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APPENDIX A

Match up
[Signature]



Office of the
Deputy Prime Minister

Creating sustainable communities

CHIEF EXECUTIVE
01 APR 2004

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31 March 2004

*I have taken copies
which I allow you
with me to send
to the Council*

Dear Madam

Telecommunications Masts

Thank you for your letter of 10 March about the planning controls over telecommunications masts. This has been passed to me for reply.

You raise the issue of whether health concerns be a material consideration. In principle any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances" (Stringer v MHLG 1971). Material considerations must be genuine planning considerations, ie they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned (R v Westminster CC ex parte Monahan 1989). Much will depend on the nature of the application under consideration, the relevant policies in the development plan and the surrounding circumstances.

The Courts are the arbiters of what constitutes a material consideration. Over the years, the scope of what can be regarded as material has been clarified by judicial authority. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

The Courts have also held that the Government's statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications. These statements cannot make irrelevant any matter which is a material consideration in a particular case. But, where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them. If they elect not to follow relevant statements of the Government's planning policy, they must give clear and convincing reasons (E C Grandson and Co Ltd v SSE and Gillingham BC 1985).

The guidance in Planning Policy Guidance Note 8 says that health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. That much is clear from the case law. Whether such matters are material in a particular case is ultimately a matter for the courts. But, in the first instance, it is for the decision-maker (usually the local planning authority) to determine what issues are material in any particular case and what weight to attach to them.

Nevertheless, PPG8 states clearly that, in the Government's view, if a proposed mobile phone base station meets the international guidelines for public exposure (the ICNIRP guidelines) it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to give further consideration to the health aspects and any concerns about them. This remains the Government's position.

The Government has fully accepted the the Stewart recommendation for further research and this has been followed up through the new Mobile Telecommunications and Health Research (MTHR) programme (www.mthr.org) that is jointly funded by both Government and industry. The research is aimed mainly at the areas identified in the Stewart Report and those proposed in a report on TETRA by the National Radiological Protection Board's independent Advisory Group on Non-ionising Radiation (AGNIR). The process will ensure that Government and the public are kept up to date with new research findings.

Stewart also recommended that the issue was reviewed again after three years and in January the NRPB's Advisory Group on Non-Ionising Radiation published their report "Health Effects from Radiofrequency Electromagnetic Fields". AGNIR has examined recent experimental and epidemiological evidence for health effects due to exposure to radiofrequency (RF) transmissions, including those associated with mobile telephone handsets and base stations. They also concluded "*Exposure levels from living near to mobile base stations are extremely low and the overall evidence indicates that they are unlikely to pose a risk to health.*"

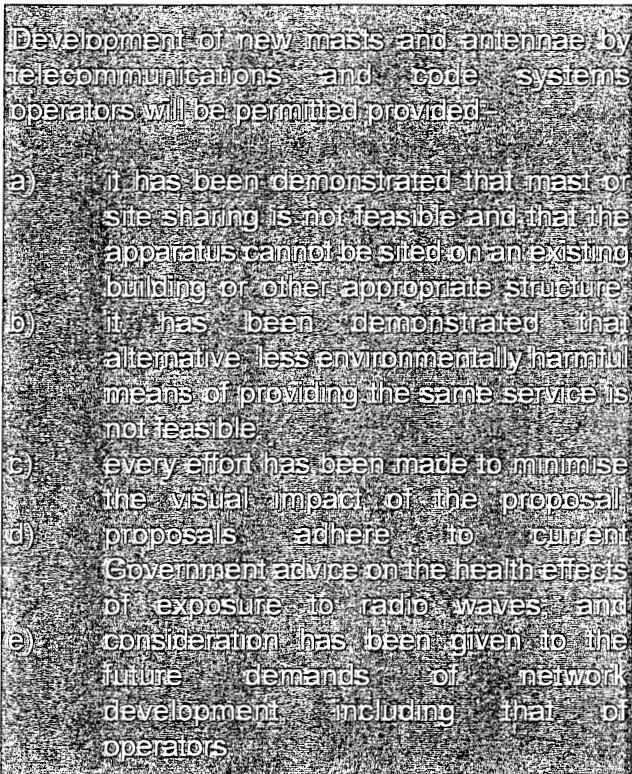
However, the Government is keeping the whole area of mobile phone technologies under review in the light of further research.

Yours faithfully,



Iain Clark

SC8 Telecommunications



5.35 With the growth and opening up of the telecommunications industry, there is an unprecedented demand for telecommunications systems. Government policy is to facilitate the growth of new and existing systems whilst ensuring that environmental impact is kept to a minimum. Local authorities are encouraged to respond positively to telecommunication proposals, however, it is reasonable for authorities to be satisfied that certain key material considerations have been properly considered by operators.

5.36 This policy covers all proposals for telecommunications equipment, both those requiring planning permission and those requiring prior approval. In considering proposals, the Council will expect:-

- the need for the development to be proven;
- the opportunities for mast or site sharing to be fully explored;
- operators to demonstrate, where appropriate, that the design of the structure is capable of accommodating other operator

to minimize the need for unnecessary proliferation of structures in the future; and

- all current advice on health issues to be followed. Currently Government advises that all proposals should meet ICNIRP guidelines for public exposure to radio waves.

5.37 Furthermore, applicants will be expected to demonstrate that every effort has been made to minimise the visual impact of the development. In recent years operators have made significant advances in both the technology of telecommunications apparatus and in the techniques for hiding and camouflaging it. The Council will expect that design principles be fully taken into account at the initial stages of scheme designs. This will be particularly important when considering proposals that would directly affect residential areas and areas covered by a protective designation such as Conservation Areas, Special Landscape Areas, Areas of Restraint and Green Belt.

5.38 Within Green Belt areas, any telecommunications development will be considered inappropriate development if it affects openness. Very special circumstances to outweigh this will only be considered if it can be demonstrated that there is a lack of suitable alternative sites that would meet network coverage or capacity. Ideally such sites should be outside of Green Belt areas, but if this is not possible, alternative sites that are within Green Belt but do not affect its openness may be considered.