### **Manor Gardens Mast Action Group**

(MGMAG)

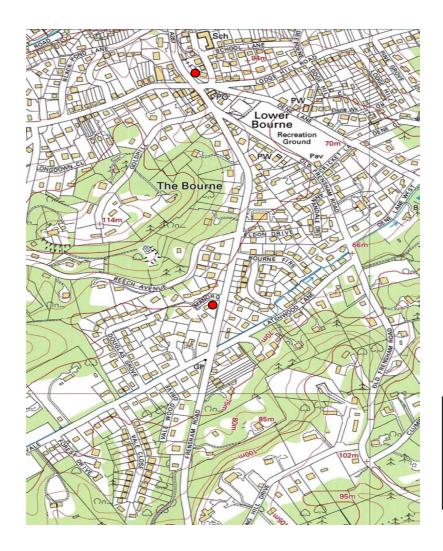
Presentation to

Waverley Borough Council Development Control Consultative Forum on

Phone Masts

By Ray Cuckow

## MGMAG represent the views of residents in a wide area around the Manor Gardens mast proposed by Orange



- Canvassed from Frensham Vale to Lodge Hill Road
- Newsletters delivered to all homes
- ☐ From doorstep calls, Questionnaire and Petition, we **KNOW** the views of the Bourne residents
- ☐ We are not an 'isolated committee'
- 400+ have signed our petition

Our extensive consultation means that we, and our elected representatives, speak with authority

### MGMAG welcome Waverley's Mast Forum (DCCF) as a way of shaping policy on the South Farnham mast issue

#### Steve Thwaites states:

"The dilemma to be addressed (at this Forum) is whether it is more appropriate to advise Orange to pursue a roll-out strategy based on

> fewer & larger masts,

- ... on <u>high ground</u> away from habitation
- > or more and smaller masts"
- ... among homes and schools

"...there has been no formal policy or strategy (for no masts on high ground), but rather a de facto position has been established through individual planning decisions"



## Orange's Manor Gardens proposal would cause serious damage to the South Farnham community's amenity

An environmental eyesore on this attractive 'green corridor' in and out of Farnham

Major Health Concerns about radiation

One Million Pounds loss of value in surrounding properties – loss of amenity

### Orange's Manor Gardens proposal would cause serious damage to South Farnham residents' amenity

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## Orange's proposed mast at Manor Gardens would be a <u>dominant</u> eyesore in this "sylvan"\* setting

- ➤ The mast would be 39 feet high, higher than adjacent houses, with **five large ground boxes**
- This photomontage is to scale
- ➤ The mast would dominate in an attractive part of South Farnham
- The mast would be highly visible to residents
- The mast would be highly visible to all passing motorists on this busy "green corridor" route

<sup>\*</sup> Quote from the Planning Inspector, 7 June 2005, in refusing an appeal for a block of flats directly opposite the mast site.



### Orange's proposed mast at Manor Gardens would be a <u>dominant</u> eyesore

Waverley Policy D11 Telecommunications Development will grant permission if, inter alia: -

#### D11(a)

"Its siting, height and design is such that it has <u>no</u>
<u>material adverse impact</u> on the appearance of a building
<u>or general character of an area including the amenities of</u>
<u>neighbouring residents</u>"

#### D11(c)

"Where a <u>new mast</u>, tower or antennae is required, it is located <u>in the least damaging position</u> and is appropriately designed, coloured and landscaped"

### Orange's proposal clearly violates Waverley's Policy



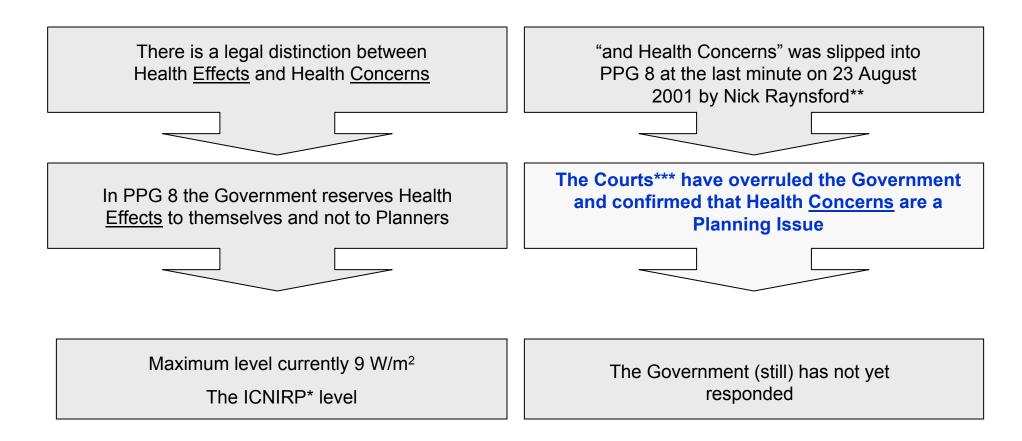
### Orange's Manor Gardens proposal would cause serious damage to South Farnham residents' amenity

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#### Major Health Concerns about radiation

One Million Pounds loss of value in surrounding properties – loss of amenity

# Health Concerns ARE a legal planning issue and must be taken into account by the Decision Maker. Waverley state this clearly and correctly in the Local Plan\*



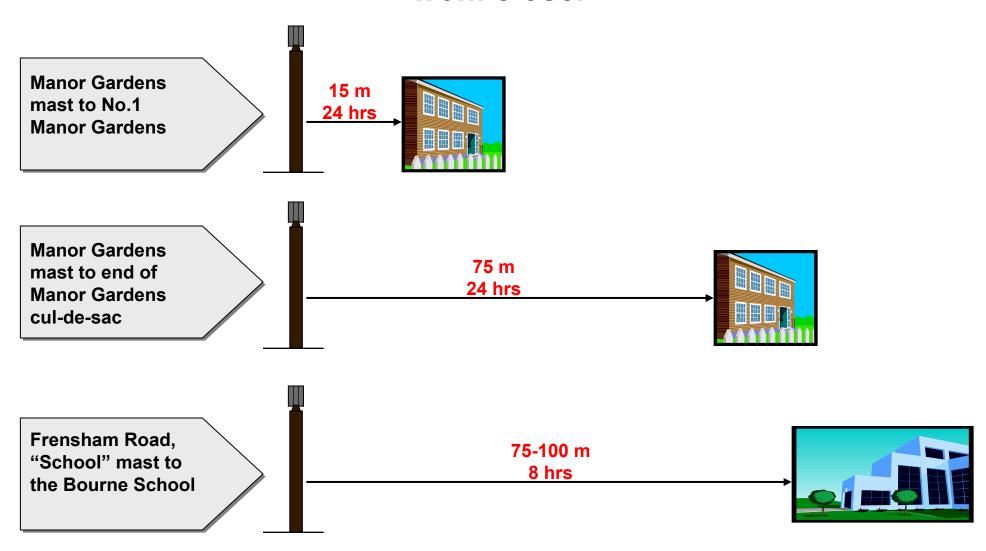
Policy D11, para 2.57, page 22, Waverley Borough Local Plan 2002

<sup>\*</sup> ICNIRP – International Commission on Non-Ionising Radiation Protection

<sup>\*\*</sup> Source: Radiation Research Trust

<sup>\*\*\*</sup> Court of Appeal Decisions in Newport, Tandridge, Brent

## Relative to the equally contentious School proposal, children at Manor Gardens would be exposed to radiation for longer, from closer



## Two reports, 2000 and 2004, by Professor Sir William Stewart, FRS, FRSE, are the most authoritative available and recommend a <u>Precautionary Approach</u>

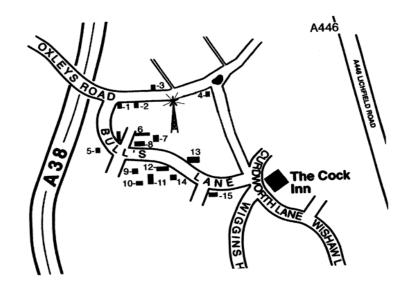
"We recommend that a precautionary approach to the use of mobile phone technologies be adopted until much more detailed and scientifically robust information on any health effects becomes available"

"Adverse impacts on the local environment may adversely impact on the public's well-being as much as any direct health effects"

"People can also be concerned about effects on property values when base stations are built near their homes."

# There are a worrying number of studies indicating clusters of cancer and other health problems around masts, often not surfacing for 8-10 years

Wishaw, Midlands

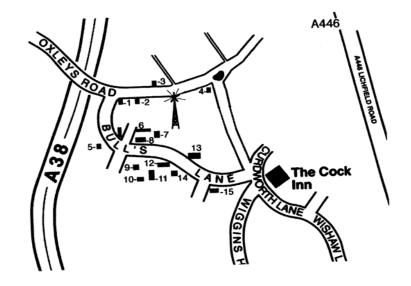


15 of the 18 houses have a health problems

There are 17 cases of growths, cancer or pre-cancer cells

# There are a worrying number of locations indicating clusters of cancer and other health problems around masts, often not surfacing for 8-10 years

#### Wishaw, Midlands



#### Locations with clusters of health problems

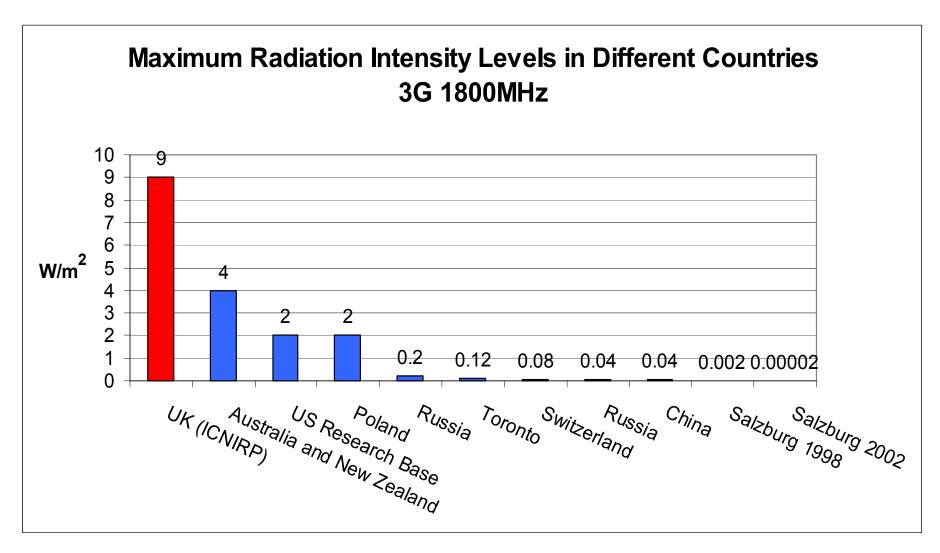
CREDITON near EXETER DEVON CARNARVON ROAD LONDON GAINSBOROUGH LINCOLNSHIRE BARNOLDSWICK LANCASHIRE **LEEDS** YORKSHIRE TOLWORTH **SURREY** STOKE ON TRENT **STAFFS** BLANDFORD CAMP DORSET **NORWICH** NORFOLK **EXETER** DEVON **SAINTFIELD** N. IRELAND LURGAN N. IRELAND MILFORD HAVEN S. WALES MID GLAMORGAN S. WALES PORT TALBOT S. WALES VALLADOLID SPAIN ANDORRA VALLEY SPAIN **SKRUNDA CESANO & SANTA MARIA DI GALERIA ROME** 

#### Studies showing ill-effects

- Naila
- TNO
- Wolf & Wolf
- Oberfeld and others
- Santini et al.

More peer reviewed research, published in prestigious journals, is needed

### Other countries use different guidelines, lower than for the UK

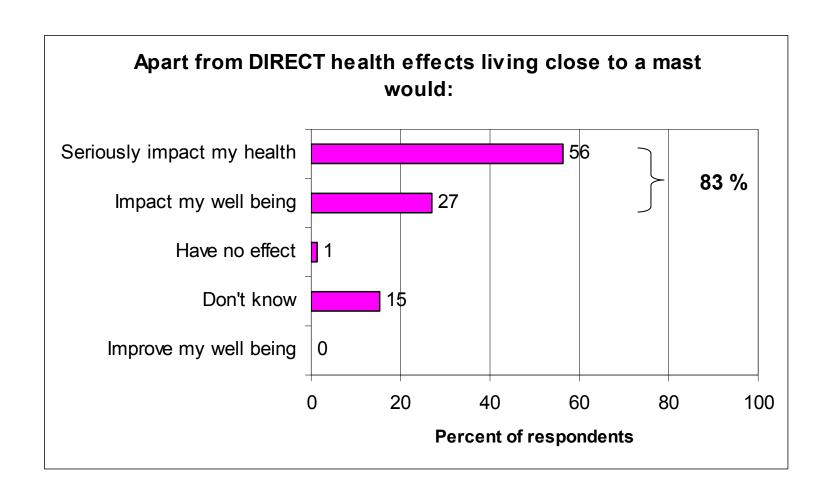


### Sweden recognises Electro-Magnetic Field Sensitivity as a medical condition

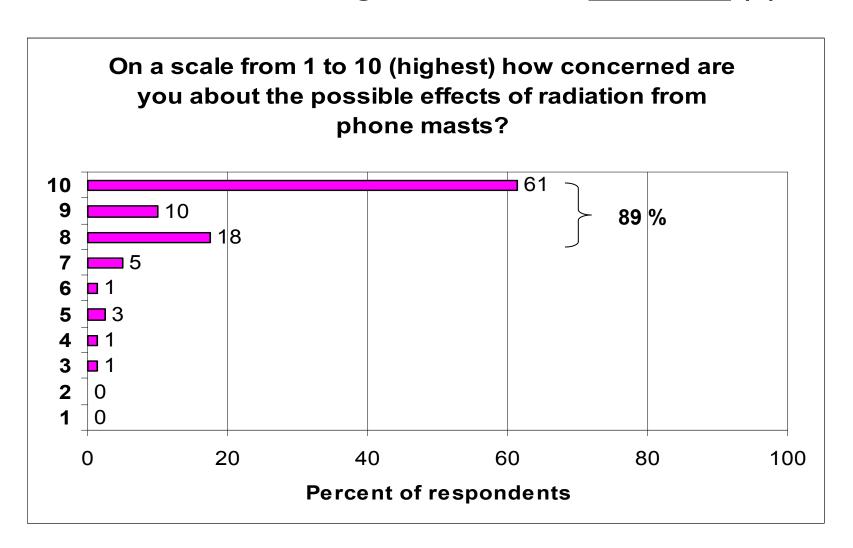
Sweden has a medical register of 285,000 people and California has 700,000. If the same % applies to the UK, we will have over <u>2 million</u> people affected.

The <u>precautionary principle</u> means that one should not wait for absolute scientific proof that something is dangerous before taking action to head off the potential catastrophe

## Residents around the Manor Gardens proposed mast have serious and legitimate health <u>concerns</u> (1)



### Residents around the Manor Gardens proposed mast have serious and legitimate health <u>concerns</u> (2)



### Orange's Board of Directors (so far) will not state that there is no substance to health concerns

#### **MGMAG Letters to Orange Board**

"We would envisage that you are acutely aware of the early denial of any adverse health impacts in other industries, for example: smoking & lung cancer, thalidomide and birth deformities, the insulation industry & asbestosis, mining & silicosis/pneumoconiosis.

Are you personally, and the Orange Board, prepared to put in writing that there is no substance to health effects and health concerns and to be held accountable if wrong?

It will be Orange, not the Government, who will have to face the compensation claims".

Orange's Answer: "These are detailed issues"

### Orange's Manor Gardens proposal would cause serious damage to South Farnham residents' amenity

An environmental eyesore on this attractive 'green corridor' in and out of Farnham

Major Health Concerns about radiation

One Million Pounds loss of value in surrounding properties – loss of amenity

### "The million pound mast"

The loss of property value has been professionally assessed independently by two top agents as a minimum of £500,000 but more realistically approaching £1,000,000

- For homes in Bourne Firs, Frensham Road and Manor Gardens
- For this <u>single</u> mast, covering only a few hundred yards of the A287
- Those homes adjacent and with direct line-of-sight would suffer a loss estimated at £100,000 each, IF the houses were even saleable (17%; other locations indicate 20-30%)
- Others would suffer proportional to distance
- "For every 10 agents' applicants 5 would bin house details immediately"

The STRESS of this, and community loss of amenity, is a <u>material</u> <u>planning consideration</u>, even if the loss itself may not be

# A mast at Manor Gardens would clearly be a huge loss of Amenity Value to this whole Community. What is not so clear – yet - is how best to protect this amenity

#### PPG 3

Requires Planners "to provide an environment is which people would choose to live"

#### **Telecoms Act 1984, now Electronic Communications Act (2003)**

Clause 16: Compensation based on "Injurious Affection", if built

Clause 17: Application to have a mast removed

#### **European Convention on Human Rights and Fundamental Principles**

**Article 8:** seems to give a group of residents rights 'to protect the viability of their homes", i.e. their homes should be free from potential health risks.

**Article 1:** First Protocol: any drop in property values, or effective use, could violate the "right to peaceful enjoyment"

Article 6.1: may make a <u>public authority liable</u> if they fail fully to consider the perception of an adverse health effect

## Orange have (so far) declined to answer the fundamental question of loss of amenity from loss of value

#### **MGMAG Question:**

Put three times to Orange CEO Sanjiv Ahuja (letters of 15/6, 16/8 & 3/10)

"Equity in houses is a vital part of peoples' pension planning for their old age. The Government is encouraging both home ownership and pension planning.

By what right can you damage young families' equity and older peoples' pensions by the significant reduction in value of their homes that you would cause?"

Orange say: "These are detailed issues"

We say:

"Surely the "balance of planning laws, property values and health" are absolutely fundamental to your corporate strategy, to community relationships and to the success of your business?"

## Residents' Wishes As put to our Elected Representatives

Location, Location ....

## The new PPS 1 makes clear that planning decisions must be evidence led and include effective consultation

#### **Integrating Sustainable Development, Para 26(vi)**

"Ensure that plans and policies are properly based on analysis and evidence ...."

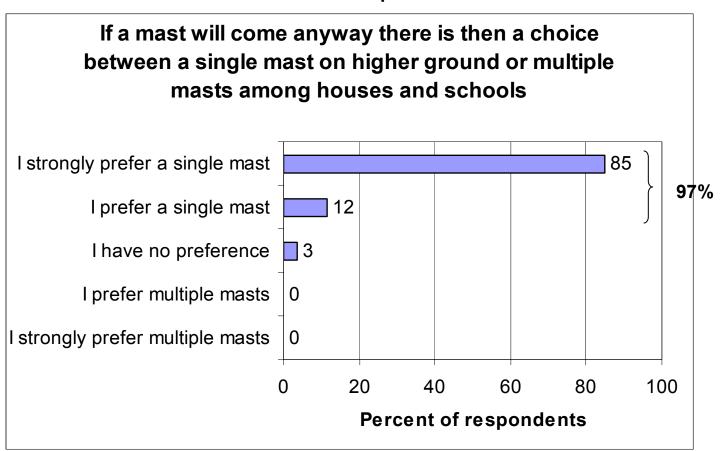
#### **Community Involvement, Para 43**

"Community involvement in planning should <u>not</u> be a reactive, tick-box, process. It should enable the local community to say <u>what sort of place</u> they want to live in at a stage when this <u>can make a difference</u>."

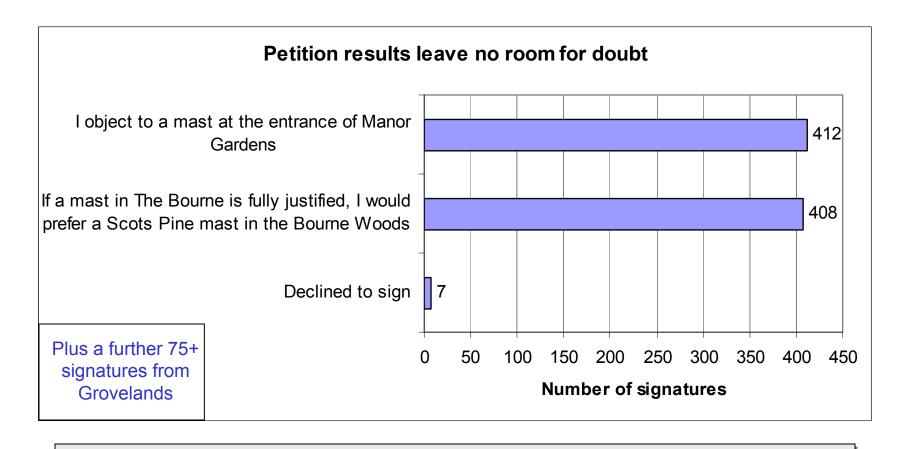
Underlining by MGMAG

## The residents around Manor Gardens are near-unanimous in preferring a "high ground" policy and rejecting a mast near homes and children's bedrooms

#### **Questionnaire Replies**



### Our Petition then shows the near unanimous preference of Bourne residents for a Bourne Woods site



Note the caveat that it remains for the phone operators to justify ANY mast

### "Local democracy is a joke when it comes to masts" (Jeremy Hunt, MP)

A new Waverley Supplementary Planning Guidance on masts would change the planning emphasis

#### FROM:

"Will be approved provided ....

Typically a short list covering only network need, design, environmental, ..

#### TO:

"Operators must demonstrate ....

A more comprehensive check list covering their Ten Commitments, Traffic Light Scheme tests, health concerns, sensitive locations, residents' amenity, consultations; as well as the technical details

Basingstoke and Deane B.C., and others, have had success with this policy.

Excellent pro-formas exist

## Caroline Spelman MP has tabled Early Day Motion 67, signed by Jeremy Hunt and 110 other MPs, to get democracy back into mast planning decisions

#### **Caroline Spelman states\*:**

".... will champion the interests of local residents and address the feelings of powerlessness and frustration experienced living under the shadow of 'monster masts'.

Local councillors, answerable to local residents via the ballot box, should have the final say on where they go."

#### Did you know that:

In Scotland and Northern Ireland all new masts must go for FULL Planning Permission, as recommended by Sir William Stewart for England and Wales\*\*

David Curry MP has a Bill that would strengthen the democratic control over masts (previously sponsored by Richard Spring MP, then Andrew Stunell MP)

Jeremy Hunt is arranging meetings with MPs Caroline Spelman, Dr Ian Gibson (Chairman of the All Party Group on Cancer), Lembit Öpik and others to work towards a change in the law.

MGMAG are increasingly active politically and nationally in support of this objective.

<sup>\*</sup> Caroline Spelman's website; \*\* Stewart 2000 para 1.36

## In South Farnham ANY mast will affect <u>someone</u>, the challenge is to find the "least-worse" site(s), assuming that at least some sites will finally be approved

#### First:

- > Look for technical gains on existing sites, and recheck coverage
- Build already approved sites, and recheck cover
- > Added to blighted sites, and recheck cover
- Evaluate Roaming; operators claim anti-competitive but why not? It works abroad and keeps mast numbers down.
- Assess all possible multi-operator sites

#### Then, and only then:

➤ As a last resort – new <u>multi-operator</u> sites – with minimum power

#### The criteria may conflict:

- Number of houses within a circle around a site
- Distance of mast from bedrooms health concerns and related stress
- Proximity to schools, nurseries, doctors surgeries, and similar
- ➤ Within, or near to, protected areas, GB, AONB, AGLV\*
- Possibilities for screening masts
- Weight of public opinion
- > Stress and loss of amenity from property value
- $\triangleright$  ?

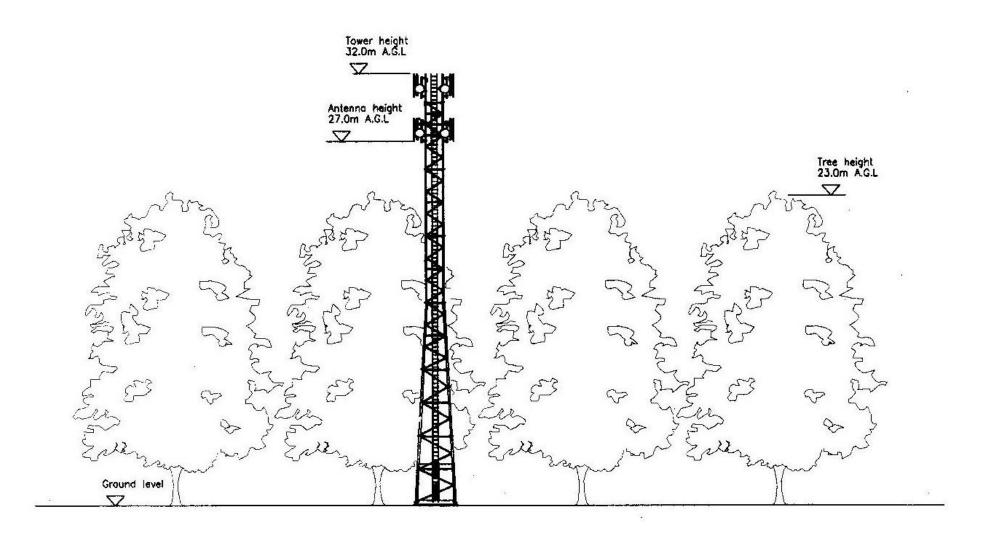
### A new site in the Bourne Woods is very much a "least-worse" option relative to Manor Gardens

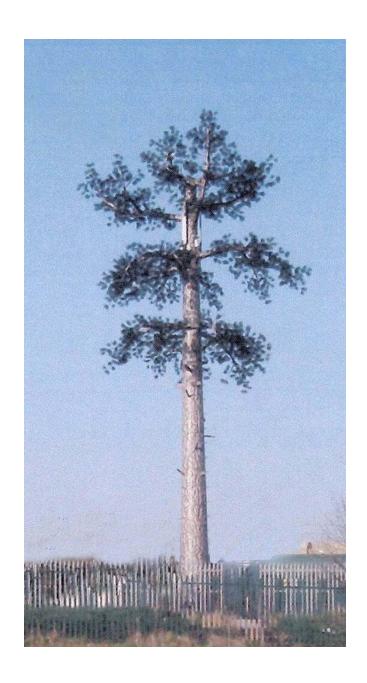
#### A Bourne Woods site would be:

- Not on the same site as the failed Cellnet (O2) application in 1998/99 (with 51 individual letters of objection and a petition of 70 signatures; not appealed by O2)
- On high ground away from populated areas
- > 3 houses within 200m. This compares with 85 for Manor Gardens plus a <u>School</u> at 225 metres and a doctor's surgery
- Nearest houses likely to be in excess of 150 m away c.f. only 15 m from children's bedrooms at Manor Gardens; much lower health concerns
- New Scots Pine design, not an ugly obtrusive lattice above the tree-line as previously
- Well screened by mature Scots Pine, and below the tree canopy
- Part of The Bourne Woods has GB, AGLV and AONB classifications, but Manor Gardens is also an attractive area only 300m from those same classifications. In addition Manor Gardens is adjacent to two areas of SFASEQ\*
- Must be a multi-operator site thus avoiding a proliferation of new site applications from all five operators among homes
- May improve signal strength at the Bourne School and Abbots Ride
- Also removes the need for the Grovelands mast proposal by Orange
- No heavy loss of community amenity from property values less stress

Public perceptions have changed since 1998; they now recognise that mobile phones are here to stay and some more masts are inevitable

## The mast proposed in 1998 for the Bourne Woods was an ugly and obtrusive lattice design, rightly rejected





# Whereas a (new) Scots Pine design mast would blend into a background of mature Scots Pines in the Bourne Woods

Residents on the doorsteps said that they would not object to a tree mast such as this in the Bourne Woods

Many initially thought this photo was an <u>actual</u> Scots Pine!

### Orange have only <u>suspended</u> their Manor Gardens proposal (& at the Bourne School & Abbots Ride), NOT cancelled them ....

.... and there is a threat from the other four operators, as yet unquantified

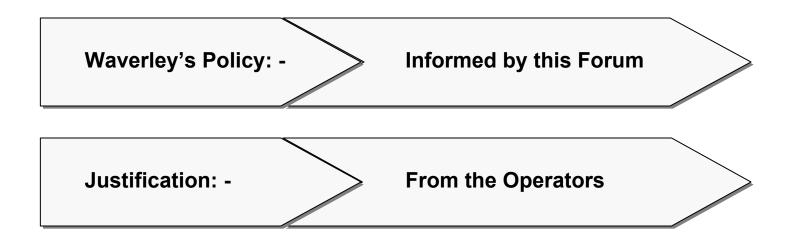
#### **However:**

- ➤ There is currently NO <u>process</u> in place for Operators to coordinate plans so that a <u>minimum</u> number of new masts are requested. This is contrary to PPG 8 (paras 19-23 & Appendix para 8)
- Orange are taking the lead in coordinating the views of all five operators for a high-ground site in place of Manor Gardens. MGMAG welcome this.

#### **Further:**

We note that Waverley has initiated a wide ranging review into phone masts in the Borough at which all views are welcome. (An Environment and Leisure, Overview & Scrutiny Committee project). MGMAG will participate.

### An alternative site(s) for Manor Gardens + Grovelands is potentially available on high ground, subject to:





# ORANGE MAST AT MANOR GARDENS

### **CLOSE TO CHILDREN'S BEDROOMS**

## We ask that Waverley Councillors and Planners formally adopt a policy of preferring multi-operator high ground sites for South Farnham

### RESOLUTION

Waverley Councillors, recognising the strength of feeling among their constituents in South Farnham, do hereby RESOLVE to:

- i. adopt a formal policy, whenever there is a choice, of strongly favouring
  - (a) fewer masts of tree design on high ground away from major habitation, in preference to
  - (b) more masts among residential areas and schools
- ii. adopt a formal policy of strongly favouring multi-operator sites to keep the proliferation of new sites to the minimum
- iii. adopt a new Supplementary Planning Guidance policy for masts so as to return some local democracy to residents and their elected representatives

# Jeremy Hunt MP and our Surrey County Councillors have been active in supporting us in fighting Orange's proposals

### **Jeremy Hunt has:**

- Met with Caroline Spellman, Shadow Secretary of State for Local Government to discuss her campaign on phone masts
- Has arranged two meetings in the Commons for residents and mobile operators
- Attended the Bush Hotel Rally
- Spoke out on Meridian TV and in local press reflecting local concerns over the siting of masts
- Called for full planning permission to be required for all masts
- Called for health considerations to be taken into account when masts are sited near homes schools and hospitals

#### Pat Frost and David Munro have:

- Issued press releases calling on Orange to withdraw their plans for the Bourne School and Manor Gardens straightaway
- Made clear that there is no justification for putting these mast in such a prominent position where they will blight the landscape
- Stated that these proposals will make many, particularly with young children, genuinely fearful
  of the hazards to health
- Lobbied Orange to that effect
- Attended the Bush Hotel Rally
- Held discussions with local residents

Our Waverley Councillors have been kept informed, but cannot express any opinion on the masts as they may be called upon to participate in decisions on future planning applications

Finally, we greatly appreciate that very strong support from Jeremy Hunt and our Councillors, and the professional discussions with Steve Thwaites and Paul Hardwick at Waverley

## For further information please contact the MGMAG coordinators

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"Woodlands"

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### **Additional Information**

### **Background and MGMAG Strategy**

# Use of mobile phones will continue to grow. MGMAG are not against all masts, only against insensitive and inappropriate siting

### Our strategy is clear

- 1. To oppose masts that violate Waverley's policy to protect the environment and amenity, or are too close to homes and schools (health concerns)
- 2. To be increasingly active politically and nationally to get the law changed
- 3. To work with the operators to identify <u>sites</u> that are "least worse" overall
- 4. It is for the operators to justify the <u>need</u>

To be Luddite will result in the 5 operators picking us off, site by site.

The result will be <u>worse</u> than that achievable by constructive negotiation.

## Orange have only <u>suspended</u> their most controversial proposals for The Bourne so a serious threat to community amenity <u>remains</u>

### **Manor Gardens**

".... they will not submit any planning application in connection with the Manor Gardens proposal whilst they established the viability of the alternatives under consideration"

#### **Bourne School**

".... have now agreed to put these proposals aside and continue to pursue our interests with NTL"

**But:** ".... we may need to return to the area to look for further alternative options"

### Abbots Ride, Tilford Road

".... agreed to postpone its proposals until their new site has been built at Victoria reservoir"

**To see:** ".... the extent to which it improves coverage"

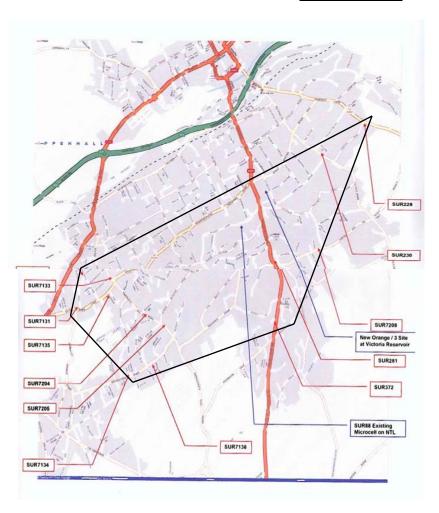
The new threats from Vodafone, O2, H3 and T-Mobile have yet to be clarified

We are grateful for the strong support of Jeremy Hunt and our Councillors in getting us to this position

### The background to this issue goes back several years

Application WA97/1956 for a site south of Gong Hill Drive by Orange. Refused by planners and Dismissed on appeal in 1999
Application WA98/1171 in 1998 by Cellnet (O2) for a prominent site on open ground in the middle of the Bourne Woods ridge. Refused by planers and did <u>not</u> go to appeal.
Both of these applications were for a lattice mast. Both had dominant multiple antennae head-frames, one on the Gong Hill proposal, two on the Bourne Woods proposal. Both masts, and their head-frames, would have been higher than the top of the tree canopy; in the Bourne Woods case by some 10 metres (33 feet)
Both of these applications generated significant local opposition
Orange have made 7 unsuccessful applications for sites in South Farnham between 1995 - 2002, including the Gong Hill site above.
We had understood that Operators have a licence obligation to meet 80% population coverage for 2G by end 2007 but no coverage obligation for 3G. Orange to confirm licence obligations.
Following the commissioning on 1 June 2005 of the new Orange antenna on the Crooksbury Hill shared mast there is now good signal strength at Manor Gardens, the Bourne School and Abbots Ride
The current Orange and Vodafone wishes at Manor Gardens are for 3G coverage, now being rolled out nationwide by all five Operators
Orange tell us that their predictive computer coverage maps have limitations. It is therefore important that a sequential approach is adopted to any new antennae/masts. All existing & approved sites should be upgraded and completed before any new mast is requested

# The mast density proposed by Orange in South Farnham is absurdly high. Replicated across the UK, there would be 1.6 million extra masts in the UK!



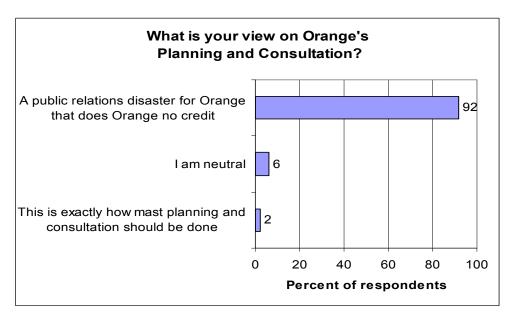
- ➤ 14 proposed masts, for only one operator
- Bounded within 1.33 square miles,
- ➤ UK land area 93,300 square miles
- Assume a third of area will have coverage
- > 5 operators

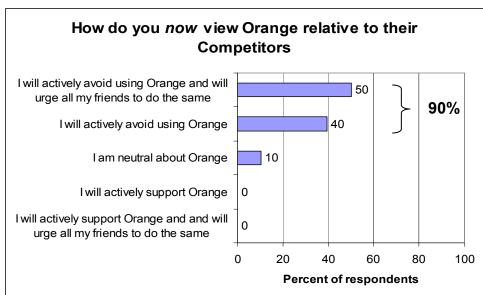
### Additional 1,630,000 masts needed!!

Actual masts: about 40,000 Expected masts: about 100,000 total

Compromise on % signal coverage is needed in difficult terrain and strong local opposition

## Bourne residents view Orange's approach as a PR disaster, and will show their feelings commercially





As a direct result of heavy public pressure on them, Orange accepted a (second) invitation from MGMAG to join in constructive discussions with us. Orange are now engaged in constructive dialogue with us. They are also taking the lead in coordinating the aspirations of all five Operators regarding any mast at the Bourne Woods

### **Health Concerns**

### ICNIRP is based on microwave heating only

- ICNIRP say that they are experimentally derived
- ICNIRP is based on microwaving fluid solutions that are supposed to mimic body tissues, and measuring temperature rises. 1 degree C is judged the limit.
- DNA damage <u>cannot</u> be shown in such a simple experiment
- The impact on living human system response <u>cannot</u> be shown ....and is a rat the same as a human?
- We know that people are affected differently
- Chronic exposure is what matters, ICNIRP has no measurement of time exposure, dose units

Adds to the health concerns of residents

## On health, Orange has been guilty of selectively quoting from the Stewart Reports

A letter from Orange dated 11 July 2005 on behalf of the Chief Executive Officer, Sanjiv Ahuja, states that "The main conclusion of the Stewart Report was that:"

"The balance of evidence to date suggests that exposures to RF radiation below NRPB and ICNIRP guidelines do not cause adverse health effects to the general population."

A correct but <u>partial</u> quote!

Sir William Stewart's <u>full</u> Summary gives a very different emphasis!!



# Two reports, 2000 and 2004, by Professor Sir William Stewart, FRS, FRSE, are the most authoritative available and recommend a <u>Precautionary Approach</u>

The 2004 Report, para 6, restates the summary conclusion from the 2000 Report:

"The balance of evidence to date suggests that exposures to RF radiation below NRPB and ICNIRP guidelines do not cause adverse health effects to the general population.

There is now scientific evidence, however, which suggests that there may be biological effects occurring at exposures below these guidelines.

We conclude that it is not possible at present to say that exposure to RF radiation, even at levels below national guidelines, is totally without potential adverse health effects, and that the gaps in knowledge are sufficient to justify a precautionary approach.

We recommend that a precautionary approach to the use of mobile phone technologies be adopted until much more detailed and scientifically robust information on any health effects becomes available"

## Sir William 2004 lists 8 areas of concern before repeating the Precautionary Approach, again in bold type\*\*

- 11. "Phone technologies are recent .... which is outstripping analyses of any potential impact on health
- 12. There are data which suggest that RF fields can interfere with biological systems
- 13. It has not been possible to carry out necessary long-term epidemiological studies and evaluate their findings
- 14. A recent paper has suggested possible effects on brain function resulting from the use of 3G phones
- 15. Populations are not homogeneous and people can vary in their susceptibility to environmental and other challenges
- 16. IEGMP considered that children might be more vulnerable to any effects arising from the use of mobile phones
- 17. There are ongoing concerns ... about the use of TETRA by the police
- 18. There remain particular concerns in the UK about the impact of base stations on health, including well-being. The large number of additional base stations which will be necessary....for 3G....are likely to exacerbate the potential impact. People can also be concerned about effects on property values when base stations are built near their homes."

## Sir William makes two further statements regarding health concerns which argue against any mast at Manor Gardens

"We are concerned at the indirect adverse impact which current planning procedures are having on those who have been, or are, subjected to the often insensitive siting of base stations.

Adverse impacts on the local environment may adversely impact on the public's well-being as much as any direct health effects"

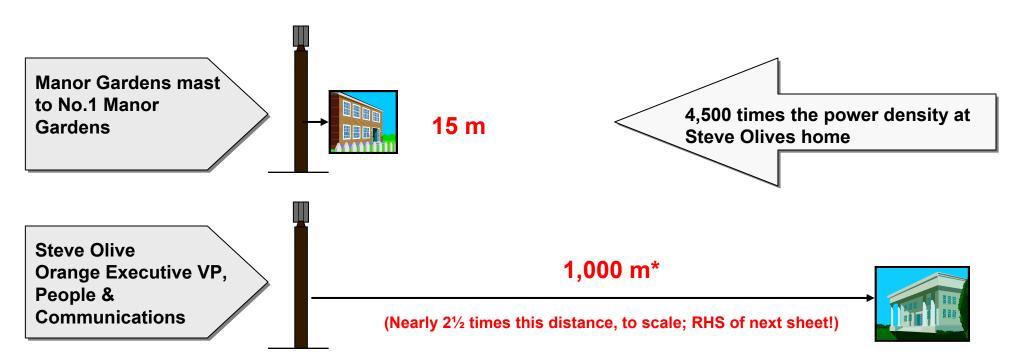
Stewart 2000, para 1.31

"There remain particular concerns in the UK about the impact of base stations on health, including well-being. The large number of additional base stations which will be necessary....for 3G....are likely to exacerbate the potential impact.

People can also be concerned about effects on property values when base stations are built near their homes."

Stewart 2004, para 18

## Orange have refused to give the distances from the nearest mast to the homes of their senior executives



### **Steve Olive says:**

"I do not feel it is necessary to provide you with the distance that each director (and senior managers) lives in relation to mobile phone masts ..... this has no relevance to the proposals at hand."

#### We say:

"We put it to you that this is a critical matter of public perception, which has a direct relevance to how the Bourne residents feel about your proposals.

By withholding this information you will be seen as NIMBYS; 'do as I say but not as I do'".

<sup>\*</sup> Data from publicly available sources

## Orange's Board of Directors have twice declined to state that there is no substance to health effects and health concerns from radiation

#### **MGMAG Question:**

"We would envisage that you are acutely aware of the early denial of any adverse health impacts in other industries, for example: smoking & lung cancer, thalidomide and birth deformities, the insulation industry & asbestosis, mining & silicosis/pneumoconiosis.

Are you personally, and the Orange Board, prepared to put in writing that there is no substance to health effects and health concerns and to be held accountable if wrong? It will be Orange, not the Government, who will have to face the compensation claims".

**Orange's Answer:** "These are detailed issues"

### **MGMAG** Question:

"Do you have confidence in your position on health and are you serious about your 'duty of care'? If so, are you willing to set up a multi-billion pound fund under independent control to cover the cost of possible future claims."

Orange's Answer: "These are detailed issues"

MGMAG see these issues as fundamental, and have again put the questions to Orange

### **Planning and Legal**

# PPS 1 makes clear that planning decisions must be evidence led, include effective consultation and take a precautionary approach

### Objectives of the Planning System, Paras 6, 7, 11

"...key role to play in the creation of sustainable communities: .... where people want to live, ..."

"Plans should be drawn up with community involvement and present a shared vision of how the area should develop ...."

"More effective community involvement is a key element of the Government's planning reforms"

### **Key Principles, Para13 (vi)**

Community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities

### Integrating Sustainable Development, Para 26(vi)

"Ensure that plans and policies are properly based on analysis and evidence...... Where justifiable on the basis of the evidence available, a precautionary approach to proposals for development may be necessary."

#### **Community Involvement, Para 43**

"Community involvement in planning should not be a reactive, tick-box, process. It should enable the local community to say what sort of place they want to live in at a stage when this can make a difference."

# There is a first-class draft available for a Waverley Supplementary Planning Guidance (SPG) policy document

A comprehensive, well balanced and robust draft SPG is available from Planning Sanity, Chris Maile. To quote from the introduction:

"It is easy to make up a set of policies that may be in line with elected members political views, or as a result of lobbying by the industry or the constituents, it is another thing getting those policies right so that they stand up to being challenged once implemented. It is from this stance that this briefing is aimed"

Chris Maile also drafted the Richard Spring MP and Andrew Stunell MP Telecoms Bills, now being taken forward by David Curry MP. Chris gave evidence at the All Party Group on Mobile Phones chaired by Phil Willis MP

Planning Sanity are always willing to meet individual Councillors and to organise Seminars to discuss these important issues

Several Local Planning Authorities (LPAs) have adopted SPGs that change the emphasis from "Will be approved provided..." to "Operators must demonstrate ..."

No need for Waverley to devote major resources to writing a SPG from scratch! MGMAG will assist.

## The Courts have found that amenity includes the perception (or fear) that a development may cause ill health

#### Lord Aldous stated\*:

"However, there is a difference between local opposition and a perceived fear which it self could affect the amenity of the area"

"A planning authority may properly take into account the perceived fears of the public when deciding whether proposed developments would affect the amenity of the area.....even though the factual basis for that fear has no scientific or logical reason"

\* Newport County Borough Council v Secretary of State for Wales

## The Jodie Phillips case gives support to Bourne residents' views that any mast should be on high ground

### Mr Justice Richards at para 41 sets out:

"Further, although the guidance states that it should not be necessary to consider the health aspects of a development that complies with specified standards for public exposure, it recognises that public concerns about the health implications of a development can still be a material consideration (see paragraphs 97ff of the Appendix).

No doubt the existence of such concerns is one of the reasons why the location of telecommunications structures is such a sensitive issue.

It seems to me to follow, again as a matter of principle, that if there were two alternative sites each of which was otherwise acceptable in environmental terms, it would be open to a decision-maker to refuse approval for one of those sites if the location of a mast on that site would give rise to substantially greater public concerns than its location on the alternative site.

To take an example close to the facts of the present case: if one of the sites were close to a nursery school and residential properties, whereas the other was in an industrial estate some distance away from the school and residential properties, the greater public concern about the former might tip the balance against the grant of approval for it.

I am not saying that that is how a particular application would be decided or ought to be decided, but only that it would be lawful for a decision-maker to approach the matter in that way. "

Jodie Phillips v First Secretary of State [2003] EWHC 2415 (Admin) and others

# In response to a letter from Jeremy Hunt to the Attorney General about loss of property values, ODPM Minister Phil Woolas MP included three relevant points\*

"You raise the issue of the alleged impact of proposed telecommunications development on property values.

I should point out that <u>it is not for the planning system to protect the private interests of one person against the activities of another.</u>\*\* Although in a particular case considerations of public interest may serve to protect private interests, <u>the material question is</u> not whether a particular development would cause financial or other loss to the owners and occupiers of the neighbouring property, but <u>whether the proposal would have a detrimental effect on the locality generally, and on the amenities that ought, in the <u>public interest, to be protected.</u></u>

The European Court of Human Rights has recognised that within the context of planning there are often complex issues and that decision makers at all levels are required to exercise discretionary powers in the course of their duties. It is, in the first instance, for the <u>planning authority to determine planning applications</u>. As part of that process they will consider what impact their decision may have on the <u>human rights of individuals</u>. It is possible that some cases may arise where such decisions are challenged on Human Rights grounds, however, the outcome of such challenge rests with the Courts and we do not consider it appropriate or indeed possible to seek to guess their view."

<sup>\*</sup> All underlining by MGMAG

<sup>\*\*</sup> MGMAG would argue that the Orange case is not the activities of one person against another person, it is the activities of a large commercial organisation against the private interests of one person (or several)

# MP Caroline Spelman's EDM 67, if it becomes law, would redress some of the current imbalance in powers between residents and the phone operators

**EDM 67** 

**MOBILE PHONE MASTS** 

17.05.2005

Spelman, Caroline

That this House notes that industry sources have recently indicated that 3G technology will require a substantial increase in the number of mobile phone masts, with as many as four times the present number, suggesting up to 200 more masts in every constituency; believes that the current planning process in England is inadequate, failing to consider local, environmental and safety concerns; observes that the Government is reviewing planning regulations for masts and that tougher protection is already in place in Scotland and Northern Ireland; and calls on the Government to introduce full planning permission for all masts, including Network Rail and TETRA masts, and to allow health concerns to be taken into account near homes, schools and hospitals.

Signatures (110)

**Status** 

# MP Caroline Spelman's website gives details of her plan to give some democracy back to residents, but does not include loss of community amenity from property values

**Launching the new campaign** with the slogan "You decide where they go", Caroline Spelman said, "The erection of poorly-located masts is causing considerable disquiet in many parts of the country. In my own constituency, we have seen a rash of applications lately. There is a presumption in favour of development inherent in the current planning system, which overrides local, environmental and safety concerns."

**Under the new five point plan**, representing the biggest changes in planning regulations since the 1984 Telecommunications Act:

- 1. **All** mobile phone mast developments would require full planning permission, so that local councillors are clearly accountable and answerable for where masts are located.
- 2. **There** would be a single process for deciding all masts, including those on Network Rail or church property, Tetra masts, as well as small antennas being covertly installed in street furniture or signs.
- 3. **Councils** would be allowed to take health concerns into account such as near homes, hospitals and schools. Current national planning guidance prohibits this.
- 4. **Mast** operators would be required to demonstrate that any development does not result in unacceptable damage to visual amenity or harm environmentally sensitive features.
- 5. **Councils** would be asked to draw up their own supplementary planning guidance to ensure consistency and clarity for operators and residents, and ensure a plan-led approach to future development.

**Mrs Spelman added**, "Conservatives will champion the interests of local residents and address the feelings of powerlessness and frustration experienced living under the shadow of 'monster masts'. Local councillors, answerable to local residents via the ballot box, should have the final say on where they go.

Release Date: 18 August 2004