

Appendix 1.

Introduction

This document is intended to evidence our concerns about the pre-application community consultation process undertaken by Ian Hewitt Associates (on behalf of O2 and National Grid Wireless) and Newark & Sherwood District Council, in relation to O2's application to site a mobile phone mast at the Telephone Exchange, the Ropewalk, Southwell, (planning ref: 07/00282/Tel24).

It is our opinion that O2's application has been compromised by the pre-application community consultation process. **At the very least we feel 'Best Practice' has not been achieved either by O2's agent or Newark & Sherwood District Council. More seriously Ian Hewitt Associates record of objections submitted during the required pre-application consultation appears to be incomplete.**

We recognise there will be comment in this document that O2, National Grid Wireless and Newark & Sherwood District Council may not agree with, therefore in the interest of being fair to all parties we are formally asking Newark & Sherwood District Council to refer the matter to the Local Ombudsman so that an independent review of the Planning Application - ref: 07/00282/tel 24 can be conducted immediately.

Community Consultation

Our understanding is that mobile phone operators base their planning applications to local authorities on the recommendations and guidance contained within 4 key procedural documents.

- **Code of Best Practice on Mobile Phone Networks – (November 2002)**
- **The Mobile Phone Operators – Ten Commitments (2001)**
- **Risk Communication Handbook – Working with the Community Developed by the Mobile Operators Association – (January 2004)**
- **The Planning Policy Guidance 8 on Telecommunications Development (Aug 2001)**

Within these documents there is a strong emphasis on **effective and meaningful consultation with local communities** - Please refer to Appendix 2.

1. Level of Consultation

Our understanding is that mobile phone operators or agents agree a level of consultation by following the procedures outlined in the document - **The Mobile Phone Operators Ten Commitments (2001)**. The operator or agent uses four documents to assess what kind of community consultation may be needed in relation to a potential mast location. The approach taken by the operator or agent would ideally be discussed in advance with the local planning authority.

1. Guide to using Traffic Light Model for Public Consultation.

2. Traffic Light Rating Model for Public Consultation.

Using the Traffic Light Model, **the proposed O2 mast at the Ropewalk, Southwell was graded 'RED'**. Red sites are considered to be the most sensitive and therefore potentially the most contentious within a community.

3. Consultation Strategy

4. Site Selection and Planning Model

Outlined in documents 3 & 4 is the '**Essential**' community consultation which an operator or agent must undertake if a site has been graded 'Amber' or 'Red'. In addition, there is also guidance for '**Optional**' community consultation which an operator or agent can elect to undertake to raise a community's awareness of an application and its implications for them.

- **Consultation letter Mail Shot**
- **Erect Voluntary Site Notice**
- **Informal, Drop in Session**
- **Key Stakeholder Briefing Session**
- **Leaflets**
- **Public Notice Placed in the local Press**

(source: www.mobilemastinfo.com)

Our understanding is that with regard to the proposed O2 mast at the Ropewalk the following community consultation was undertaken:-

1. Essential Consultation

(Please note: For the purposes of this document 'the agent' referred to in reference to O2's application at the Ropewalk, is Ian Hewitt Associates).

1. As required, the agent wrote to two Ward Councillors and Southwell Town Council.
2. In addition Planning Policy Guidance 8 on Telecommunications Development advises that:-

"Where a mast is to be installed on or near a school or college it is important that operators discuss the proposed development **with the relevant body of the school or college** concerned *before* submitting an application for planning permission or prior approval to the local planning authority."

(source: www.communities.gov.uk/index.asp?id=1143962)

Therefore, the Head Teachers and Chair of Governors at both Lowes Wong Infant & Junior Schools were contacted by the agent.

3. We understand that a planning notice was displayed near the site for the statutory number of days.

2. Optional Consultation

With regard to the proposed O2 mast at the Ropewalk, the agent undertook a consultation letter mail shot to 26 residences or businesses on the Ropewalk, Private Road, Kirklington

Road and Leeway Road. **No other 'optional' consultation as outlined in the Site Selection and Planning Model was undertaken.**

Summary

Peter Wingate-Saul, National Community Relations Manager, National Grid Wireless emailed us on the 11th July 2007. He made the following comment about the consultation process:-

"Our agents carried out an extensive communication exercise in accordance with the Code of Best Practice for mobile phone network development, before submitting an application which was approved by Newark and Sherwood District Council on 3 April".

In our opinion the level of consultation undertaken within our community of nearly 6000 residents, for a site graded 'RED' was woefully inadequate and not at all in keeping with the Operators declared objective of achieving effective and meaningful community consultation. Consulting with only 26 residences/business and placing a statutory planning notice near the site is not in our opinion seeking (as recommended by central government and industry) to engage with key local stakeholders. We believe the agent could very easily have elected to undertake one or more of the 'optional' consultation choices which would have informed all of our community.

We note with interest that the Mobile Phone Operators own "Risk Communication Handbook" acknowledges the Stewart Group's recommendation that schools and parents should be consulted about any proposals near a school.

".....the Stewart Group acknowledges that as a precautionary measure, the pattern of emissions from base stations on or near schools should be assessed and the school and **the parents consulted about any proposals near schools.**"

(source: www.mobilemastinfo.com - Risk Communication Handbook – working with the community, Appendix 2)

Therefore we consider it completely unsatisfactory that the head teachers of Lowes Wong Infant and Junior Schools were left to notify parents of O2's application. We believe that in the interests of effective and meaningful consultation this matter should have been properly addressed by the agent.

"A Precautionary Approach is one that says "we'll meet all the current safety guidance and regulatory controls – and we'll go further". By "going further" a Precautionary Approach means: **being open about our plans and consulting with people who may feel they are affected...**"

(source: : www.mobilemastinfo.com - Risk Communication Handbook – working with the community, 2004, Appendix 2)

Mrs M Slack of The Hollies, Queen St, was one of the few residents to be sent a consultation letter by Ian Hewitt Associates. She has indicated to us that the correspondence talked about '**a replacement structure**' and this gave her the impression that the only change happening was the mast increasing in height. The letter did fully inform her of O2's proposed equipment on the mast but when that sort of misunderstanding occurs you have to question whether the consultation has been successful. Mast applications are technical documents and we feel that additional consultation with our community would have eliminated any such misunderstandings.

In the 'Mobile Operator Association's response to the second Deloitte Implementation review recommendations' dated January 27th 2005, it was recommended that operators:-

“Consider increasing flexibility in working with local communities to identify **mutually acceptable siting options.**”

The Operators response was:-

“Accepted. Whilst steps have been taken by the operators towards a more flexible way of working with communities, the operators remain open to looking at any new ideas which will improve this process.”

It was also recommended that:-

“Consideration should be given to increasing the use of local press as a media for communicating Operator site plans to local communities.”

The Operators response was:-

“Accepted, the Operators will review the effectiveness of current methods of interacting with communities within the site selection and planning model including the use of local press and consider any improvements needed.”

(source: www.mobilemastinfo.com)

The resulting level of community consultation undertaken at the Ropewalk, Southwell does not give us any confidence that mobile phone operators, including O2, are sincere in their declared objective of achieving effective consultation with local communities .

2. The Role of The Local Planning Authority in Pre – application Community Consultation.

The local planning authority (LPA) is in this case Newark & Sherwood District Council. Although local planning authorities do have a restricted role in telecommunication applications, the “Planning Policy Guidance 8 on Telecommunications Development” does offer them guidance to follow in relation to community consultation.

Consultation with the Community.

Within Planning Policy Guidance 8 on Telecommunications Development it recommends that – “In addition to any statutory consultation, **authorities are strongly encouraged to undertake any additional publicity that they consider necessary to give people likely to be affected by the proposed development an opportunity to make their views known to the authority.**”(source: www.communities.gov.uk/index.asp?id=1143962)

Consultation with Schools.

Within Planning Policy Guidance 8 on Telecommunications Development it also recommends that if a mast is to be installed near a school, then the local planning authority should consult with them and take their views taken into account.

“Where a mast is to be installed on or near a school or college **the local planning authority should consult the relevant body of the school or college concerned and should take into account any relevant views expressed.** (source: www.communities.gov.uk/index.asp?id=1143962)

We note with interest that PPG8 states that local planning authorities “should take into account any relevant views expressed”. At this point we would ask, if public health is not a relevant consideration in telecommunication applications, then why does Government guidance encourage local planning authorities to consult with schools? It is highly likely that because schools have a ‘duty of care’ to safeguard and promote the welfare of children, the concerns they express will be related to health & safety.

Newark & Sherwood District Council have confirmed that it is not their current policy to consult with local communities or schools in relation to telecommunication applications.

“I can confirm that the only consultation that took place with respect to this prior notification application was with Southwell Town Council. I am aware of the contents of PPG8 but I would advise, at the present time, it is this local planning authority's policy to consult with Parish/Town Councils only in the case of telecommunications notifications.”

However not consulted with the Lowes Wong schools meant that the district council remained unaware of 60 families who submitted objections through the schools.

It is our understanding that having received a consultation letter from the agent, both of the Lowes Wong schools filtered individual parental objections directly to Ian Hewitt Associates. Mrs Platt, head teacher at Lowes Wong Infant School recalls:-

“I am 100% certain that in my telephone conversation with Ian Hewitt I told him that I had almost 40 objections and did he want me to post them all to him. He said ‘no’, it was enough to know the numbers. I kept the objections as evidence and still have them. After that communication I heard nothing from him until the new application from T-mobile in June”.

One of our main concerns is that **the agent does not seem to have informed the District Council of these parental objections -**

1. Mr Brendan Haigh, ward councillor for Southwell has confirmed that the District Council's file pertaining to O2's application does not contain copies of any letters sent to or received by the agent, from the Lowes Wong schools.
2. We understand that after ‘prior approval’ was granted Mrs Street, head teacher of Lowes Wong Junior School, telephoned the agent and was told that all objections filtered through the schools had been recorded as one per school.
3. In the two key documents prepared by the agent in respect of O2's application and sent to the District Council, we cannot find any record of parental objections. (please refer to Section 3. The Agent's Record of the Consultation Process)

Summary

Our belief is that additional pre- application consultation with the schools and residents by the district council would have revealed that a significant proportion of residents, workers and parents in Southwell have objections to O2's mast being sited at the Ropewalk.

3. The Agent's Record of the Consultation Process

There seems to be two key documents that the agent prepared in respect of O2's application (including their record of the consultation process) and sent to the District Council.

- 1. Statement in Support of Application for Prior Approval.**
- 2. Supplementary Information.**

In the document - "Statement in Support of Application for approval" section 4.10, the agent commented that consultation with the Lowes Wong schools was undertaken, but they did **not record** that the schools responses were negative **or make reference to parental objections filtered through the schools to them.**

In the document - "Supplementary Information" parental objections, filtered through the schools and communicated directly to Ian Hewitt Associates were **not recorded as individual residential objections.**

In the document – "Supplementary Information" **the unanimous objection of the Town Council**, communicated directly to the agent was **not recorded.**

In the document – "Supplementary information" the agent notes that they consulted individually with two ward councillors, Mr Brendan Haigh and Mrs Eileen Rodgers. The document records that neither councillor replied to their letter. Mr Haigh has confirmed that he intentionally did not reply to his individual letter. He has stated that this was because councillors are advised not to respond separately in planning matters, in case their comments prejudice the planning process. Mr Haigh's lack of response did not mean that he did not have objections and in fact **he recorded his objection at the appropriate town council meeting, when the town council unanimously opposed O2's application.**

Because a 'prior approval' planning application is so different to a routine planning application it is not surprising that ward councillors are sometimes unaware that the individual letter they receive is the application and that they must respond to it or the agents can record an outcome of 'no reply' and by default 'no objection'.

Summary

In the Code of Best Practice on Mobile Phone Networks Development there is a recognition that consultation records must be accurate.

"To ensure a complete record of the consultation process is kept, a copy of the completed consultation assessment and any consultations with the school/college should be retained on the operator's site files. This will ensure accurate records that can be referred back to in discussions with the local authority in respect of any subsequent planning submission."

(source: Code of Best Practice on mobile Phone Networks Development – Foreword & Procedures, Nov 2002)

“It is vital that full records are kept regarding the consultation carried out on a site for auditing purposes.” (source: www.mobilemastinfo.com)

“The operators are using the template below (supplementary information template) to ensure that local planning authorities have **clear information about an operator’s application for planning permission for a mast.**” (source: www.mobilemastinfo.com – Ten Commitments leaflet – June 2006)

Essentially we are concerned that all the omissions we have evidenced gave a misleading impression to the District Council and the general public about levels of objection before ‘prior approval’ was granted.

Our understanding of the planning process in relation to ‘prior approval’ applications is that Newark & Sherwood District Council must take account of any representations made in response when determining an application. Therefore we fail to understand how Newark & Sherwood District Council could grant ‘prior approval’ if they had not received all of the statutory information?

We believe that if application and consultation documents are in the public domain they should be an accurate and fair record of the consultation process.

4. Weighting of Objections

We find it extraordinary that in the agent’s ‘Statement in Support of Application for Prior Approval’ and ‘Supplementary Information’ documents, the objections of two head teachers and governors who have a ‘duty of care’ to 700 children at the Lowes Wong Schools appear to carry no more weight than an individual resident’s objection.

Likewise we would expect the views and objections of the Town Council who are the duly elected representatives of our community to carry more weight than an individual resident’s objection.

5. Health and Safety.

In the document - “Statement in Support of Application for Approval” a street furniture site at the entrance to Mill Park Industrial Estate was discounted because **“there is a day care nursery within 50 metres of the site.”**

The siting of a mast at the Leisure Centre off Nottingham Road, Southwell, was also discounted because **“there are two schools on either side of the leisure centre.”** (Source: Site selection considerations, point 4.13).

The Minster School currently has two sites, one immediately adjacent to the Southwell Leisure Centre, known as the Nottingham road site and the Church street site. If a mast were located at the Leisure Centre then the Nottingham road site would be very close (0 – 50 metres). **However the Church street site would, according to our calculations, be approx 500 - 600 metres away.** The Leisure Centre is an alternative site discounted by

O2 on the grounds of being too near to schools. **At the Ropewalk site, the Lowes Wong schools will only be 120 metres away from the mast.**

Summary

The health and safety of children is obviously a criterion that O2 give consideration to. We are concerned that, in this particular application, health and safety issues (which made other sites close to children unsuitable) appear to have been overlooked. We believe the decision to opt for the site on the Ropewalk is being driven by commercial reasons. We surmise it is probably cheaper to connect into the telecommunications network through the Telephone Exchange rather than the more expensive option of siting the mast away from homes and schools.

6. The Conservation Area.

Our understanding is that the proposed site is very close to the boundary of the conservation area in Southwell. We have been informed that usually in this situation there are **additional planning sensitivities which are taken into consideration by Newark & Sherwood District Council.** In the interests of 'best practice' we would like to know whether this happened in relation to O2's mast application.

Conclusions

The Mobile Phone Operators believe that the "... combination of current planning laws and the Ten Commitments is the best way to address community concerns about radio base station siting" rather than introducing restrictive regulations
(source: www.mobilemastinfo.com – Ten Commitments leaflet – June 2006)

Apart from Ward Councillor Rodgers (now retired) who has declined to comment on this matter, we know that all other key stakeholders with whom it was mandatory to consult, raised objections to O2's mast being installed in this location and yet still this did not ensure that the application was reviewed.

In an update seminar for the Implementation of the Ten Commitments (Jan/Feb 2004) the Mobile Operators Association stated:-

"Remember consultation is a two way dialogue where community response is received it must be seen to be considered. (source: www.mobilemastinfo.com)

We would ask, if **effective community consultation is not undertaken** how can it be seen to be considered?

We would ask, if community response is **not formally acknowledged and recorded**, how can it be seen to be considered?

We would ask, if operators are genuinely willing to consider a community's response, **how many objections are required before that happens?**

Despite overwhelming opposition from more than 1,300 residents in Southwell, together with governors and staff at both Lowe's Wong Schools, Southwell Town Council, Ward Councillor Brendan Haigh, Southwell Civic Society, County Councillor Bruce Laughton and Patrick Mercer MP for Newark and Sherwood, O2 have notified us of their intention to "progress this particular site through to completion" considering it to be a "suitable and appropriate location for a mobile phone installation."

In our opinion the pre-application community consultation process is flawed. Pre-application consultation information is currently conveyed to local planning authorities through agents who are not impartial, as they represent the operator. We believe that this makes the system vulnerable to inaccuracies, or misinterpretation. There exists plenty of excellent guidance and recommendations to facilitate 'best practice' but because this guidance is not mandatory our impression is that it was not taken up either by the agent or Newark & Sherwood District Council. We believe the net result is that the consultation process failed our community.

END

Cc Mr Patrick Mercer, MP for Newark and Sherwood
 Mr Bruce Laughton, County Councillor for Southwell and Caunton
 Mrs Beryl Prentice, Chair, Southwell Town Council
 Mrs V Platt, Head teacher, Lowe's Wong Infant School, Southwell
 Mrs S Street, Head teacher, Lowe's Wong Junior School, Southwell
 Mr Brendan Haigh, District Councillor, Newark and Sherwood
 Mr Peter Harris, District Councillor, Newark and Sherwood

Appendix 2

Document 1. Code of Best Practice on Mobile Phone Networks – (November 2002)

“This Code of Best Practice, produced jointly by representatives of central and local government and the mobile phone industry, builds on Government guidance and operators’ commitments. It provides clear and practical advice to ensure **the delivery of significantly better and more effective communication and consultation between operators, local authorities and local people.**”

(source: www.communities.gov.uk/index.asp?id=1144926)

“In August 2001, we introduced improved planning arrangements for telecommunications development. **These included greater requirements for consulting local people, backed by tougher guidance in planning Policy Guidance Note 8.** The mobile phone network operators also published in 2001 their Ten Commitments to best siting practice for new development. **A key objective is to improve dialogue and consultation with local communities in developing mobile phone networks.**”

(source: Code of Best Practice on mobile Phone Networks Development – Foreword & Procedures, Nov 2002)

Document 2. The Mobile Phone Operators – Ten Commitments (2001)

“The Mobile Operators Association (MOA) was established in January 2003 to represent the five UK mobile phone network operators (3, **O2**, Orange, T-Mobile and Vodafone) on radio frequency health and town planning issues.”

“Launched in 2001, the aim of the **Ten Commitments** is to ensure **transparency** in building mobile phone networks, to provide **more information to the public and local planners** and **to boost the community’s role in the siting of radio base stations.**”

Commitment 1 states, “develop with other stakeholders, clear standards and procedures to deliver significantly improved consultation with local communities.” (source: www.mobilemastinfo.com)

Document 3. Risk Communication Handbook – Working with the Community Developed by the Mobile Operators Association – (January 2004)

“This handbook has been developed to help site Acquisition Agents and related staff **to improve the way they communicate with local communities under Commitments 1 & 2.** It provides explanations and suggestions rather than mandatory instructions”

(source: : www.mobilemastinfo.com - Risk Communication Handbook – Working with the Community)

Document 4. The Planning policy Guidance 8 on Telecommunications Development (Aug 2001)

PPG8 gives guidance on planning for telecommunications development - including radio masts and towers, antennas of all kinds, radio equipment housing, public call boxes, cabinets, poles and overhead wires. (source: www.communities.gov.uk/index.asp?id=1143962)

10. Pre-application discussions should also be carried out between operators and other organisations with an interest in the proposed development, such as English Nature, the Countryside Agency, English Heritage, the Highways Agency, local highway authorities, **residential groups, parish councils or amenity bodies.** (source: www.communities.gov.uk/index.asp?id=1143962)

