



The Commission for
Local Administration in England

Special Report

Telecommunications masts: problems with 'prior approval' applications



Advice and guidance from

The Local Government Ombudsmen

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These photos are not related to any of the cases referred to in the report.

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Foreword

The take-up in mobile phone usage and ownership is one of the major social phenomena of recent years. There are now more mobile phones in the country than people.

Commercial pressures, the requirements for signal coverage contained in the mobile phone companies' operating licences, and the development of new technologies, mean that there is a continuing demand for new telecommunications infrastructure. Some of this infrastructure requires planning permission – which is controlled by councils through the planning system in the normal way. Some is too minor to require planning control. In between is a range of developments, largely concerning phone masts up to 15m high and the associated equipment, that are subject to a modified form of planning control known as 'prior approval'.

While much mobile phone network development may be uncontroversial, the erection of some phone masts can cause local disquiet and controversy. Many people are concerned about possible health problems that might be caused by the radio wave emissions from phone apparatus. Armed with powers that are more limited than may be realised, it can be difficult for councils to address concerns to the public's satisfaction.

Many citizens will not lodge objections to proposals for new telecommunications infrastructure, and many of those who do will not then take their concerns further if they remain unsatisfied. But in the last ten years over 600 people have complained to us about issues relating to phone masts. In recent years we have received nearly 100 such complaints annually about the control regime and the way it is applied. Most of these concerned applications for phone masts that had been considered under the prior approval system. In the light of these complaints we believe it appropriate to issue this special report which draws on our experiences in dealing with them.

This report highlights some of the issues councils face in dealing with applications for prior approval of phone masts up to 15m high. Many operate the system well, but there remain a surprising number of instances where simple problems occur. We therefore highlight some of the problems we have seen and set out recommendations for the better handling of such applications.

We have taken the legal and administrative framework as given (in the same way that councils too must accept and work within the given framework) and make no comment on its adequacy. However, we have sent a copy of this report to the Department for Communities and Local Government, to alert it to some of the problems that arise for neighbours and concerned third parties. The Department may wish to take these problems into account in any future consideration of the legal and administrative framework.

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June 2007

Executive summary

Because there are only limited opportunities to control proposed phone masts under the prior approval regime, and proposals can be contentious, councils should redouble their efforts to ensure the system runs smoothly. Errors can arise and problems occur in the best-managed organisations. But, in the case of applications for prior approval of telecommunications development, these can be minimised by acting on the following recommendations.

Pre-application advice

- Councils should establish policies on telecommunications development in accordance with Government advice, as part of their local development framework.
- Where practicable, councils should be active in arranging roll-out meetings with operators, identifying possible suitable sites for telecommunications development and promoting site and mast sharing between operators.
- Where practicable, councils should enter into pre-application discussions with operators and agree the extent of consultation they expect of them and the details to be provided as part of the application.
- Councils as landlords should review any ban on the use of their own land for the siting of telecommunications development to ensure that exceptional circumstances can be taken into account.

A valid application for prior approval

- Applications should be identified and checked on receipt and, if there is doubt about validity, action should be taken on the application while its validity is being resolved.
- The Government and its local authority and mobile phone industry partners should consider reviewing the Code of Best Practice, to clearly set out the legal requirements for valid prior approval applications and emphasise that best practice goes beyond this.

Consultation and publicity

- Councils should establish policies on consultation and publicity for telecommunications development, in line with the Code of Best Practice.
- Following assessment of the extent of appropriate publicity in accordance with their policies, councils should undertake such publicity immediately. This may require an early site visit. Councils should stress the importance of responding within the given timescale but have systems to ensure that, where practical, representations received after the published closing date can nevertheless be taken into account in decision making.

Health considerations and concerns

- Councils should take positive steps to explain to the general public their powers, and the limits to those powers, in respect of telecommunications development.
- Councils should properly consider the weight to be given to all material considerations, including health concerns and Government guidance on this issue. Merely restating Government guidance is insufficient.
- If a council requires further information before it feels able to determine an application, this should be identified at an early stage. If the 56-day deadline for determining an application might be breached in consequence, it should consider either inviting the applicant to withdraw the application or requiring prior approval and refusing the application.

Decision making

- Councils should ensure that their systems should set correct target times for dealing with applications.
- Councils should log all correspondence with the date it is received (which may include dates when the council's offices are closed).
- A level of priority should be given to applications at all stages of their consideration.
- Councils should have decision-making procedures that allow deadlines to be met.
- Councils should ensure the decision on prior approval applications is received by the applicant by or before day 56 and that, to avoid any dispute, they are able to verify the date on which they received the application and the date on which the decision is received by the applicant.
- If approval is given by default because the deadline is missed, this should be brought to the attention of senior officers and relevant members immediately. Mistakes should be acknowledged to those consulted or who have responded to publicity. If the approval would have been required and refused, negotiations with the operator should be initiated immediately.

The system of planning control

- 1 The planning control system is based on the principle that all development of land requires planning permission. Deciding whether permission should be granted is normally a function of the local borough, district, city or unitary council. The Secretary of State, under powers conferred by Parliament, has however set out various classes of generally small scale development for which planning permission is deemed to have been granted (subject to some exclusions and conditions). This is called 'permitted development'. No further planning permission is required for such development.
- 2 Normally, where development does require specific planning permission, and no decision is made within 56 days of the application being made, the applicant may either lodge an appeal against the failure to determine the matter or let the council have more time to consider the matter (and appeal later, if they consider it necessary). If an appeal is lodged, it is for the Secretary of State, usually through the Planning Inspectorate, to decide whether planning permission should be granted.

The law on 'prior approval' for phone masts up to 15m high

- 3 In the case of mobile phone masts, there is a modified system of planning control. The law¹ is complex and is not set out in full here. But, in essence, the erection of telecommunications apparatus by or on behalf of mobile phone companies, on land they control or that is controlled in accordance with the electronic communications code, is permitted development if its height, excluding any antenna, does not exceed 15m above ground level.
- 4 Importantly, the permitted development rights for mobile phone masts up to 15m high (and the associated base stations) are subject to conditions. Before the development begins, an application must be made to the council for it to determine whether it will require prior approval of the siting and appearance of the development. The application:
 - must have a written description of the proposal, a plan indicating its proposed location and any required fee;
 - must be accompanied by evidence that all owners and agricultural tenants of the land to which the proposal relates have been served with a developer's notice before the application was made; and
 - where a mast would be within 3km of an aerodrome, must be accompanied by evidence that the Civil Aviation Authority or the Secretary of State for Defence or the aerodrome operator, as appropriate, has been informed before the application was made.

¹ The Town and Country Planning (General Permitted Development) Order 1995, as amended, Part 24: 'Development by Electronic Communications Code Operators' sets out the requirements in full.

- 5 Councils must advertise applications for prior approval. The minimum requirement¹ is for a notice to be posted in at least one place on or near the land for not less than 21 days, or for a notice to be served on any adjoining owner or occupier. The council must take account of any representations made in response when determining the application.
- 6 The council must give written notice to the applicant, within 56 days of receiving the application, if it requires prior approval. If it does require prior approval, it must also approve or refuse the application within the 56 days. There is no opportunity to extend this 56-day period, either by consent or otherwise. The applicant has a right of appeal against the council's decision. Neither residents nor other third parties can appeal, though they may take court action for judicial review of the decision.

Government guidance

- 7 Government guidance is just that: it is not law. But a council must have cogent reasons for departing from such guidance, which is a significant consideration that must, in law, be taken into account in decision making; and reasons for departure from it will be taken into account in any appeal against a council's decision.
- 8 Development plans should contain council policies on telecommunications development, which are either site specific or criteria based. General policies on siting and external appearance of such development and on, for example, the criteria to be used in assessing whether prior approval is required, should also be included.
- 9 To minimise visual intrusion from phone masts and sites, the Government attaches considerable importance to minimising their number and encourages mast and site sharing. It proposes that operators and councils should meet annually for discussions about the roll-out of new telecommunications development in their area. Councils are advised to help operators by:
 - identifying existing sites;
 - making their own land available;
 - encouraging others to do the same; and
 - maintaining a register of potential sites.
10. If an operator proposes a site which is not on the register, the operator may reasonably be expected to show that no site on the register is a practicable alternative. Councils may also consider whether alternative sites may be more appropriate than those proposed, and guidance makes clear that operators may be expected to provide evidence of the need for any proposal put forward.

¹ In limited circumstances, including within conservation areas and areas of outstanding natural beauty, the requirements are greater.

11. Government guidance also encourages operators and councils to discuss specific proposals before applications are made, and encourages operators to have similar discussions with residents' groups, parish councils and others. Where a mobile phone mast is to be installed on or near a school or college, the Government considers it important that the operator enters into pre-application consultation with the relevant body beforehand. Guidance also strongly encourages councils to publicise applications beyond those consultations required by law, where they consider this necessary to allow people likely to be affected by the proposal to make their views known. Where a phone mast is proposed on or near a school or college, the relevant body should also be consulted by the council and its views taken into account.
12. In addition to providing the information that must comprise or accompany a prior approval application, applicants are expected to provide further details. The applicant should:
 - demonstrate that the possible use of existing facilities has been considered before proposing a new mast;
 - provide information about the purpose and need for the development;
 - give evidence that any nearby school or college has been consulted;
 - include a statement to confirm the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines will be met; and
 - provide technical details.
13. Many of the public's concerns about mobile phone masts and associated base stations relate to health. In principle, health considerations and public concerns can be material considerations to be taken into account in considering applications, but the Government is clear that the planning system is not the place for determining health safeguards. Its view is that, if a proposed mobile phone base station "meets the ICNIRP guidelines for public exposure, it should not be necessary for [the decision maker] to consider further the health aspects and concerns about them."¹ All mobile phone base stations in the UK are built to comply with ICNIRP guidelines on the emission of radio waves, but applicants are advised to include a certificate to confirm the guidelines will be met.
14. The Code of Best Practice on Mobile Phone Network Development, produced jointly by the Government with representatives of local government and the mobile phone industry, provides further advice on telecommunications development issues. It specifies that it does not claim to give a definitive view of the legal requirements relating to planning issues, but proposes that all involved in telecommunications development should familiarise themselves with its contents and use it on a day-to-day basis. The Code can be downloaded from the Department for Communities and Local Government website (www.communities.gov.uk).

¹ Planning Policy Guidance Note 8: Telecommunications (2001), paragraph 30.

Some important issues

- 1 We consider that any failure to comply with the law or to follow Government guidance or a council's own policies is very likely to be maladministration. But our concerns go beyond mere compliance with the law, guidance and policy: it is important that councils act reasonably, fairly and openly.
- 2 We have seen a range of simple problems that councils have had in administering the prior approval system. Examples are included throughout the rest of this report.

Pre-application advice

- 3 The Government advises councils to publish policies for telecommunications development, to maintain a list of potential sites for new telecommunications development and to enter into discussions with operators before applications are made. If they do not, they lose a valuable opportunity for guiding proposals to what they consider to be the most suitable locations, which may include their own land or buildings. When applications are under consideration, it will be difficult and potentially time consuming for a council to assess whether the proposed site is the best one to meet an operator's technical criteria. Some councils assist operators and members of the public by publishing the location of telecommunications development on their websites. Some councils have policies as landlords that prevent the use of their land as sites for phone masts. But a ban suggests the application of a blanket policy and such inflexibility might be an unlawful fettering of the council's discretion. Councils must have mechanisms that enable them to consider exceptions to their policies. If the most suitable sites are not available from councils, operators may be forced to use locations that have a greater impact on residential and other amenities.

Example 1

The Ombudsman found a council to be at fault because it did not have a list of locations and permissions to assist the consideration of possible alternative sites for an operator's phone mast. It had to undertake an assessment of potential alternative sites, and the possibility of mast or site sharing, after the submission of the application. It then failed to meet the 56-day deadline for a decision, and the mast was approved by default.

Recommendations

- Councils should ensure that they establish policies on telecommunications development in accordance with Government advice, as part of their local development framework.
- Where practicable, councils should ensure they are active in arranging roll-out meetings with operators, identifying possible suitable sites for telecommunications development and promoting site and mast sharing between operators.

- Where practicable, councils should enter into pre-application discussions with operators and agree the extent of consultation they expect of them and the details to be provided as part of the application.
- Councils as landlords should review any ban on the use of their own land for the siting of telecommunications development to ensure that exceptional circumstances can be taken into account.

A valid application for prior approval

- 4 A valid application for prior approval is made when the legal requirements are met. These are less stringent than councils would expect of many planning applications and do not require, for example, elevational drawings. This less stringent regime appears to cause significant problems for councils, and those seeking to oppose or comment on the erection of mobile phone masts.
- 5 While Government guidance says that additional material should be provided, failure to do so does not affect the validity of an application. It is essential councils are clear that day one of the 56-day period within which they must deal with prior approval applications is the date of receipt and that this is unaffected by any requests for, or later receipt of, further information.

Example 2

An application for prior approval was accompanied by a range of information, including a certificate confirming compliance with ICNIRP guidelines and technical data. The technical data contained an error that suggested the guidelines would not be met. Complainants alleged that this error made the application invalid. But as the data was not required to make the application valid, the application for prior approval had to be considered.

Example 3

An application for prior approval of a phone mast was accompanied by information to comply with the law. The council asked for further details of the mast's appearance, which were received some days later. The council considered it now had a valid application and started the clock on the 56-day period. It resolved to refuse prior approval and faxed its decision the same day. But the application had been valid when submitted, and the council was out of time.

- 6 Councils must check the validity of applications. The Code of Best Practice sets out guidelines for quality applications, including the type and manner of information to be provided. These include site location plans with the location "clearly outlined in red" (as is normally expected for planning applications), the position of buildings within 100m and, normally, at least two public highways for reference. But councils must remember that the Code is not the law. It would be helpful if the Code made clear what is a legal requirement and what is recommended best practice.

Example 4

A prior approval application did not include the normal red line defining the site on the location plan as proposed in the Code of Best Practice. This was requested the next day and received the day after. Fifty-six days later, the council decided to require prior approval, and refused the application. There was an appeal against this decision, which the Planning Inspector dismissed because sufficient evidence of need for the mast had not been put forward and the area's character and appearance would be harmed. A new agent for the operator then pointed out that the law did not require a red line plan, and so the application had been valid when submitted. The 56-day limit had been missed and so no permission was required for the mast. The council had to accept this, and the mast was erected.

- 7 If the developer's certificate is alleged to have been served on the wrong party, or there is some other claimed fault in the document, councils should take reasonable steps to ascertain the correct position, while being careful not to delay consideration of the substantive application. The legal requirement is for evidence of any required notice or notification to accompany an application. It follows that an application may not be valid when originally submitted if the evidence is provided to the council at a later date.

Example 5

An operator proposing a phone mast within 3km of an aerodrome notified the relevant body but did not include evidence of this, as required, with the prior approval application. The application was nevertheless accepted and the evidence supplied at a later date. There were complaints about the inadequate time given to publicity from the council's acceptance of the application. This might have been extended if the council had noted the error.

Recommendations

- Councils should ensure that applications are identified and checked on receipt and, if there is doubt about validity, action is taken on the application while its validity is being resolved.
- The Government and its local authority and mobile phone industry partners should consider reviewing the Code of Best Practice, to clearly set out the legal requirements for valid prior approval applications and emphasise that best practice goes beyond this.

Consultation and publicity

- 8 The Government advises operators that they should voluntarily consult interested parties before making applications. But the planning system does not control these activities: any failure by operators in this regard does not invalidate the application for prior approval.

Example 6

An operator, using an internet-based street atlas, failed to identify a school near a proposed phone mast location and so did not consult its governors. The council could not take this failure into account in considering the validity of the application or its merits.

- 9 The statutory requirement is generally for councils to give publicity to applications for prior approval with a site notice or by neighbour notification. In addition to this publicity, however, we expect councils to follow Government guidance and widen its scope when there is a broader range of people who might reasonably consider themselves affected.

Example 7

A company wished to erect a phone mast in a residential area. A pre-application consultation exercise was carried out, attracting 83 responses and revealing widespread opposition to the idea. But when the council received the planning application, respondents were not re-contacted. A site notice was published, in accordance with minimum requirements, which generated no representations, and the application was approved by officers. If representations had been received, the application would have been decided by a council committee.

- 10 In considering whether a proposed site is near a school or college and whether publicity other than the minimum required is necessary, councils have to make judgements. These can be assisted by having policies on, for example, the proximity of schools that will be consulted. Where a council has such policies, there must be good reasons for any instance in which they are not followed.

Example 8

A council's policy was to notify schools and colleges within 500m of an application, and all nearby premises. The council relied on the operator's consultations, which had not included a school or commercial premises, and did not check for itself what schools should be notified. It therefore failed to consult a school as it should have done. It also failed to notify commercial premises close to the site, contrary to its policy.

Recommendations

- Councils should establish policies on consultation and publicity for telecommunications development, in line with the Code of Best Practice.
- Following assessment of the extent of appropriate publicity in accordance with their policies, councils should undertake such publicity immediately. This may require an early site visit. Councils should stress the importance of responding within the given timescale but have systems to ensure that, where practical, representations received after the published closing date can nevertheless be taken into account in decision making.

Considering prior approval applications: health considerations and concerns

- 11 When addressing prior approval applications, councils may only consider the siting and appearance of the proposal. While it is common for the great majority of representations councils receive to relate to health issues, the powers of councils here may be limited. Partly to assist residents, some councils have published supplementary planning guidance which explains their powers, and the limits of those powers, with respect to telecommunications development.
- 12 As Government guidance makes clear, health issues can in principle be material considerations to be taken into account in considering these matters. But councils must take account of the Government's view that it remains responsible for deciding what measures are necessary to protect public health and they should not implement their own precautionary policies. The Government considers that, if an ICNIRP certificate is provided, councils should not need to consider health considerations and concerns further. If, when a mast is operational, there is evidence an operator is not meeting its statutory responsibilities, the Health and Safety Executive (HSE) may investigate. (The actions of the HSE are within the jurisdiction of the Parliamentary Ombudsman and not within the jurisdiction of the Local Government Ombudsmen.)
- 13 It is for a council to determine material considerations and justify the weight it gives to them. All material considerations must be taken into account and it is important that councils are not dismissive of health concerns raised, or treat them as irrelevant. But a council has to bear in mind the substantial weight that it must give to Government guidance, and that will be given to such guidance by planning inspectors and the courts in their decision making, and that decisions that are held to be unreasonable may attract an award of costs in any appeal. The success rate for appeals against the refusal of permission for telecommunications development is greater than for planning appeals generally.

Example 9

Complainants alleged that the council had addressed concerns about the health effect of emissions merely by confirming compliance with the ICNIRP guidelines. The council was required to take into account the Government's view that, with compliance, there should be no need to consider health considerations and concerns further. But part of its duty was to decide the weight it wanted to attach to considerations, including health fears. So merely confirming compliance with the guidelines was inadequate.

Example 10

A council wanted further information about emissions levels before considering a valid application for prior approval. It may have been justified in seeking further information, but it had to keep to the 56-day statutory timescale for making a decision. In this case the Ombudsman considered that, if necessary, the council should have rejected the application and asked the developer to reapply, with the information it had been asked to provide. It did not do this and the council failed to meet the appropriate deadline. Approval was therefore secured by default.

- 14 While some councils have planning officers with knowledge and expertise in dealing with telecommunications development, it is unlikely that many will have the expertise to consider in detail the technical information that may be provided with a prior approval application.

Example 11

A council was criticised by complainants because it was unable to make its own independent assessment of the technical suitability of locations for different telecommunication systems. However, the Ombudsman saw no particular reason why technical information provided by mobile phone operators should be trusted less than information from other developers.

Recommendations

- Councils should take positive steps to explain to the general public their powers, and the limits to those powers, in respect of telecommunications development.
- They should properly consider the weight to be given to all material considerations, including health concerns and Government guidance on this issue. While it is fundamental to the council's consideration, merely restating Government guidance is insufficient.
- If councils require further information before they feel able to determine an application, this should be identified at an early stage. If the 56-day deadline might be breached in consequence, the council should consider either inviting the applicant to withdraw the application or requiring prior approval and refusing the application.

Decision making

15 The granting of permission by default after 56 days if there is no other decision on a prior approval application is an exception to the normal planning regime, which merely gives a right of appeal after this period. This is a tight timeframe which cannot be extended. Some councils set an artificial deadline a week before the 56 days are up, to ensure that it is met. Milestones can be set for site visits, the start and end of publicity periods, for drafting reports and issuing the decision.

16 Complying with the 56-day timescale has been an area of repeated difficulty for some councils. Failings here bring the system, and local government, into disrepute. Some complainants suggest the failings are deliberate, or a result of collusion between councils and mobile phone companies, for example:

“This practice is clearly a ‘put up job’ on the part of local authorities who want to ‘appear’ to refuse permission but let it occur by ‘mistake’.”

“They [mobile phone companies] apply for planning permission, and when the planning officer points out that there will be objections, the mobile phone companies suggest their little technique of [the council requiring a planning application] 24 hours ‘out of time’. After all it has worked hundreds of times up and down the country.”

17 It is essential that councils have measures in place to ensure that the 56-day period is accurately logged and monitored and that the applicant receives the decision within this timescale. Delays sometimes occur in the registration of post, but the date logged must nevertheless be that on which the correspondence is received by the council. The increasing use of electronic communication, in particular, means that this may include dates when the council’s offices are closed. It is also good practice to fax, email or hand deliver the decision notice, especially if it is a refusal, to ensure it is received by the applicant within the 56-day deadline.

18 Meeting the deadline may well also require applications to be determined by officers acting under delegated powers on behalf of the council. Some councils allocate cases to a specialist officer who is experienced in dealing with such applications. Some also highlight case files as a visual reminder that the normal procedures do not apply for such applications.

Example 12

A council argued that, for the purposes of the statutory deadline, day one of the 56 was the day after the application had been received (which would have made its decision within time). It had to accept that this was wrong. A phone mast was approved by default.

Example 13

A council's computer system calculated decision timescales by adding 56 days to the date of receipt, when this is day one. It therefore wrongly set the day by which a decision on a prior approval application had to be made as day 57. The council was too late in making its decision.

Example 14

An application for prior approval was made one week before Christmas. The application was immediately advertised. The council's offices were then closed for the holidays. The complainant considered the operators' 'tactics' underhand, that the Christmas break should have been disregarded and that it was unreasonable to consult over this period. While the Ombudsman understood the complainant's views, the law does not allow holidays to be disregarded and the tight deadline meant it was reasonable to consult over this period.

Example 15

A special delivery receipt showed that an application was received by the council six days before it was registered and date stamped. The council considered the matter on what it understood was the 56th day and faxed a refusal notice to the applicants on the following day. The decision was out of time because the date of receipt had been incorrectly logged. Even if that had not been the case, however, the fax was received by the applicants on what the council understood to be day 57, and so was out of time.

Example 16

A council delayed for five days in registering an application for prior approval of a phone mast. The start of the 56-day period was wrongly set as the date of registration, rather than the date of receipt. The council intended to refuse the application because of a lack of detail about radio wave emissions. However, its decision was sent too late.

Example 17

A resident was notified of a prior approval application and objected. Her mother, who lived nearby, delivered 106 objections from local residents. The council intended to decide the application at a committee meeting, but failed to take account of the 56-day deadline, and so approval was given by default beforehand.

- 19 The problem of missing the statutory deadline can be compounded by a less than open attitude to the issue. If the council seeks to hide the facts, it casts doubt on the integrity of the process. It is important that council decision making is transparent and that mistakes are quickly admitted and lessons learnt. Even if a mistake is made, there may be an opportunity to negotiate with the operator over the feasibility of it reconsidering its proposals.

Example 18

A council missed the 56-day deadline for deciding a prior approval application. The council did not tell local residents because, it said, it did not want to alarm them. When residents did become aware and expressed concerns, the operators appeared more willing to react to the issues raised.

Example 19

A council missed the 56-day deadline. The officers directly involved did not tell senior officers or members. Agents for the operators offered to consider an alternative site if one was identified by the council, but they received no reply. Residents who had been consulted on the application were not told the outcome, becoming aware only when work started on site. Following later pressure from the council and residents, the operators found a new site.

Recommendations

- Councils should ensure that their systems, whether computer or not, set correct target times for dealing with applications.
- Councils should ensure that they log all correspondence with the correct date of receipt.
- A level of priority should be given to applications at all stages of their consideration.
- Councils should have decision-making procedures that allow deadlines to be met.
- Councils should ensure decisions on prior approval applications are received by the applicant by or before day 56. To avoid any dispute, councils should be able to verify the date on which they received the application and the date on which the decision is received by the applicant.
- If approval is given by default because the deadline is missed, this should be brought to the attention of senior officers and relevant members immediately. Mistakes should be acknowledged to those consulted or who have responded to publicity. If the approval would have been required and refused, negotiations with the operator should be initiated immediately. These should include suggestions for possible alternative sites that would meet technical requirements and be acceptable to the council.

Conclusions

While much mobile phone network development passes relatively unnoticed, and may not cause concern or problems for local communities or councils, prior approval applications for phone masts and associated apparatus can be highly controversial. Many councils have robust systems for dealing with such applications, but some do not.

In accordance with Government advice, it is important that councils are proactive in guiding telecommunications development to appropriate locations. This must be done when councils are formulating their development and other plans and policies, when operators are considering their roll-out plans and in pre-application discussions with operators.

The great majority of prior approval applications are dealt with in a proper manner. The number of occasions on which councils have missed the 56-day deadline for making a decision is nevertheless a concern. And despite some well-publicised incidents, problems continue. Councils must therefore ensure that their systems for dealing with such applications take account of both the public's keen interest in them and the stringent time limit that applies to decision making.

Even the best of councils may be subject to criticism because of the mismatch between what councils can legitimately do, and what the public wants and expects. It is therefore important that councils seek to address this issue with clear explanations. It cannot help that, when they do arise, problems are sometimes not properly communicated. Anything less than transparency by councils in dealing with problems damages the standing of local government generally.

We consider there is much good practice by some councils, from which others may learn. We therefore recommend that councils consider the simple measures we propose, to improve administrative practice in this area.

We also think that the Government, and its local authority and mobile phone industry partners, should consider reviewing the Code of Best Practice, to clearly set out the legal requirements for valid prior approval applications and emphasise that best practice goes beyond these.

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We consulted:

Department for Communities and Local Government

Audit Commission

Local Government Association

Society of Local Authority Chief Executives

Association of Council Secretaries and Solicitors

London Councils

Standards Board for England

Parliamentary and Health Service Ombudsman

Ombudsman for Ireland

Northern Ireland Ombudsman

Scottish Public Services Ombudsman

Public Services Ombudsman for Wales

Advice UK

Citizens Advice

National Council for Voluntary Organisations

National Consumer Council

Mobile Operators Association

The Planning Inspectorate

Royal Town Planning Institute

Planning Officers Society

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