

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE –
26 MARCH 2001**

**REPORT ON: DRAFT NON STATUTORY PLANNING POLICIES IN RELATION TO
TELECOMMUNICATIONS MASTS AND OTHER APPARATUS**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 149-2001

1 PURPOSE OF REPORT

1.1 This report arises from Article I of the Minutes of Policy and Resources Committee of 11 October 1999. The Committee resolved that:

“The Director of Planning and Transportation develops a non-statutory planning guideline on the siting of mobile phone masts to inform Council consideration of future applications for planning permission.”

1.2 The report at Appendix 1 provides a suggested non-statutory planning guideline which is recommended should in due course be a material consideration in the determination of planning applications and a basis for appropriate policies to be inserted into the forthcoming review of the Dundee Local.

1.3 The preparation of the guidelines has been delayed to ensure maximum consistency with the Draft National Planning Policy Guidelines published by the Scottish Executive at the end of 2000.

1.4 Members are asked to note that the remit has been extended to relate to not only mobile phone masts but also to cover other and associated apparatus which may also be the subject of applications for planning permission or listed building consent.

1.5 Reference is made also to Article VI of the Minutes of the Planning and Transportation Committee of 22 January 2001 when the Council endorsed its comments on a series of consultation papers issued by the Scottish Executive relating to telecommunications developments. (Report 3-2001 refers) The Scottish Executive’s consultation period ended on 16 February 2001 and therefore at this time it is not entirely clear what the final levels of permitted development or the precise content of the new National Planning Policy Guideline will be. It is anticipated that the NPPG and accompanying Planning Advice Note will be available during the Summer 2001. Nevertheless, it is considered that this uncertainty should not materially prejudice the Council’s initiative to consult on the contents of this report. Members are asked to note, however, that some of the detail of the guidelines will inevitably be influenced by the outcome of the Scottish Executive’s consultation exercise.

2 RECOMMENDATIONS

2.1 It is recommended that:

a the Council adopts the draft non statutory policy planning guidelines outlined in Appendix 1 as a basis for consultation with Code System Operators, their consultants, business and environmental interest groups and Community Councils and the general public;

b the Council following receipt of a report into the results of the consultation exercise referred to in (a) above, reports the results to a future meeting of the Committee and thereafter makes the guidelines available to Code System and other operators and their

consultants, Community Councils and other relevant groups, issues a suitable explanatory leaflet and places the guidelines document on the Council's Web Site.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from this report other than the cost of the eventual preparation and production of publicity material, likely to be in the order of £500. This expenditure can be met from the Planning and Transportation's Revenue Budget for 2001/2002.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The proposed guidelines address the following Local Agenda 21 Key Themes:
- Places, spaces and objects combine meaning and beauty with utility.
 - Access to facilities, services, goods and people are not achieved at the expense of the environment and are accessible to all.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 The application of the guidelines should result in environmental benefits for all sections of the Dundee community.

6 BACKGROUND

- 6.1 Members' attention is drawn to the content of the Chief Executive's Report (Ref 654/1999) to the Policy and Resources Committee 11 October 1999 which outlined a comprehensive overview of the full range of issues connected with mobile phone masts. It is not intended to repeat these here but to develop some of the issues raised in Section 9 of that report as these are relevant to the development of the guidelines.
- 6.2 Subsequently, the Council prepared and submitted evidence to the Scottish Parliament's Committee of Inquiry. The Chief Executive also made representations to the Scottish Executive proposing a change to planning law as outlined in para 2.1.3 of the report referred to above.
- 6.3 More recently, the Council made representations to the Scottish Executive on recent consultation papers as referred to above.
- 6.4 The draft NPPG advocates that Councils should prepare supplementary guidance to provide an interim basis for efficient and consistent decisions on planning applications to complement the provisions of the development plan. The document advises that in developing this guidance, the views of the telecommunications industry, local communities and other relevant interests should be sought. In due course, as a matter of good practice authorities should incorporate any non-statutory policies into their local plans as quickly as possible.
- 6.5 This report and the attached draft non-statutory guidelines act on this advice.

7 SCOPE OF THE GUIDELINES

- 7.1 The Draft Guidelines refer to the nature and scope of Government policy, related legislation, health and safety issues as a material consideration, current development plan policy and a range of proposed new policies by land use topic area.

8 CONSULTATION

- 8.1 The Directors of Support Services, Finance, Economic Development, Environmental and Consumer Protection have been consulted in the preparation of this report and are in support.

9 BACKGROUND PAPERS

- a Report to Planning and Transportation Committee 29 June 1998 "Review of Planning Procedures in Scotland Relating to Telecommunications Equipment".
- b Report to Planning and Transportation Committee 30 November 1998 "Review of Planning Procedures in Scotland Relating to Telecommunications Equipment".
- c Report to Policy and Resources Committee 11 October 1999 "The Siting of Mobile Phone Masts in Dundee".
- d The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended.
- e SDD Circular 25/1985 "Telecommunications Development"
- f Draft Scottish Office Development Department Circular "Land Use Planning and Electromagnetic Fields" 1998.
- g Tayside Structure Plan 1993 (approved by the Secretary of States 1997)
- h Dundee Local Plan 1998
- i Planning and Telecommunications – Various Consultation Papers issued by the Scottish Executive November 2000.
- j Report to Planning and Transportation Committee 22 January 2001: "Planning & Telecommunications"

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APPENDIX 1

TELECOMMUNICATIONS DEVELOPMENTS

DRAFT

NON-STATUTORY PLANNING GUIDELINES

February 2001

1 PURPOSE OF THESE GUIDELINES

1.1 The purpose of these non-statutory planning guidelines is to inform officers and Members of the Council, the telecommunications industry, applicants for planning permission and their consultants, community groups and the general public, of the material planning considerations which will inform the Council in:

- determining applications for planning permission in respect of telecommunications developments;
- advising network operators of the Council's views, when consulted, on proposals which constitute permitted development.

2 BACKGROUND ISSUES

2.1 In drawing up the guidelines the Council has been mindful to attempt to reach a reasonable balance between the inevitable demands of a rapidly expanding and increasingly competitive industry and the duty which it has to protect and whenever possible enhance the local environment.

2.2 The Council acknowledges that there is likely to be a significant increase in demand for mobile telecommunications services and that the industry is obliged by statute to respond to this demand by expanding the extent of networks and improving the quality of service to its customers. The Council wishes its citizens and businesses to benefit from technological advances.

2.3 However, the Council wishes an appropriate balance to be struck between the industry's requirements in the future and the Council's objective of ensuring that the appearance of the City is not adversely affected. It wishes to achieve this balance by firmly yet sensitively controlling the location and appearance of telecommunications developments and to work with the industry to promote the sharing of masts and to maintain a working dialogue with each network operator with the objective to minimising the overall environmental impact on Dundee resulting from their activities.

3 STATUTORY FRAMEWORK FOR DECISIONS

3.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 indicates that planning authorities have a duty to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

3.2 The development plan comprises:

- a the Tayside Structure Plan 1993, approved by the Secretary of State in 1997; and
- b the Dundee Local Plan adopted by the Council in 1998

3.3 Other "material considerations" include:

- a Government policy as reflected in related legislation, Circulars, and National Planning Policy Guidelines;
- b Best Practice advice contained in Planning Advice Notes published by the Scottish Executive Development Department.
- c Planning considerations relevant to any particular proposal. In the case of telecommunications developments the most common issues are likely to be visual impact (location and design), impacts on traffic movement and pedestrian movement and safety;

visual impact within conservation areas or other sensitive areas; impact on listed buildings and their environs.

- d Consultation responses and representations received from the general public where these are relevant to planning issues.

4 GOVERNMENT ADVICE

- 4.1 Government advice in relation to this issue is in the process of being reviewed. In November 2000 the Scottish Executive issued for consultation the draft National Planning Policy Guidelines "Radio Telecommunications". It is anticipated that the approved version of this document together with complementary Planning Advice Note will be published in the Summer 2001. These documents will both be material considerations in determining planning applications for telecommunications developments. This non statutory guideline document is designed to be consistent with both these documents.

5 THE TAYSIDE STRUCTURE PLAN 1993

- 5.1 The Tayside Structure Plan 1993 (approved by the Secretary of State in 1997) contains no policies which directly mention telecommunications developments. However, the Plan contains a range of Environment Policies (1, 2, 5, 7, 8, 8A, 9, 11, 12, 13, 15) which are concerned with:

- a improving environmental quality in general; and
- b the sensitive siting and design of new development in relation to significant landscape character, nature conservation and the cultural heritage; and
- c the protection and improvement of the built environment, viz listed buildings, conservation areas, scheduled ancient monuments, designed landscapes etc.

- 5.2 These policies will be a material consideration in the determination of planning applications in respect of telecommunications developments.

- 8.2 The Draft Dundee and Angus Structure Plan was published for public consultation in February 2001. The document makes no specific mention of telecommunications as a key strategic issue but the general thrust of its environmental policies are complementary to and supportive of the approach advocated in the draft NPPG.

6 THE DUNDEE LOCAL PLAN 1998

- 6.1 The second element of the development plan, the Dundee Local Plan, adopted by the Council in 1998 contains a policy (BE31) which is directly related to telecommunication proposals. The terms of the policy are repeated in Annex A. Rather than setting out in precise terms the detailed criteria against which telecommunications developments will be judged in the decision-making process, the policy sets the framework within which such an assessment would take place. Guideline 1 below builds upon and clarifies this policy.

- 6.2 A range of other Local Plan policies will be relevant by degrees in assessing telecommunications proposals. Their applicability will vary for each proposal and accordingly in assessing compliance with all these non statutory guidelines it should not be interpreted that any proposal is acceptable on policy grounds.

- 6.3 The formal review of the Dundee Local Plan will begin during 2001. As advocated in the NPPG (Para 45) the review will be expected to:

- Present development control criteria for telecommunications development, including siting and design matters;

- Outline the types of location eg industrial areas, suitable for the more sizeable pieces of equipment;
- Identify the designated areas specified in the GPDO where there are no permitted development rights for telecommunications development, and set out policies to control the standard of development for these areas; and
- Identify other areas, for example “wild land”, the isolated coast or green belt where special care should be exercised.

6.4 This non statutory policy guideline will assist in informing the content of revised statutory local plan policies and the reasoned justification for them.

7 HEALTH ISSUES AS A MATERIAL CONSIDERATION

7.1 The NPPG advises that health considerations and public concern are in principle material considerations in determining applications for planning permission. In each case where planning permission for a telecommunications development is required it is for the Council to determine what weight to attach to such considerations. The report of the Independent Expert Group on Mobile Phones (IEGMP) which reported in May 2000 concluded 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 public exposure guidelines of ICNIRP.¹

7.2 The report went on to conclude that “there can be indirect adverse effects on their well-being in some cases, that the possibility of harm could not be ruled out with confidence and that the gaps in knowledge were sufficient to justify a precautionary approach”.

7.3 It is the intention of the Government to require all new base stations to comply with the ICNPRP¹ public exposure guidelines. Accordingly all applications for planning permission should be accompanied by confirmation that the apparatus, taken together with any already on site, will meet the guidelines when operational.

7.4 In addition, in support of the precautionary principle the IEGMP recommended that “beams of greatest intensity” from base stations near schools or similar premises should not fall on any part of the school grounds or buildings without the agreement from the school and parents. **Although this is to be a matter for the telecommunications regulating authorities to confirm and enforce**, it will be appropriate for the Council to receive from the applicant a statement in this regard when considering whether or not the ICNIRP exposure guidelines are met in respect of applications for planning permission.

¹ International Convention on Non Ionising Radiation Protection

Accordingly

Guideline 1

In the case of every application for planning permission for free standing telecommunications masts, base stations or other apparatus requiring such an application, the Council will require every application to be accompanied by a statement from the applicant confirming that:

- a The proposals, taken together with any already on site will meet, when operational, the ICNIRP public exposure guidelines; and that
- b the “beam of greatest intensity” does not fall on any part of any adjacent school grounds or buildings and if so, that the school and parents have been consulted and that where necessary adjustments to antennae have been made.

Guideline 2

Where the Council wishes to refuse planning permission on health or public concern grounds, in the face of applicants not complying with Guideline 1, this will be done only where the Council has obtained authoritative scientific evidence that the proposed standards are insufficient in that particular case.

8 LAND USE PLANNING GUIDELINES

8.1 Across a range of land use planning issues the guidelines below are designed to assist Members, officers, the general public, operators and their consultants in reaching an appropriate balance between the industry’s requirements and the protection of the City’s environment.

Guideline 3

In the case of every application for planning permission for telecommunications masts or apparatus the Council will require applicants to provide details relating to:

- an operational justification for the location and design of the proposal;
- possible alternative sites and the prospects for mast/apparatus sharing;
- an assessment and justification of the likely cumulative impact of the proposals;
- in the case of free-standing proposals, an assessment of the opportunities available for locating the apparatus on buildings, which would minimise the visual impact of the proposals;
- an analysis of the proposal’s environmental impact in relation to statutorily designated protection or other sensitive areas as outlined in relevant Structure Plan or Local Plan policies.

(For the avoidance of doubt similar information may be required by the Council prior to the issuing of informal opinions in respect of proposals which do not require the benefit of planning permission.)

8.2 Residential Areas

Guideline 4

There will be a general presumption against the siting of free-standing masts, similar structures and ground-base apparatus within or immediately adjacent to existing residential areas or within or immediately adjacent to sites allocated for residential development in the Dundee Local Plan 1998.

Relevant Local Plan Policies: H1; various housing proposals.

Reasoned Justification: These structures can be obtrusive, unsightly and dominate to an overpowering degree such that the reasonable enjoyment of residents of their residential amenity will, more often than not, be disturbed to an unacceptable degree.

8.3 Industrial Areas

Guideline 5

There will be a general presumption in favour of the location of ground-based and rooftop telecommunication masts and related apparatus within existing industrial estates and sites allocated for industrial development in the Local Plan provided such proposals:

- i are located and designed so as to minimise their visual impact;**
- ii do not prejudice the achievement of the objectives of the Plan's employment policies;**
- iii are not located on or in close proximity to any boundary with residential areas (See Guideline 4)**

Relevant Local Plan Policies: EU1, EU1(E), EU2, EU3, EU5, EU6, EU8, EP5, EU12

Reasoned Justification: It is accepted by the Council that visual amenity issues are less significant in industrial as opposed to residential and other sensitive locations. Operators are directed to these locations as first area of search for mast/apparatus structures. However, the guideline includes several safeguards which are nevertheless considered important.

8.4 City Centre, District Centres, Offices and Further/Higher Education Establishments

Guideline 6

Subject to the provisions of Guidelines relating to conservation areas and listed buildings, the following criteria will apply:

within the City Centre and District Centres there will be a general presumption against the erection of free standing mast structures and associated ground based apparatus;

within the City Centre, District Centres and on office buildings and higher or further education establishments roof mounted "stub" masts, antenna, and other related apparatus, which require planning permission will be acceptable provided measures are taken to maximise opportunities for the sharing of such facilities and to ensure that locations and designs are selected (Guideline 17) which minimise their visual impact on the built environment.

Relevant Local Plan Polices: S21, BE31

Reasoned Justification: This guideline does not rule out the possibility that structures would be unacceptable in these locations. However, free standing ground-based locations are likely to be intrusive to a degree that they would be unacceptable in principle. Many buildings in these categories of location already support mast structures and related apparatus without undue harm to the environment.

8.5 Medi-Park and Technology Park

Guideline 7

There will be general presumption against the siting of free standing masts, other ground apparatus or the siting of mast structures on existing or proposed buildings within the Ninewells Medi-Park or Dundee Technology Park unless it can be demonstrated that the mast or structure has a direct, essential and functional, relationship with the building or site concerned.

Relevant Local Plan Policies: BE31

Reasoned Justification: These locations are designed to support uses and buildings which are designed to the highest quality in support of the City's expanding importance as a world renowned centre of excellence in the biomedical services sector in particular. It would not be appropriate for the Council to encourage the location of telecommunications apparatus here except where it can be demonstrated that to do so was essential to the operational requirements of the site/building concerned. Even if this was to prove to be the case the operator would be expected to meet the highest possible design standards to the satisfaction of the Council.

8.6 Dundee Airport

Guideline 8

Subject to operational and safety considerations (as advised by the Director of Economic Development, the Airport Manager, the Civil Aviation Authority and the Health & Safety Executive) which will be taken as paramount, there is no general objection to the location of ground based or rooftop telecommunications apparatus within the operational confines of Dundee Airport.

Relevant Dundee Local Plan Policies: MV3

Reasoned Justification: Communications apparatus is already in evidence at Dundee Airport and additional installations are not considered to be incompatible although security, safety and operational considerations will always be paramount. Guideline 15 in relation to Ambassador routes is also relevant.

8.7 Public Parks and Public Open Spaces

Guideline 9

There will be a presumption against the location of telecommunications masts and related apparatus within existing public parks, existing or proposed public open spaces, play areas, and areas of designed or historic landscape.

Relevant Local Plan Policies: OS1, BE31

Reasoned Justification: Although operators are increasingly paying attention to designs which seek to camouflage a mast or give them, in some cases the appearance of trees, the

Council's view is that it is inevitable that these structures would be incongruous within the City's open spaces and that landscaping schemes are likely to be ineffective in minimising this impact.

8.8 Traffic/Transportation Policies

Guideline 10

There will be a presumption against telecommunications proposals which would:

prejudice the implementation of the Council's proposals for the management of traffic and the promotion of public transport, cycling and walking; and

be prejudicial to the free and safe movement of vehicles, pedestrians and cyclists and impede the safe and convenient access to land and buildings.

Relevant Local Plan Policies: MV1, MV5, MV9, MV19, MV20

Reasoned Justification: In considering mast/apparatus proposals, locations can be selected which might prejudice the Council's core transportation objectives or interrupt the free and safe movement of pedestrians or cyclists. It is also important that satisfactory standards of access are maintained.

8.9 Listed Buildings

Guideline 11

There will be a presumption against telecommunications proposals located on listed buildings or structures or which are considered to adversely affect the setting of a listed building or structure.

Guideline 12

Subject to the informal support of Historic Scotland and the receipt of a comprehensive justification and restoration details acceptable to the Council, telecommunications apparatus may be located inside a listed building subject always to the proviso that no part of the apparatus is externally visible and is appropriately housed internally.

Relevant Local Plan Policies: BE17, BE31

Reasoned Justification: The location of a mast, antenna or other apparatus on (as opposed to within) a building listed as being of architectural or historic interest is likely to adversely affect its character and may irrevocably damage its external fabric. Would such additions (however well disguised eg as flagpoles) preserve and enhance the architectural integrity of the building? When detached from the building itself even the most imaginative design solution is unlikely to overcome the likely adverse impact on a listed building's setting.

However, apparatus may be located **within** a listed building (eg within a church belltower) provided every element of the apparatus is not visible externally, that no internal features worthy of preservation or restoration are disturbed and provided any externally visible fabric is replaced or repaired to the satisfaction of the Council, with minimal interference to the historic fabric and where any alterations are fully reversible.

8.10 Conservation Areas

Guideline 13

There will be a presumption against the location of ground based masts and apparatus within conservation areas or where they would be considered to adversely affect the setting of a conservation area.

Guideline 14

Rooftops 'Stub' masts, antenna and other structures on unlisted buildings in conservation areas will be acceptable where their design and location is such that they do not have a detrimental affect on the appearance of the streetscape. Apparatus located on the elevations (except elevations totally hidden from public view) of unlisted buildings in conservation areas will not normally be acceptable.

Relevant Local Plan Policies: BE11, BE31

Reasoned Justification: Conservation areas are designated by planning authorities in order that their character and appearance which is of special architectural or historic interest is preserved or enhanced. These objectives can be compromised by poorly designed and located alterations or additions to buildings or spaces between buildings. In this context, although ground based masts and apparatus are not considered to be compatible with this objective, it may be possible to locate apparatus on buildings in accordance with Guideline 14.

8.11 Ambassador Routes

Guideline 15

Subject to the policies of the Dundee Local Plan and these guidelines, ground based masts and structures adjacent to the City's ambassador routes and 'gateways' may be acceptable provided these do not adversely impact on proposals for environmental improvements works, are slimline in design and not capable of mast sharing.

Relevant Local Plan Policies: BE23, BE31

Reasoned Justification: The Council is implementing a phased programme of environmental improvements along the following Ambassador Routes: Riverside Drive (Swallow Roundabout-Marketgait); Tay Road Bridge; Arbroath Road; Greendykes Road; East Dock Street; Forfar Road; Kingsway East. This programme is designed to improve the image and appearance of the principal traffic routes into the city. Although other guidelines may, for other reasons, discourage mast developments along these routes their designation should not preclude imaginatively designed and located solutions which would be compatible with programmed environmental works.

8.12 Scheduled Monuments, Areas of Archaeological Interest, Sites of Special Scientific Interest, Proposed Special Protection Area

Guideline 16

There will be a general presumption against the location of telecommunications apparatus within and adjacent to the sites of Scheduled Monuments, areas of archaeological interest, Sites of Special Scientific Interest or the Special Protection Area.

Relevant Local Plan Policies: BE25, BE31

Reasoned Justification: Planning and related legislation seeks to safeguard environmentally sensitive areas from inappropriate developments. This is backed up by the policies of the Local Plan. Ground based masts and support apparatus are considered to be developments which are likely to have an unacceptably adverse impact on the appearance and environmental integrity of these sensitive areas.

8.13 Mast Sharing and Design Issues

Guideline 17

The Council will encourage a partnership approach between itself and telecommunication Code Systems Operators and their consultants to the forward planning of “roll-out” programmes of proposed works. In particular, opportunities for mast sharing will be maximised (except where specified in these guidelines) and innovative approaches to mast, antenna and other apparatus design will be encouraged.

The Council will seek to agree a Code of Best Practice for mast, antenna and related apparatus design with all operators on a joint basis.

Relevant Local Plan Policies: BE31

Reasoned Justification: In previous discussions between the Council and the principal operators and their consultants, there appeared to be a mutual understanding of their respective statutory responsibilities. Accordingly, the Council wishes all parties to work together to create a mutually agreeable balance between planning and environmental objectives and those of a rapidly expanding and increasingly sophisticated industry servicing a growing customer base both nationally and locally.

8.14 Permitted Development

Guideline 18

If notified of proposals which do not require the benefit of planning permission, the Council will, where necessary, offer best practice advice reflecting the non statutory planning guidelines.

Reasoned Justification: Although certain categories of proposal will be categorised as not requiring planning permission in terms of the Town & Country Planning General Permitted Development (Scotland) Order 1992 (as amended) operators are required, as part of their licensee responsibilities, to advise Councils of the proposals and to invite representations. The Council will take such opportunities to offer best practice advice and in doing so to reflect the thrust of these guidelines.

ANNEX 1

DUNDEE LOCAL PLAN 1998: Policy BE31 Telecommunications Developments

Policy BE31

Telecommunications Developments

- a Proposals for telecommunications developments will be assessed against the following criteria:
- b Proposals will be assumed to carry an operational justification, but in cases where there is good reason to anticipate a general proliferation and resultant clutter in the local landscape, the planning authority retains discretion to explore this justification;
- c There are no satisfactory alternative sites available;
- d There is no reasonable prospect of sharing existing facilities;
- e In the case of radio masts there is no reasonable possibility of erecting antennae on an existing building or other structure; and
- f The development should avoid conflict with other policies or proposals of the Local Plan, with the Structure Plan, with National Planning Policy Guidelines, and with other protective designations (eg listed buildings, SSSI's etc). Where such conflicts emerge or where major visual intrusion is in prospect, applicants may be required to demonstrate over-riding need.

Source: Dundee Local Plan 1998