

Environment, Planning and Countryside Committee

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Title: WLGA Briefing – Electronic Telecommunications Masts

Introduction

The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.

It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

Summary

- It is important to recognise the policy differences that exist between NPA's and Local Authorities LPA's on this issue. In the National Parks a planning application is required for all such developments. However it is clear from experience that this does not provide the answer for dealing with the public's perception that their health concerns are not taken fully into account. Even if all authorities required a planning application the "weight" given to the perceived health risks is still debateable under the current certification process and guidance. It could be argued that all that would be achieved by bringing all developments into the planning regime is a heightened degree of publicity, but it won't make the decision making process less problematic nor give the objectors any more confidence that their health concerns have been taken on board. However there are broader reasons for arguing that all developments should be subject to the full planning process.
- The role that telecommunications infrastructure plays in the effective delivery of emergency services and the ability to respond to incidents appropriately is vital. Therefore this discussion should be framed within the context that Telecommunications Masts are a vital piece of infrastructure to the economic and social well being of Wales. However this does not detract from the need to deal with public perceptions and concerns over health and visual impact and ensure that there is a suitable process to ensure continued public support and engagement with the planning system.

- It is clear that the planning system is being used as a vehicle by objectors and third parties to highlight their concerns on health. Whilst this is understandable, it places Local Planning Authorities in a very difficult position of balancing the weight of public opinion against the clear advice and guidance offered by national Government as to what is and is not relevant as material consideration.
- In this regard the WLGA consider that there should be further research undertaken on the possible health risks of telecommunications development and that the issue of whether there should exist a separate regulating process (potentially outside the planning system) to consider the health impacts of all base stations and associated developments prior to their erection should be considered. This would potentially allow the planning system to concentrate solely on the planning merits of the application, as advocated by current national policy and guidance.

Background

This issue is one that local authorities have been concerned by for some time. The debate held by the NafW in Plenary debate on 8 February 2006 (Item 9: Debate on Standing Order 31 motion (NNDM) 2736 tabled by Janet Davies AM) highlighted some genuine concerns and some real examples of where the public perception was that the system had 'failed' them. It is clear WAG policy to allow the development of an effective telecommunications network across Wales as a key economic and social policy aim. The way that PPW is currently framed supports this position. In many ways the planning system is seen as the tool to deliver this network effectively within broad health parameters set out by the Stewart Commission. Indeed LPA's are advised that they cannot set different criteria or unduly prevent such developments as this would impact upon coverage and effectiveness of the system.

However PPW does suggest that Health issues can be a material concern in this instance. The issue here is how the system currently operates with 'permitted developments' that there is no clear mechanism for the public to express those concerns and to feel that they have had them taken on board in the decision making process. This undermines public confidence in the planning system. The detail of planning policy and the context within which LPA's must take these decisions are understandably lost upon the general public. It is the end result where permission is 'granted' by their locally elected politicians who 'appear' to not want to take on board their genuine concerns over health issues which places the planning system in an invidious position.

Planning policy

In terms of LPA's outside National Parks the latest position regarding the installation of telecommunication masts is that all such masts under 15 metres in height are classified as "permitted development" under the terms of Part 24 of the Town and Country Planning (General Permitted Development) Order 1995. Nevertheless, it has always been a condition of such permitted development rights that any masts require the "prior approval" of the Local Planning Authority by means of the "prior notification" consultation arrangement. Although Local Planning Authorities were initially given 28 days for consultation, this was extended to 42 days in June, 1999, and subsequently extended to 56 days

in 2001.

In terms of planning Guidance and Policy, the following documents contain the most up to date guidance to Councils when dealing with telecommunications proposals.

Planning Policy Wales (March 2002) – Paras 12.11 to 12.13, which provides advice on telecommunications generally, Development Plan policy and Development Control.

Planning Policy Wales (Technical Advice Note) 19: Telecommunications (August, 2002), which provides more detailed advice on all aspects of planning for telecommunications development.

11. By way of further background, the following issues are also relevant to the determination processes, procedures and policies that currently exist.

The publication of the report of the Independent Expert Group on mobile phones (the Stewart Report) in May, 2000 recommended that Central Government should abolish the prior notification procedure and require that all masts should require planning permission irrespective of height. On issues relating to health, the report considered that "the siting of base stations in residential areas can cause considerable concern and distress". It also stated "the fact that base stations up to 15 metres in height can be installed in residential areas without the need for a full planning applicationto be unacceptable". The report expressed concern that the current (then) planning procedures had an adverse impact on those who are subjected to insensitive siting of base stations. However, and importantly, the report concluded as follows:

"We conclude 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 guidelines."

In April, 2001, the then Minister for the Environment, Sue Essex, concluded that masts below 15 metres in height would still benefit from permitted development rights, but that the time period for dealing with the prior approval submission would be extended to 56 days for ground based masts and those sited on buildings. The Minister also announced that school governors should be consulted on all proposals for masts on or near a school or college.

In line with the Stewart Report recommendations for a precautionary approach to mobile phone technology, the Federation of the Electronics Industry undertook to implement in 2001 ten best practice commitments, as follows:

- Develop, with other stakeholders, clear standards and procedures to deliver significantly improved consultation with local communities.
- Participate in obligatory pre-rollout and pre-application consultation with local planning authorities.

- Publish clear, transparent and accountable criteria and cross-industry agreement on site sharing, against which progress will be published regularly.
- Establish professional development workshops on technological developments within telecommunications for local authority officers and elected members.
- Deliver, with the Government, a database of information available to the public on radio base stations.
- Assess all radio base stations for international (ICNIRP) compliance for public exposure, and produce a programme for ICNIRP compliance for all radio base stations as recommended by the Independent Expert Group on Mobile Phones.
- Provide, as part of planning applications for radio base stations, a certification of compliance with ICNIRP public exposure guidelines.
- Provide specific staff resources to respond to complaints and enquiries about radio base stations, within ten working days.
- Begin financially supporting the Government's independent scientific research programme on mobile communications health issues.
- Develop standard supporting documentation for all planning submissions whether full planning or prior approval.

The debate in Plenary on the 8th February highlighted a number of examples where this best practice has perhaps not been followed.

Relevant Issues and Options

12. In terms of the current position, the progression of development proposals by local planning authorities are divided into two distinct approaches, namely:

(i) Applications submitted under the prior approval procedure, where the General Permitted Development Order has already in effect granted an 'in principle' permission for the development, conditional upon the operator applying for a determination as to whether its prior approval for the siting and appearance of the proposed development is required.

(ii) Applications which require full planning permission by reason of their height and/or location (e.g. full planning control is exercised in Conservation Areas). In such cases a whole raft of material planning considerations can be considered. Is this where the NPA's would fit???

13. In terms of current policy, Planning Policy Wales (March, 2002) recognises the above diversion in approach. In addition the following key points are raised as being relevant in terms of providing guidance to Local Planning Authorities:

- The extent to which masts can be shared.
- The need for installations to blend in with backgrounds.
- Uses should also be made of existing buildings and other structures to site antennas.

- Siting should, as far as practicable, minimise the impact on amenity and appearance of buildings.

Given the widespread concerns relating to the possible or perceived health impact of telecommunications masts, paras. 12.13.7 to 12.3.9 are particularly relevant. In summary, the Assembly considers that provided the development meets certain criteria, "it should not be necessary for a Local Planning Authority in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them".

14. However, it is extremely interesting to note para. 4.14 of the very same document which states, somewhat in contradiction to para. 12.13.8 as follows:

"The effects of development on, for example, health, public safety and crime can also be material considerations, as, in principle, can public concerns in relation to such effects."

15. From the above, it is clear that whilst the WAG are indicating that health can be a material planning concern and indeed the Courts have held that health can be a material consideration, generally, in the case of telecommunications development, given the specific guidance and regulations in place, the authority need not concern itself with the health impact of the development provided other guidelines are met. However, it is fair to conclude that public opinion and concerns relating to health impact can still be an important material consideration when these concerns are made alongside other general environmental and visual impact concerns.

16. More detailed guidance is provided in Technical Advice Note 19 – Telecommunications which provide the following advice (in summary):

- Protection from visual intrusion and the implications for subsequent network development will be important considerations in determining applications (para. 56).
- Telecommunications development will need particular locations to work effectively (para. 56).
- Evidence of a consideration of the potential of mast sharing should be submitted and provided by the operator on request (para. 57).
- Authorities should take full account of the specific siting needs of operators (para. 65).
- Local Planning Authorities should ensure that they understand the constraints faced by operators, whereas operators should be prepared to fully explain and discuss the feasibility of alternative solutions (para. 66).

17. Technical Advice Note 19 includes a full section devoted to the findings of the Stewart Group and the issues relating to health impact.

18. From the above, it is apparent that the ability of local planning authorities to intervene in the siting of new telecommunications developments is limited not only by virtue of the permitted developments rights that exist but also the policy and guidance that relates to telecommunications. In this regard the guidance is very much geared towards the promotion of the industry and recommending that local

planning authorities should be mindful of the needs of the industry.

19. Notwithstanding the above, all applications should be considered having regard to the specific characteristics of the development in question, the character of the site and the surrounding area as well as the potential impacts on the area in visual terms. The availability of alternative sites is also clearly a material factor.

20. It is also fair to conclude that notwithstanding the advice and guidance provided on issues relating to health risks, it is clear from submissions made that the planning system is being used as a vehicle by objectors and third parties to highlight their concerns on health. Whilst this is understandable, it places local Councils in a very difficult position of balancing the weight of public opinion against the clear advice and guidance offered by national Government as to what is and is not relevant as material consideration.

21. In this regard the WLGA consider that there should be further research undertaken on the possible health risks of telecommunications development and that the issue of whether there should exist a separate regulating process (potentially outside the planning system) to consider the health impacts of all base stations and associated developments prior to their erection should be considered. This would potentially allow the planning system to concentrate solely on the planning merits of the application, as advocated by current national policy and guidance.

22. The experience of this issue within National Parks Authorities is different because of the different framework they operate under in so far that all applications are subject to the full planning regime. However it is clear from experience that this does not provide the answer for dealing with the public's perception that their health concerns are not taken fully into account. Even if all authorities required a planning application the "weight" given to the perceived health risks is still debateable under the current certification process and guidance. In effect all that would be achieved by bringing all developments into the planning regime is a useful heightened degree of publicity, but it won't make the decision making process less problematic nor give the objectors any more confidence that their concerns have been taken on board.

Conclusion

23. The use of the planning process by stakeholders as 'a way in' to raise issues of health concern raises false expectations, given national advice and policy

24. The need for planning control on masts is essential, it should be full control, all developments should be the subject of planning applications and the PNA system should be scrapped as it undermines confidence

25. The masts should require planning permission as should the equipment, but before the equipment is installed it should perhaps be subject to a separate regulatory/licensing procedure that looks solely at

health issues/risks and so on. This requires further work to evaluate the pro's and con's of any such approach. This will potentially leave the planning system to concentrate on with visual and design matters