Appendix 2

DERBY CITY COUNCIL

PLANNING CONTROL COMMITTEE
26 FEBRUARY 2004

Report of the Assistant Director – Development

PUBLICITY FOR TELECOMMUNICATIONS PROPOSALS

RECOMMENDATION

1.1 To agree the revised publicity arrangements identified in 2.24 below.

1.2 To refer the report to Cabinet for approval

SUPPORTING INFORMATION

2.1 Committee is asked to consider the revised arrangements for publicity for telecommunications proposals, which are submitted under the formal Notification procedure and as applications for planning permission.

2.2 This report is at the request of the Chair as a start of the review of publicity identified in the Best Value process.

2.3 The current arrangements for publicity were agreed in 1998 by the Council in advance of the statutory publicity arrangements and were with respect only to proposals submitted under the Notification procedure.

2.4 There are basically three levels of planning control over telecommunications proposals:

a. full control for development not qualifying as Permitted Development – normal applications for planning permission which are determined in accordance with the Development Plan and other material considerations. This is predominantly for masts over 15 metres in height;

b. some control over Permitted Development in the form of Prior Notifications - where the Authority has 56 days to control the siting and appearance, otherwise the proposal has deemed permission. This is principally masts under 15 m in height and certain apparatus on buildings; and

c. no control where the apparatus constitutes Permitted Development below the size limits for Prior Notification, where “de minimis” which is where the proposal is so minor that an application could not be justified, and where the equipment does not constitute development, such as that located within existing buildings.

2.5 The current publicity arrangements approved in 1998 relate solely to the Prior Notification procedure, identified above in paragraph 2.2b. This was because

there was no statutory publicity required at that time, unlike those requiring a specific planning permission. The agreed arrangements comprise:

- Freestanding masts / poles outside the city centre – notify neighbours within 4 metres of the site (or display a site notice if more appropriate), but not where neighbours are more than 90 metres from the apparatus, and notify Ward Councillors.

- Apparatus on buildings - notify Ward Councillors

- Apparatus in the City Centre (as defined in the CDLP) - site notice for freestanding masts / poles.

- The neighbour notification letter gave 7 days for comments and indicated that any comments received would be forwarded to the telecommunications operator, and that the Council had limited powers to influence the siting and appearance, but could not oppose the principle of the development.

2.6 It was considered that this would lead to the most affected residents being aware of freestanding proposals and give the Ward Councillors the opportunity to be aware of the freestanding and rooftop proposals and discuss them with their constituents at their discretion. Site notices were considered to be more appropriate when there were no neighbours resident within 4 metres of the site. With respect to more open sites where there were no residents within 4 metres, it was considered that a limit of 90 metres was reasonable, beyond which there would be no publicity arrangements.

2.7 Planning applications were not subject to these special arrangements as they were subject to statutory publicity. For these the arrangements are generally, a site notice and/ or neighbour notification within 4 metres, and inclusion in the weekly list of applications received. This list was published in a local paper, displayed on various notice boards and sent to Councillors. More recently, a discretionary consultation has also been sent to Ward Councillors.

2.8 Since these publicity arrangements were approved there have been legislative changes, brought into force by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 and identified in the Director's report to Planning Control Committee on 27 September 2001, which introduced for Notifications principally:

- statutory publicity

- the need for the Authority to take into account representations received

- consultations with various bodies similar to applications for planning permission

- notification to owner or agricultural tenant by the operator, and

- a different timescale to consider formal Notifications, being 56 days, rather than 42 days (and before that 28 days). Beyond that period the proposals

benefit from full operability of the permitted development rights, which are conditional on the prior notification.

2.9 These changes were accompanied by a revised Planning Policy Guidance Note PPG8 issued in August 2001, to guide the Local Planning Authority in how to consider telecommunications proposals.

2.10 Also since the publicity arrangements were approved, Prior Notifications have been included in the same code number system as planning applications, the result of which has been additional publicity in the form of the published, displayed and circulated weekly list of applications received, which is also sent to all Councillors.

2.11 Since the Authority's publicity arrangements were approved, there has been a need to increase the number and performance of installations as a result of the greater usage of mobile phones both numerically and technologically. At the same time public interest and concern has increased.

2.12 The Best Value Review of the Development Control Service intends to consider the improvement of publicity for planning applications. A recent installation in Oakwood was carried out in accordance with the approved publicity arrangements, which existed when the Prior Notification was received in May 2002 and many current residents were unaware of the proposal. Officers have had some discretion to widen the publicity where appropriate within the established framework, but where this becomes more frequent and in view of the greater public interest, the time is now opportune to review the current arrangements.

2.13 My recommended changes are described below. I consider that Prior Notifications and planning applications should be subject to the same publicity arrangements. I suggest this on the basis that the public perception is little different whether a mast is above or below 15m in height.

2.14 Prior Notification proposals on buildings should be included within the publicity arrangements. When the original publicity arrangements were devised, visual impact was the only consideration and often the impact of installations on buildings was greater at some distance from the building rather than close to. Since 2001 health issues and public concern can be treated as a material considerations and it is appropriate to treat installations on buildings in a similar manner. I should remind Members, however, that the advice in PPG 8 is that, where the operator confirms that the installation meets the international ICNIRP guidelines for public exposure, the Authority should not consider these aspects further. The introduction of health concerns as a material consideration has, therefore, had little practical effect as to the discretion that the Authority may exercise in circumstances where all notifications and applications that come to us are so certified.

2.15 I am proposing a wider publicity, with neighbour notification letters sent to those residential properties within 90 metres of the installation. This distance has relevance in that it is a distance referred to in publicity guidance. Within a suburban area this would include most residents likely to be able to see the

installation, but in denser urban areas would include many residents not so able to see the installation.

2.16 Where the installation is on a large more open site, such as a park or agricultural field, and adjoins areas where there are no dwellings within 90 metres, the first residential properties should be notified if within 200 metres of it. At the recent Oakwood installation this would have resulted in some 26 dwellings being notified. This distance has relevance in land searches as the distance beyond which it is considered that a highway proposal would be unlikely to affect a property.

2.17 Where there are non-residential properties within 90 metres, either those properties should be notified or a site notice be displayed. This would be determined by the nature of those uses and their proximity to the site. Properties with high concentrations of people such as medical surgeries or children's nurseries should be considered differently to, say, large warehouses with few employees.

2.18 Schools or colleges within 200 metres of the installation should be notified. The PPG does recommend such consultation but does not define any notification distance.

2.19 Although Councillors receive the weekly list of applications, I propose to continue consultation with Ward Councillors; this should assist in the determination of proposals within the 56 day deadline, especially if the level of representation is increased as a result of the wider publicity.

2.20 Where the installation is on land accessible by the public, I would recommend that a site notice be displayed. This would include the highway, parks, leisure and community centres, and car parks on retail centres such as the Wyvern.

2.21 I do not propose to change the arrangements within the city centre, except to consult the Ward Councillors. Most of the installations within the City Centre comprise installations in the street or on tall buildings with few residential properties and where the density of properties would result in a considerable administrative burden. With the likely increase in high-density residential development in certain parts of the City Centre this will occasionally need individual discretion.

2.22 I would propose extending the deadline for representations to 14 days on Prior Notifications. Extending it to 21 days to be similar to planning applications, would lead to difficulties in meeting the 56 day determination deadline if these are to be reported to Committee. I may also need to consider measures to aid meeting the determination deadline where there are high levels of representation, such as a standard report format or extending determination under delegated powers.

2.23 Members may also wish to consider extending public speaking at Committee to include Prior Notification proposals.

2.24 In summary, my recommendations for publicity for planning applications and Prior Notifications for telecommunications apparatus are:

a. neighbour notification letters to be sent to residential properties within 90 metres of the installation;
b. where the installation adjoins areas where there are no residential areas within 90 metres, the first residential properties within 200 metres of it to be notified;

c. non-residential properties within 90 metres to be notified or a site notice to be displayed;

d. site notices to be displayed additionally where the site is on land accessible by the public;

e. within the city centre, the arrangements in a) to d) above be replaced by a site notice;

f. schools and colleges to be notified within 200 metres of the installation;

g. Ward Councillors to be consulted; and

h. the deadline for the submission of representations to be 14 days in response to Prior Notification proposals but to remain 21 days in response to planning applications.

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Background papers:	None
List of appendices:	Appendix 1

Appendix 1

IMPLICATIONS

Financial

1. There would be some increased administrative costs in sending neighbour notification letters and in posting site notices. There would be increased resource costs in the increased administration and in dealing with an increased level of representations.

Legal

2. The revised arrangements would help to protect the Council against complaints to the Ombudsman/legal challenges on the basis that decisions had been made with inadequate publicity.

Personnel

3. There would be increased staff time in dealing with an increase in publicity and dealing with a possible higher level of representations.

Corporate Themes and Priorities

4. In the context of a great place to live, safer communities and a Best Value Council, there would be increased benefits in more residents being aware of telecommunications proposals.