planning permission should be required for all types of mast except those currently classified as de minimis; this would ensure that the public are notified and have the opportunity to comment and that the siting and design of new masts takes full account of local authority planning policies on landscape protection and visual impact;
 - Fees should be increased to reflect the costs incurred by local authorities in processing applications;
 - There should be a legal requirement for operators to submit a composite plan to local authorities ; these could be used to promote mast sharing and they could also be published to ensure a better informed public;
 - Local authorities should not have to pay compensation to operators if Article 4 directions are issued, or in cases of maladministration;
 - There should be a review of the Code of Best Practice (appendix 2) to ensure improved public consultation by mobile phone operators when proposing new installations;
 - The government should publish clear and up to date advice on the health implications relating to mobile telecommunications infrastructure, thus ensuring greater clarity.
- 3.8 Most of above proposals were included in the report of the All Party Parliamentary Group on Mobile Phones (Appendix 3) in July 2004. However, in October 2004 junior planning minister, Phil Hope, rejected calls for a stricter planning regime. Addressing the Commons, Hope argued that such changes would result in an increased caseload for local planning authorities and a greater number of appeals. He stressed that only 15 percent of masts are currently erected under permitted development rights and that restricting the rights of mobile phone operators to erect new masts 'would be detrimental to their ability to meet public demand for mobile services'. He added that the proposals would not result in an improvement in public consultation on proposals.
- 3.9 The Office of the Deputy Prime Minister has commissioned a study by the University of Reading and Arup to examine the effectiveness of the Code of Best Practice since its introduction. This study will also assess the public perception of the implementation of the code by local authorities. Additionally, the mobile phone operators have commissioned a second independent review of the 10 commitments. This will allow the government to consider the effectiveness of the code and assess whether changes are required.
- 3.10 Planning minister Keith Hill in a statement to Parliament in December 2004 reiterated the importance of public consultation by local planning authorities and mobile phone operators. He also indicated that councils should be including a strategy for mast siting in their local plans as opposed to simply reacting to proposals by operators.
- 3.11 It is not considered a practicable proposition to include public health and associated fears as a determining factor in considering applications. The government position, based upon the findings of the Independent Expert Group on Mobile Phones (IEGMP), is that "the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the guidelines". To introduce such a fundamental change to the planning system would require amendments to planning legislation and inevitably affect all manner of planning applications.
- 3.12 In light of the above comments it is suggested that amendments should be made to Councillor Maine's Motion.

4. POLICY IMPLICATIONS

- 4.1 The revised UDP policy for masts is based on current government guidelines and Policy BE19 which is intended to secure a balance between the expansions of telecommunications and minimising the impact on the environment.

5. FINANCIAL IMPLICATIONS

- 5.1 Nothing arising directly from this report but clarification of government policy and simplification of procedures would undoubtedly improved efficiency and save staff time and money; any increase in fees would help improve the service.

6. LEGAL IMPLICATIONS

- 6.1 Same as **FINANCIAL IMPLICATIONS**.

7. PERSONNEL IMPLICATIONS

- 7.1 Same as **FINANCIAL IMPLICATIONS**.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]