

**Planning Scotland Act 2006****Development Management Regulations consultation****Mobile Operators Association response****2<sup>nd</sup> April 2008**

The Mobile Operators Association (MOA) represents the five UK mobile network operators – 3, O2, Orange, T-Mobile and Vodafone – on radio frequency health and safety and associated town planning issues.

The following submission is made in response to the Scottish Government's consultation on Development Management Regulations. Responses to the questions in the consultation document are set out below.

**Pre-application Consultation with Local Communities****Question 1:**

**Do you agree with the proposed categories of development to which the requirements for pre-application consultation apply?**

**MOA Response**

Categories 4, 5 & 6 could have adverse impacts on the rollout of telecommunications development. Category 4 is quite ambiguous in that it requires consultation if a part of the open space would be lost as a result of development. However, a telecommunications development would remove only a very small area from the open space which would be unlikely to have an adverse impact on the overall amenity of that space. The wording should be altered to state that "all development on land identified in the development plan as open space which would, if carried out, result in the loss, in whole or a significant part, of the availability of that land as open space."

Similarly to Category 4, Category 5 is also ambiguous. NPPG19 & PAN62 encourage the use of existing structures for the siting of telecommunications equipment. Floodlight structures are often suitable for this use. As above, only a very limited area would be utilised for the telecommunications development and this would not prejudice the use of the site as a playing field. Accordingly the wording should be altered to state "development which would if carried out result in the loss, in whole or of a significant part of a playing field for such a purpose"

Category 6 requires all development within the greenbelt to be subject of consultation; again this will adversely impact on telecommunications development rollout together with other small-scale development within the greenbelt which would have only a limited impact on the greenbelt (a matter which will be assessed through a planning application). We believe that a threshold should be added to development in the greenbelt to allow small scale development to be undertaken without going through the additional consultation process, as this would not significantly impact on greenbelt policy. The current proposal in Category 6 could unduly delay small-scale

development and is unnecessary. A threshold in terms of site area such as 200m<sup>2</sup> should therefore be applied to development in the greenbelt.

It should be noted that the mobile operators' 10 Commitments to Best Siting Practice<sup>1</sup> and the Traffic Light Model<sup>2</sup> & Site Selection and Planning Model<sup>3</sup> already require the UK mobile operators to undertake appropriate pre-application consultation with both the planning authority and the community depending upon the impact of the development. To add further restrictive consultation for telecommunications development on open space, playing fields and within the greenbelt would result in serious delay to the development process with significant consequences for network rollout and the provision of mobile communications services to customers across Scotland.

## **Question 2:**

**Do you have any comments on the thresholds in Schedule 1 of the DMR on pre-application consultation?**

### MOA Response

As specified in the response to Question 1 above, we believe that the wording should be altered in Categories 4 & 5 under the description of development. In addition, a threshold for category 6 should be introduced as suggested to allow for smaller scale development in the greenbelt not being subject to such consultation additional procedures.

## **The Consultation Process**

### **Screening for pre-application consultation:**

#### **Question 3:**

**Is the information required in a pre-application screening notice sufficient?**

### MOA Response

The information required in a pre-application screening notice is appropriate.

#### **Question 4:**

**Is 21 days a reasonable period for authorities to respond to a pre-application screening notice in all circumstances?**

### MOA Response

A 14 day period for response should be sufficient for authorities to respond to a pre-application screening notice.

## **What pre-application consultation will involve:**

#### **Question 5:**

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<sup>1</sup> [http://www.mobilemastinfo.com/planning/best\\_practice.htm](http://www.mobilemastinfo.com/planning/best_practice.htm)

<sup>2</sup> <http://www.mobilemastinfo.com/planning/UK-TLM-for-public-consultation-version-2-0.pdf>

<sup>3</sup> <http://www.mobilemastinfo.com/planning/UK-Site-Selection-and-Planning-Model-version-2-1.pdf>

**Do you agree with the proposed content of the proposal of application notice?**

MOA Response

The content requirements of the proposal of application notice are reasonable. However, our response to question 1 also applies to this question.

**Question 6:**

**Are the requirements to notify community councils and neighbours of the proposal of application notice sufficient or should others be notified at this stage as a statutory minimum?**

MOA Response

Requirements to notify community councils and neighbours within 20m of site of the proposal of application notice are reasonable.

**Question 7:**

**Do you agree with the minimum statutory requirements for pre-application consultation in regulation 8?**

MOA Response

The mandatory need for a public meeting would appear to be excessive especially in relation to some of the development criteria and thresholds proposed, i.e. a small scale development within the greenbelt in a remote location whereby a public meeting would appear unnecessary and unlikely to be attended. It may be beneficial to have public meetings for larger scale proposals and a written response to be required for other smaller scale proposals where the public have raised concerns in writing to the applicant. This process works well for the consultation procedures followed by the mobile operators, and guidance could be issued on this subject such as set out in the English and Welsh Codes of Best Practice on Mobile Phone Network Development as such matters would be difficult to regulate.

### **Pre-application consultation reports**

**Question 8:**

**Do you agree with the requirements on the content of pre-application reports?**

MOA Response

The content of pre-application reports appear to be reasonable and appropriate.

### **Pre-determination hearings**

**Question 9:**

**Do you support the classes of development which will be subject to predetermination hearings?**

MOA Response

The classes of development whereby a hearing is required are appropriate. We would not expect this to impact on telecommunications development.

**Question 10:**

**Should the opportunity to be heard at a pre-determination hearing be extended to other parties beyond those who made representations?**

MOA Response

It would appear reasonable that the objectors and applicant attend hearings and that other parties' attendance remain at the discretion of the planning authorities to keep such hearings in a manageable form. Good practice guidance would be helpful in identifying circumstances whereby other parties' attendance may be relevant and helpful.

**Decisions by the full Council**

**Question 11:**

**What arrangements would need to be made to convene full Councils to make these decisions?**

MOA Response

Full Council meetings may need to take place on a more frequent basis than at present to cope with any additional workload.

**Processing Agreements**

**Question 12:**

**Do you support the view that processing agreements should be in place before submission of the application?**

**Question 13:**

**Do you agree that where there is to be a processing agreement that it should be entered into not later than 28 days after validation?**

MOA Response

No comments.

**Question 14:**

**Do you agree with the suggested components of a processing agreement?**

**Question 15:**

**Do you agree that the sole parties signing the processing agreement should be the planning authority and the applicant, or do you think there is scope for statutory consultees to also sign the agreement?**

MOA Response

No comments

**Planning Permission in Principle**

**Question 16:**

**Do you support the proposed approach to Planning Permission in Principle and approval of matters specified in conditions?**

MOA Response

These changes would not have an impact on telecommunications development.

**Content of Applications & Validation**

**Question 17:**

**Do respondents consider the approach to the content of planning applications to be appropriate or are any of the other options in paragraph 5.3 preferable?**

MOA Response

The content of planning applications is appropriate, to legislate for further requirements would be difficult and confusing and would no doubt result in the submission of potentially irrelevant information. This would incur unnecessary cost to the developer and slow down the development management process.

**Question 18:**

**What other measures could help to ensure that applications are supported by adequate information at the start of the planning process whilst still encouraging efficiency in the development management system?**

MOA Response

The issuing of good practice guidance would be beneficial, but it may also be beneficial for larger scale development which requires pre-application consultation but are not subject of processing agreements to have such matters clarified by the planning authority as part of the pre-application process and response to the proposal of application notice.

**Content of applications for Planning Permission in Principle ( PPP)**

**Question 19:**

**Do respondents consider that the draft regulations on the content of applications for Planning Permission in Principle are pitched at an appropriate level of information?**

MOA Response

We would agree with information levels for PPP applications as this should assist the planning authority's determination of the application. However, such changes would not have an impact on telecommunications development.

**Validation**

**Question 20:**

**Do respondents consider that the requirements on content of applications are sufficiently clear to allow validation to be a relatively straightforward administrative check?**

MOA Response

The validation requirements are sufficiently clear as set out in the regulations as to allow the validation process to be undertaken as an administrative check.

**Design & Access Statements**

**Question 21:**

**Do you have a view on the two options on the range of applications to be accompanied by a design and/or access statement?**

MOA Response

Neither design or access statements are relevant for any type of telecoms application. Design element of telecoms developments are covered in NPPG19. Such developments are not publicly accessible and therefore do not need an access statement.

Therefore, we believe that telecommunications developments should be included as an exception under Option 1.

**Question 22:**

**In addition to those considered in the options, in what circumstances might statements consider only one element – design or access?**

MOA Response

It is considered that some material change of use proposals could have issues for access and as such these should be included in the regulations.

**Question 23:**

**How can access panels be used most effectively in considering design and access?**

MOA Response

No comments.

**Question 24:**

**Do you consider that there is sufficient clarity in the regulations to allow for effective and timely validation of applications where design and/or access statements are required?**

MOA Response

Yes, the regulations allow sufficient clarity to allow the validation of applications.

**Question 25:**

**What role can local authority access officers play in assessing the access element of statements?**

MOA Response

No comments

**Question 26:**

**What information do planning authorities and communities need to ensure a thorough and robust assessment of the design and access statement?**

MOA Response

Formal guidance which has gone through extensive and robust consultation with relevant stakeholders would be helpful.

**Neighbour Notification & Publicity for Applications**

**Question 27:**

**Do you consider the proposals on service of notice to neighbours to be appropriate?**

**Question 28:**

**Do you agree that, in order to minimise costs and potential delay, a single notice sent to the address of the neighbouring land is sufficient for these purposes?**

**Question 29:**

**Is the proposed approach to keeping people informed of PPP and approval of matters specified in conditions appropriate?**

MOA Response

We agree with all of the above and the new procedure for notifying neighbours. We believe that a 14 day period for the submission of objections is sufficient and should be retained.

**Question 30:**

**Do you support the proposed definition of neighbouring land?**

MOA Response

Simplifying the definition in this way will provide clarity to all parties. However, there appears to be no differentiation for circumstances whereby the applicant owns surrounding land (current 90m rule) as a substantial development could have an impact on neighbours more than 20 from the site where the intervening land is owned by the applicant.

**Advertising and site notices**

**Question 31:**

**Do you consider the proposals concerning the use of site notices and of local advertisements to be appropriate?**

MOA Response

These proposals appear appropriate, although the use of normal posting procedures is still likely to result in neighbours not always receiving their notification and being unaware of the development. Any fee for advertisements should be introduced purely on a cost-recovery basis.

**Question 32:**

**Do respondents support the proposed requirements on notifying owners and agricultural tenants and the placing of local advertisements in this regard?**

MOA Response

These requirements appear reasonable and appropriate.

**Lists of Applications**

**Question 33:**

**Are you content with the Scottish Government's proposals for the public availability of the list?**

**Question 34:**

**Is the advertisement of the availability of the list in a local newspaper on a monthly basis appropriate?**

MOA Response

The content and availability of the lists are appropriate as is the monthly advertisement.

**Statutory Consultees**

**Question 35:**

**Do respondents have any views on the list of statutory consultees and the criteria for consultation?**

MOA Response

No comments.

**Time Periods for Decisions**

**Question 36:**

**Do respondents consider it appropriate to extend the statutory period for determining an application for national and major development to 4 months?**

MOA Response

It is appropriate that the time period for a decision is extended for national and major developments. Time periods do not need to be extended for local developments.

**Decision Notices, Reports of Handling & Registers**

**Question 37:**

**Is the level of information to be provided in the decision notice appropriate?**

**Question 38:**

**How should planning authorities best manage the potential burden of ensuring those who made representations are advised of the decision?**

MOA Response

The level of information proposed on the decision notice is appropriate. It may be that planning authorities use a press advertisement to advise of the decision on planning applications whereby a large number of representations are received. Some authorities use such a process to acknowledge the receipt of high volumes of representation rather than individually acknowledge.

**Planning Registers**

**Question 39:**

**Is the information to be contained in the report of handling appropriate in order to provide a robust summary of how the application has been dealt with and the reasons behind the planning authority's decision?**

MOA Response

The information required in these reports would appear to be appropriate to provide a robust summary of how the application was processed and thereby determined.

**Question 40:**

**Can existing Committee reports, where available, be easily adapted to incorporate the proposed statutory requirements in paragraph 4 of Schedule 4?**

MOA Response

As the information required in the handling reports is similar to that currently contained in most planning authorities committee reports they should not be difficult to adapt.

**Bad Neighbour Development**

**Question 41:**

**What might be an appropriate alternative name for "bad neighbour development"?**

MOA Response

"Amenity Sensitive Development" may be an alternative term to "Bad Neighbour "

**Question 42:**

**Do you support the proposed additions and deletions to the list of "bad neighbour developments" and do you have other suggestions?**

MOA Response

The proposed additions and deletions appear to be reasonable. We believe that ministers should make clear to planning authorities that telecommunications installations should not be classified as 'bad neighbour' developments. Whatever alternative name for such developments is adopted, there is a case to be made for specifying certain types of development that should not be classed as 'bad neighbours'. This would provide greater clarity to planning authorities. Telecoms developments should be included in this class.