

Campaign for Planning Sanity

LOCAL COMMUNITY SUPPORT FOR ADVERSE PLANNING & DEVELOPMENT APPLICATIONS

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PLANNING INSPECTOR APOLOGISES FOR PHONE MAST HEALTH BLUNDER

The Planning Inspectorate has admitted that the failure of a planning inspector to take the health concerns of local residents into account was a mistake, but states it is powerless under present legislation to correct the error. Planning Inspector Wendy Burden had undertaken an inquiry into the installation of a telecom structure at Bloom Field Road, Bath and in her decision letter dated the 13th July 2004, stated that health concerns could not be taken into account because the operator had supplied a certificate confirming that the emissions from the installation would not exceed international guidelines. In a letter dated 22nd October 2004, however, the Planning Inspectorate has now accepted that this was a mistake and has apologised, but says it is powerless to act to reverse the decision, leaving residents to live with the consequences of this official mistake.

Planning Sanity Director, Chris Maile said *“We have consistently argued that health concerns are relevant to these applications and that the mere fact that an ICNIRP compliant certificate accompanies an application does not prevent full account being taken of local residents health concerns. Now after many years of approving applications often without fully taking health concerns into account the Inspectorate has admitted that it has got it wrong. That mistake has subjected (and continues to subject) literally thousand of local communities to the adverse effects of installations that would not otherwise have been approved, causing untold stress, potential ill health for communities and tens of thousands of homes to be devalued by up to 25%. This blunder must now be investigated and appropriate action taken by the Secretary of State to ensure that all inappropriately approved installations are removed”.*

Mast Sanity Press Officer, Karen Barratt added, *“Communities all over the country are the victims of this chaos in the planning system. People who are deeply concerned about masts being sited close to their homes and schools often have a better understanding of the planning guidance than these so-called professionals. We know that inspectors and local planners get it wrong and now the Planning Inspectorate have admitted it. We want to know what they are going to do about it. It’s all very well talking about the High Court but most of the time, ordinary people are priced out of legal action by the telecoms. We need urgent government action to sort out the mess.”*

CAMPAIGN DEMANDS INVESTIGATION INTO THOUSANDS OF DECISIONS

Hundreds of appeals heard in the last three years have seen Inspectors refuse to take health concerns fully into account due to the presence of ICNIRP compliant certificates. With so many local planning authorities effectively having been fined (*the award of costs against local authorities for refusing applications on health grounds has resulted in hundreds of thousands of pounds of council taxpayers’ money being unjustly paid to mobile phone operators*), others have been unwilling to take health into account, in case they too are forced to pay the high costs of appeals. This has resulted in thousands of additional masts being approved that would have been refused, had local councillors been properly advised by officers, who have based their advice primarily on the position taken by planning inspectors.

Planning Sanity now demands an urgent inquiry and immediate action by the Secretary of State to invoke his powers under Section 100 of the Town and Country Planning Act 1990 to revoke those installations that have not yet been installed, or to order the discontinuance of the use of inappropriately sited installations that have already been constructed under Section 104 of that Act.

END.

EDITORS NOTE:

The issue of the degree of weight to be given to health concerns by a planning decision maker is the subject of two cases due to be heard by the Court of Appeal on the 10th to 12th November 2004 that of *First Secretary of State -v- T-Mobile & Ors* and *Phoebe St Leger-Davey & Ors -v- First Secretary of State & Ors*.

The Planning Inspectorates letter of apology signed by Ms. Lucy Delve (*Quality Assurance Unit*) states at para 2:-

***“Having considered very carefully all the evidence, I accept that the reasoning in the inspector’s decision was inadequate in that it failed to deal properly with local residents’ health fears. I can only offer our sincere apologies for the error………
Whilst we now recognise that there is a flaw in the decision, we have no legislative powers to reconsider it; this could only have been done following a successful challenge in the High Court.”***

Planning Sanity is advising residents to seek legal advice with a view to mounting a challenge in the High Court based on this admitted mistake. Whether such a challenge is ultimately lodged will depend on whether sufficient funds can be raised.

Section 56 of the Planning and Compulsory Purchase Act 2004, contains a provision that is waiting for regulations to be issued by the Secretary of State before it comes into force. This will allow planning inspectors to correct mistakes such as this, within 6 weeks of the issue of the decision (*but only with the approval of the developer/operator*). However, the new powers will not help those residents where decisions have already been made prior to Section 56 fully coming into force.

Planning Sanity is to write to all local planning authorities in the UK setting out the correct procedure and the degree of weight to be attached to health concerns. This letter, which points to all relevant court judgments and this latest apology from the Planning Inspectorate, urges local planning authorities to review their practises as a matter of urgency. *Copies of the letters can be downloaded from the following link*
<http://www.planningsanity.co.uk/letters/healthletter.doc>

Planning Sanity also have briefings available on their WEB site on various technical planning issues including health concerns and the planning system and the revocation of planning permission. These are freely available to the public. Any concerned residents, who feel they may fall within the remit of these '**mistake**' decisions can call the Planning Sanity Helpline 0871 750 3992.

Health Concerns and Planning briefing

<http://www.planningsanity.co.uk/forums/masts/winchester.htm>

Revocation and discontinuance of use briefing

<http://www.planningsanity.co.uk/forums/revoca/revoke.htm>

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