

# Campaign for Planning Sanity

LOCAL COMMUNITY SUPPORT FOR ADVERSE PLANNING & DEVELOPMENT APPLICATIONS

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## Depreciation in Property Value as a result of Adverse Developments (*Phone Masts*)

This is a difficult area to give definitive advise in, like all developments that have an actual or perceived health effect linked to them then there is an adverse effect upon property prices, particularly in the stage up to the permission being granted when the uncertainty of whether the development is to proceed is unsure. Desirability of the property in question, or the locality can also affect the potential resell value of a property. It all comes down at the end of the day to the willingness of a potential new owner purchasing the property at the price that is being asked. Perhaps that is stating the obvious, but it is a very important aspect as whilst we have horror stories of homes being unable to be sold at any price, we equally have situations where the fact a mast exists has made no difference to the ability to sell a home, even where that mast is seen locally as being controversial.

The nearest we can get to putting any estimate to the potential loss in value is from homes that are close to other similar developments such as High Powered Cables and Incinerators. An easy start is to assume that a potential loss is likely to be in the region of 20% to 30% of its pre development value. But as we say there are many other competing factors such as the desirability of the home, the availability of homes within an area, as well as the type of dwelling, if the property is likely to be seen as a family home then that might attract a greater discount than say a student home, due to the reluctance of parents to place their off spring in any form of danger, real or perceived.

In a recent court judgement<sup>1</sup> concerning a wind farm development District Judge Michael Buckley said that the noise, visual intrusion and flickering of light through the blades of turbines reduced the value of a house by a fifth. He said that the value of a remote house in Marton, in the Lake District, fell significantly because of the construction of a wind farm of seven 40m-high turbines 500 metres away. *'The effect is significant and it has a significant effect on the property,'* he said. *'It is an incursion into the countryside. It ruins the peace.'* We have to turn to cases such as this due to the lack of any precedents specifically affecting telecom installations.

Irrespective of the merits of a case if the planning regime has fully considered the case, it is unlikely that the courts would overturn a case due to a mere infringement of the rights under Article 8 of the European Convention on Human Rights (*right to enjoyment of property*), due in the main also for the need of the courts to protect the interests of the land owner to be free to develop his land, least those same Article 8 rights are breached. For a case relating to the deminution in value of property where Article 8 was the only issue in question see *Lough & Anor v First Secretary of State & Anor [2004] EWCA Civ 905 (12 July 2004)*<sup>2</sup>. Similarly where there is a statutory scheme of protection, even then without that scheme a clear violation of a right had occurred, including actual damage to a persons property then a claim could not be made out outside of that scheme, see *Marcic v. Thames Water Utilities Ltd [2003] UKHL 66*<sup>3</sup>.

For a report of the specific requirements under Section 7 of the Nuclear Installations Act 1965 that sets out the approach of the Courts in 3 cases of contamination from radioactive contamination see the *Legal 500 Report*<sup>4</sup>.

<sup>1</sup> [http://www.countryguardian.net/marton\\_judgement.htm](http://www.countryguardian.net/marton_judgement.htm)

<sup>2</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2004/905.html>

<sup>3</sup> <http://www.bailii.org/uk/cases/UKHL/2003/66.html>

<sup>4</sup> [http://www.legal500.com/devs/uk/ev/ukev\\_084.htm](http://www.legal500.com/devs/uk/ev/ukev_084.htm)

Insurance is now available against the potential for adverse developments including telecom masts close to residential property. The insurance premium is £12 per month for 25% of the properties value up to a maximum of 100,000 plus removal expenses, being the projected difference in the before and after value of the property affected by the development. The insured must sell their home and move. Whilst the policy would be of little benefit to anyone already affected by a development, the conditions being that the policy must be taken out within 13 weeks of the person moving into the new property, and a declaration must be signed that they are not aware of any adverse developments that are likely to affect the policy at the time of taking out the insurance. This is further evidence of the acceptance of inappropriate developments affecting residential property values. Information on the scheme can be obtained from Lucas, Fettes & Partners<sup>5</sup> 0207 413 0999.

We only have one known case where compensation was directly assessed and compensation paid in relation to a telecommunication installation, and that was as a direct consequence of a finding of maladministration by the Ombudsman where the Swindon local planning authority had failed to notify the applicant within the statutory 56 day period that prior approval was required, this resulted in an estimated drop in value of the 4 affected houses of £117,500.00, which the council had to pay to the local residents. At the time of writing a similar case is being progressed through the County Court in a claim for damages at Common Law, we await that decision with bated breath.

It is said that altering the status of the main highway to intensive road use near to a house will tend to have a short term impact on value, and commonly one finds with District Valuers for compensation cases, the degree of settlement would be in the range of 5% - 10%. The situation of a pylon, be it supporting electricity or telecommunications antenna, is certainly a more significant event because there is uncertainty as to the potential which these masts may have upon health issues. Further, because the masts, being single site locations, tend to affect a small number of properties, it is easier for purchasers to avoid those houses and seek alternative but similar property nearby. Impact on value is therefore greater than for instance highway developments.

From all the evidence that we have our best estimate to be taken purely as a general proposition, with each affected property requiring an individual assessment of any depreciation in value, taking into account the market position and local circumstances at the time of the potential sale, is that the average property is likely to drop by between 20% to 25% where the property is within 100 metres of a telecommunication installation or of a high powered cable network installation. Naturally the depreciation will then fall away with the distance from the phone mast. It must also though be considered that the 100 metres mentioned is not definitive but illustrative, some cases may dictate that installation 500 or more metres distant from the installation are having negative impact on property prices.

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<sup>5</sup> [http://www.lucasfettes.co.uk/content\\_page.asp?guid={FE5D0643-566D-43FA-ACA0-637DA6CACF0B}](http://www.lucasfettes.co.uk/content_page.asp?guid={FE5D0643-566D-43FA-ACA0-637DA6CACF0B})