



DEVELOPMENT CONTROL COMMITTEE

TUESDAY 11 OCTOBER 2005

SUPPLEMENTAL COMMITTEE AGENDA

AGENDA - PART I

14. **Urgent Non-Executive Action - The Timber Carriage Public House, 19 Northolt Road, South Harrow:** (Pages 1 - 14)
Report of the Director of Legal Services.
15. **102, 104, 106 High Street, Harrow on the Hill:** (Pages 15 - 64)
Report of the Group Manager (Planning and Development).
16. **354-366 Pinner Road, North Harrow:** (Pages 65 - 68)
Report of the Group Manager (Planning and Development).
20. **Sage House, 319 Pinner Road - Section 106 Agreement:** (Pages 69 - 74)
Report of the Director of Legal Services.

AGENDA - PART II (PRESS AND PUBLIC EXCLUDED)

21. **102, 104 and 106 High Street, Harrow on the Hill (Appendix 4 to Item 15):**
(Pages 75 - 90)
Counsel's Opinion

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda items have been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

<u>Agenda item</u>	<u>Special Circumstances/Grounds for Urgency</u>
14. Urgent Non-Executive Action – The Timber Carriage Public House, 19 Northolt Road, South Harrow	In order to progress the Section 106 Agreement and Issue the Planning Permission
15. & 21. 102, 104, 106 Pinner Road, North Harrow	To report back to the DC Committee following a previous instruction by the Committee on a matter involving additional technical information and legal advice.
16. 354-366 Pinner Road, North Harrow	In order to progress the Section 106 Agreement and Issue the Planning Permission
20. Sage House, 319 Pinner Road – Section 106 Agreement	In order to progress the Section 106 Agreement and Issue the Planning Permission



Meeting:	Development Control Committee
Date:	11 October 2005
Subject:	Action taken under the Urgent Non-Executive Decision Procedure: The Timber Carriage Public House, 19 Northolt Road
Responsible Officer:	Director of Legal Services
Contact Officer:	Kate Boulter, Committee Administrator Tel: 020 8424 1269 (or Ext 2269) Email: kate.boulter@harrow.gov.uk
Portfolio Holder:	Planning, Development and Housing
Key Decision:	No
Status:	Public (Part I)

Section 1: Summary

Decision Required

To note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2.1 below.

Reason for report

The Urgent Non-Executive Decision procedure requires all decisions taken under the procedure to be reported to the appropriate Committee.

Benefits

Not applicable.

Cost of Proposals

Not applicable.

Risks

Not applicable.

Implications if recommendations rejected

This report is for noting only.

Section 2: Report

2.1 Brief History

On 15 June 2005 the Development Control Committee considered a planning application in respect of The Timber Carriage, 19 Northolt Road for redevelopment to provide a detached four storey building with basement parking and twenty-one flats (including six affordable housing units). The Committee resolved to grant planning permission subject to the completion of a Section 106 Agreement within one year of the date of the Committee decision.

The recommendation to Committee stated that the affordable housing units would be “spread throughout the building”. However, the proposal was always to provide the affordable housing units on the ground floor. The application plans clearly show that the six affordable housing units would be provided on the ground floor.

Following the Committee’s resolution, officers realised that the recommendation that the affordable housing units would be “spread throughout the building” was misleading, hence authority was sought to amend the resolution to reflect that the affordable housing element of the development would be provided on the ground floor only.

Subject: The Timber Carriage Public House, 19 Northolt Road

Action Proposed: To amend para 1 a) of the Development Control Committee Resolution of 15 June 2005 in respect of The Timber Carriage Public House, 19 Northolt Road (planning application 1/01) to read as follows: “...the submission and approval by the Local Planning Authority of an Affordable Housing Scheme to provide six units on the ground floor of the building as shared ownership/key worker housing...”.

Reason for Urgency: The next meeting of the Development Control Committee was not until 7 September 2005. The applicant wished to commence

development as soon as possible and wished to complete the Section 106 Agreement so that the planning permission could be issued.

Decision: Officer Recommendation agreed.

[Note: The Nominated Members consulted were unanimous in their response].

2.2 Options considered
None.

2.3 Consultation
N/A

2.4 Financial Implications
N/A

2.5 Legal Implications
N/A

2.6 Equalities Impact
N/A

Section 3: Supporting Information/Background Documents

Background Papers:

Individual Urgent Non-Executive Decision Form (Ref: LP/AK/PAG-13599), as reported.

This page is intentionally left blank

PROCEDURE FOR URGENT NON-EXECUTIVE DECISIONS

To: Cllr. Anne Whitehead
Cllr. Marilyn Ashton
Cllr. Stephen Thornton

For return to: Kate Boulter Ext. 2269

Direct Dial. 0208 424 1269

Date: 18th August 2005

Ref: LP/AK/PAG-13599

Dear Councillor

Consultation on Matters of Urgency

In accordance with the delegation to Chief Officers to act on behalf of the Authority on matters of urgency where it is not practicable to obtain the approval of the appropriate Committee of the Council*, you are requested to indicate whether you agree with the proposed action.

(* Either the Standards Committee, the Development Control Committee, the Overview and Scrutiny Committee or the Licensing and General Purposes Committee.)

In the event of disagreement, the matter will be referred to the Chief Executive who may take the decision after consultation with the Leaders of all political groups (or their nominees) and, if appropriate, with the statutory officers. All decisions taken by officers under this delegated power will be reported to the next meeting of the appropriate Committee.

If a Member consulted under this procedure fails to indicate his or her agreement or disagreement within five working days of despatch of the documentation then that Member shall be deemed to have disagreed with the proposed action.

Please return the attached copy of this form in the reply-paid envelope provided.

Yours sincerely

Director of Legal Services

Please indicate whether you support the proposed action

I support the Proposal(s)

I do NOT support the Proposal(s)

Signed

Signed

Date

Date

Comments

Comments

HEADING:

Initiating Officer: Abiodun Kolawole

Dept: Chief Executive (Legal Services Directorate)

Ext: 7663

Signature: *Abiodun Kolawole*

1. ACTION PROPOSED

To amend para 1 a) of the Development Control Committee Resolution of 15th June 2005 in respect of The Timber Carriage Public House, 19 Northolt Road (item 1/01) to read as follows: "the submission and approval by the Local Planning Authority of an affordable Housing Scheme to provide 6 units on the ground floor of the building as shared ownership/key worker housing..."

2. CIRCUMSTANCES (INCLUDING POLICY CONTEXT)

[Please continue on a separate sheet (if necessary)]

On 15th June 2005 the Development Control Committee considered a planning application in respect of The Timber Carriage Northolt Road for redevelopment to provide a detached 4 storey building with basement parking and 21 flats (including 6 affordable housing units). The Committee resolved to grant planning permission subject to the completion of a section 106 agreement within one year of the date of the Committee Decision.

The recommendation to the Committee stated that the affordable housing units would be "spread throughout the building." However, the proposal was always to provide the affordable housing units on the ground floor. The application plans clearly show that the six affordable housing units would be provided on the ground floor.

Officers have since the Committee's resolution realised that the recommendation that the affordable housing units would be "spread throughout the building" was misleading hence authority is now sought to amend the resolution to reflect that the affordable housing element of the development will be provided on the ground floor only.

3. REASONS FOR URGENCY (including date of next possible Committee)

The next meeting of the Development Control Committee is on the 7th September 2005.

The applicant wishes to commence development as soon as possible and would like to complete the section 106 agreement so that the planning permission can be issued.

4. COMMENTS OF OTHER DEPARTMENTS (including signature by or on behalf of Directors)

Finance Division

There are no financial implications unless the Developer seeks advice from the Ombudsman.

[Signature] 19.8.08

Legal Division

As contained in the report

Other Depts

5. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Is this form exempt from inspection by the public?
If the answer is yes, specify grounds.

NO

6. **SENT TO THE FOLLOWING GROUP REPRESENTATIVES** (PLEASE TICK APPROPRIATE BOXES)

_____ Committee

LABOUR

CONSERVATIVE

LIBERAL DEMOCRAT
(except Overview & Scrutiny Committee)

_____ Committee

LABOUR

CONSERVATIVE

LIBERAL DEMOCRAT
(except Overview & Scrutiny Committee)

REPORT OF DEVELOPMENT CONTROL COMMITTEE

MEETING HELD ON 15 JUNE 2005

Chair: † Councillor Anne Whitehead

Councillors: * Marilyn Ashton
* Mrs Bath
* Billson
* Bluston
* Branch (1)

* Choudhury
* Idaikkadar
* Kara (1)
* Miles
* Mrs Joyce Nickolay

* Denotes Member present
(1) Denotes category of Reserve Members

[Note: Councillor D Ashton also attended this meeting to speak on the item indicated at Minute 919 below].

PART I - RECOMMENDATIONS - NIL

PART II - MINUTES

Attendance by Reserve Members:

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Members:-

Ordinary Member

Councillor Thornton
Councillor Janet Cowan

Reserve Member

Councillor Branch
Councillor Kara

Right of Members to Speak:

RESOLVED: That, in accordance with Committee Procedure Rule 4.1, the following Councillor, who is not a member of the Committee, be allowed to speak on the agenda item indicated:

Councillor D Ashton

- Planning Application 1/03

Declarations of Interest:

RESOLVED: To note the following declarations of Interest made by Members present relating to the business to be transacted at this meeting: -

(i) Planning Application 2/02 – Rima, 4 Priory Close, Stanmore
Councillor Mrs Bath declared a prejudicial interest in the above application and accordingly left the room and took no part in the discussion or decision-making on this item.

(ii) Planning Application 4/01– Northwick Park Hospital, Watford Road, Harrow
Councillor Anne Whitehead declared a prejudicial interest in the above application on the basis that she was an employee of the applicant. Accordingly she left the room and took no part in the discussion or decision-making on this item.

Councillor Bluston declared a personal interest in the above application on the basis that he was Chair of the Council's Health and Social Care Scrutiny Sub-Committee and the Joint Scrutiny Committee for Brent and Ealing on the new Northwick Park development. Accordingly he remained and took part in the discussion and decision-making on this item.

(iii) Main Agenda Item 16 – East End Farm Barns
Councillor Bluston declared a prejudicial interest in the above item and accordingly left the room and took no part in the discussion or decision-making on this item.

SECTION 1 – MAJOR APPLICATIONS

LIST NO:	1/01	APPLICATION NO:	P/1108/05/CFU
LOCATION:	The Timber Carriage Public House, 19 Northolt Road, South Harrow		
APPLICANT:	Graham Seabrook Partnership for Clam-Worthy Holdings Ltd		
PROPOSAL:	Redevelopment: Detached 4 Storey Building with Basement Parking to Provide 21 Flats (6 as Affordable Housing).		
DECISION:	INFORM the applicant that:		
	(1) The proposal is acceptable subject to the completion of a legal agreement within 12 months (or such period as the Council may determine) of the date of the Committee decision on the application relating to:		
	a)	the submission and approval by the Local Planning Authority of an affordable housing scheme to provide 6 units spread throughout the building as shared ownership/key worker housing. The scheme shall include a nomination agreement with the Council.	
	b)	ensures that the affordable housing units are available for occupation in accordance with a building and occupation programme to be submitted to and approved by the Local Planning Authority prior to the commencement of work on the site.	
	All affordable housing units shall be provided in accordance with the definition of affordable housing set out in the deposit version of the replacement Harrow UDP.		
	(2) A formal decision notice, subject to the planning conditions noted below, will be issued only upon completion of the aforementioned legal agreement.		

LIST NO:	1/02	APPLICATION NO:	P/1023/05/CRE
LOCATION:	Eastern Part Former Government Buildings, Honeyport Lane, Stanmore		
APPLICANT:	PRP Architects for Dominion Housing Group		
PROPOSAL:	Renewal of Permission E/1061/99/OUT to allow Submission of Affordable Housing Reserved Matters by 29 June 07.		
DECISION:	GRANTED permission in accordance with the development described in the application and submitted plans, subject to the conditions and informatives reported, and the following additional condition:		
	<u>Condition 3:</u> The development shall not be begun until an affordable housing scheme has been submitted to, and approved by, the Local Planning Authority. The scheme shall include a minimum of 50% of shared ownership/key worker housing, unless otherwise agreed by the Local Planning Authority. The scheme shall also include a nomination agreement with the Council.		
	[REASON: To ensure provision for appropriate affordable housing].		

LIST NO:	1/03	APPLICATION NO:	P/995/05/COU
LOCATION:	Land R/O 25-28 Belmont Circle & 13-25 Bellamy Drive, Stanmore		
APPLICANT:	Triad Planning 6 Design Ltd for Mr E Ryan		
PROPOSAL:	Outline: Redevelopment: Detached 2 Storey Building to Provide 10 Flats and 2 Houses with Car Parking.		

SECTION 1 - MAJOR APPLICATIONS

1/01

THE TIMBER CARRIAGE P.H., 19 NORTHOLT RD, P/1108/05/CFU/TW
SOUTH HARROW

Ward: HARROW ON THE HILL

REDEVELOPMENT: DETACHED 4 STOREY BUILDING WITH BASEMENT PARKING TO PROVIDE 21 FLATS (6 AS AFFORDABLE HOUSING)

GRAHAM SEABROOK PARTNERSHIP for CLAM-WORTHY HOLDINGS LTD

RECOMMENDATION

Plan Nos: 1288-05A, 06A, 07A, 08A.

1. The proposal is acceptable subject to the completion of a legal agreement within 12 months (or such period as the Council may determine) of the date of the Committee decision on the application relating to:-
 - a) the submission and approval by the Local Planning Authority of an affordable housing scheme to provide 6 units spread throughout the building as shared ownership/key worker housing. The scheme shall include a nomination agreement with the Council.
 - b) ensures that the affordable housing units are available for occupation in accordance with a building and occupation programme to be submitted to and approved by the Local Planning Authority prior to the commencement of work on the site.

All affordable housing units shall be provided in accordance with the definition of affordable housing set out in the deposit version of the replacement Harrow UDP.

2. A formal decision notice, subject to the planning conditions noted below, will be issued only upon completion of the aforementioned legal agreement.

GRANT permission in accordance with the development described in the application and submitted plans, subject to the following condition(s)

- 1 Time Limit - Full Permission
- 2 The development hereby permitted shall not commence until samples of the materials to be used in the construction of the external surfaces noted below have been submitted to, and approved in writing by, the local planning authority:
 - (a) the extension/building(s)
 - (b) the ground surfacing
 - (c) the boundary treatmentThe development shall be completed in accordance with the approved details and shall thereafter be retained.
REASON: To safeguard the appearance of the locality.

Cont.

11/01 - F
MAIN CONSIDERATION
1.

- 3 Landscaping to be Approved
- 4 Landscaping to be Implemented
- 5 Disabled Access - Buildings
- 6 No development shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to, and approved in writing by, the local planning authority.
The boundary treatment shall be completed:
b: before the building(s) is/are occupied
The development shall be completed in accordance with the approved details and shall thereafter be retained.
REASON: To safeguard the amenity of neighbouring residents and the character of the locality.
- 7 Levels to be Approved
- 8 The development hereby permitted shall not commence until a scheme for:-
(a) The storage and disposal of refuse/waste has been submitted to, and approved in writing by, the local planning authority. The development shall not be occupied or used until the works have been completed in accordance with the approved details and shall thereafter be retained.
REASON: To ensure adequate standards of hygiene and refuse/waste collection without prejudice to the enjoyment by neighbouring occupiers of their properties.
- 9 Water Storage Works

INFORMATIVES

- 1 Standard Informative 23 - Considerate Contractor Code of Practice
- 2 Standard Informative 27 - Access for All
- 3 Standard Informative 32 - The Party Wall etc. Act 1996
- 4 Standard Informative 35 - CDM Regulations 1994
- 5 INFORMATIVE:

SUMMARY OF REASONS FOR GRANT OF PLANNING PERMISSION:
The decision to grant permission has been taken having regard to the policies and proposals in the Harrow Unitary Development Plan set out below, and to all relevant material considerations including any comments received in response to publicity and consultation, as outlined in the application report:
Harrow Unitary Development Plan:
SD1 Quality of Design
D4 Standard of Design and Layout
D5 New Residential Development - Amenity Space and Privacy
D15 Extensions and Alterations in Conservation Areas
SH1 Housing Provision and Housing Need
H5 Affordable Housing
H6 Affordable Housing Target
T13 Parking Standards

Cont..

MAIN CONSIDERATIONS AND POLICIES (2004 UDP)

1. Visual and Residential Amenity (SD1, D4, D5)
2. Character of Adjacent Conservation Area (D15)
3. Housing Policy (SH1, H5, H6)
4. Car Parking/Highway Considerations (T13)
5. Consultation Responses

INFORMATION

The same proposal was submitted to the Council under reference P/2251/04/CFU, and was reported to Committee on 11th January 2005. In error the existing building was referred to as being locally listed and this was a principal issue of concern. In this light a fresh application for the same proposal was submitted.

a) Summary

Conservation Area:	None	
Car Parking	Standard:	Max 29
	Justified:	27
	Provided:	27
No. of Residential Units:	21	
Council Interest:	None	

b) Site Description

- large 2 storey public house with beer garden at rear on junction of Northolt Road Waldrons Yard.
- Abbots Court to south is a three storey block of residential flats (the third floor is contained within a mansard roof).
- Sherbourne House, Northolt Road to the south is a 4 storey office block with a flat roof including a plant room and telecommunications antennae.
- Dublin Court, to the north on the opposite side of Waldrons Yard, is a three storey building comprising shops on the ground floor, offices and 1 flat on the first floor and flats on the second floor (there is a current application for conversion to the offices to flats ref: P/1367/04/CFU).
- opposite the site on Northolt Road lies a vacant site formerly occupied by a petrol filling station and to the north of this lies Shaftesbury Avenue.
- planning permission has recently been granted for a 3 storey block of 12 flats nearby at 4 Waldrons Yard.

Cont.

c) Proposal Details

- redevelopment of site to provide a 4 storey block of 21 flats.
- building to front Northolt Road and Waldrons Yard with main entrance at the corner.
- building to be of modern design with flat roof incorporating balconies to Northolt Road, Waldrons Yard and rear elevation.
- rear amenity area of some 250m² between building and access ramp.
- basement car park for 27 vehicles.

d) Relevant History

P/1106/04/CFU	Redevelopment: detached 4 storey building with basement parking to provide 23 flats (7 affordable housing)	WITHDRAWN
P/2251/04/CFU	Redevelopment: detached 4 storey building with basement parking to provide 21 flats (6 affordable housing)	REFUSED 14-JAN-05

The reasons for refusal were as follows:

1. The loss of a most attractive locally listed building would be detrimental to the character of the area because the style and architectural merit of the Public House offers a respite from the otherwise unprepossessing modern buildings.
2. The loss of a community facility, with its potential to be used by local residents as a meeting place, would be detrimental to the amenities of the area.
3. The design of the proposed development will not preserve or enhance the character of this part of the nearby Conservation Area.

e) Advertisement	Major Development	Expiry 21-SEP-2004
Notifications	Sent 60	Replies 2
		Expiry 13-SEP-2004

Summary of Responses: Loss of community facility, lack of amenity space, loss of locally listed building suggest alternative use for building.

APPRAISAL

1. Visual and Residential Amenity

The proposed replacement building would be sited on a similar forward building line as Sherbourne House to the south and Dublin Court to the north and would relate to both in terms of its bulk and presence in the streetscene.

Cont...

The design has been substantially revised in comparison with the previously withdrawn application.

The main rear elevation of the proposed block would be 21m from the boundary of Abbots Court which is sufficient to maintain a suitable level of amenity.

2. Character of Adjacent Conservation Area

The boundary of the Roxeth Hill Conservation Area runs along the boundary of the site with Waldrons Yard and wraps around the northern flank of Abbots Court. Whilst there is a different character outside the Conservation Area to within it, the site has an effect on the setting on the Conservation Area by virtue of its proximity. It is considered that the appearance of the proposal and its reduction in scale and impact at the rear, would preserve the character of this part of the Conservation Area.

3. Housing Policy

The offer of an element of affordable housing complies relevant UDP policy and is considered acceptable.

4. Car Parking

The provision of 1.35 spaces per unit is close to the maximum requirement and is considered acceptable. No concerns are raised with specific regard to the vehicular access or the level of traffic generated.

5. Consultation Response

Awaited.

CONCLUSION

For all the reasons considered above, and weighing up the development plan policies and proposals, and other material considerations, including any comments received in response to publicity and consultation, as set out above, this application is recommended for grant.

LONDON BOROUGH OF HARROW

Agenda item:

Page no:

Meeting:	Development Control Committee
Date:	Tuesday 11 October 2005
Subject:	102, 104, 106 High Street, Harrow on the Hill
Responsible Officer:	Group Manager Planning & Development and Director of Legal Services
Portfolio Holder:	Planning, Development and Housing
Enclosures:	Appendix 1 – Report to DC Committee 7 September 2004 Appendix 2 – ECS survey March 2004 Appendix 3 – ECS survey November 2004 Appendix 4 – Counsel’s Opinion. Status: Part II The Opinion is exempt by virtue of paragraph 12b of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) in that it is legal advice in connection with the determination of a matter affecting the authority Appeal decision on 42-44 High Street, Harrow on the Hill Site Plan Photographs
Key Decision:	No
Status:	Part 1
Ward:	Harrow on the Hill

Section 1: Summary

- 1.1 This report advises on an unauthorised telecommunications micro-system comprising two wall mounted microcell antennae on the front wall of 102 and the flank wall of 106 High Street, and an equipment cabin to the rear of 104 High Street, Harrow-on-the-Hill.
- 1.2 A report on this item was originally submitted to this Committee on 7 September 2004, and is attached as Appendix 1 to this report that now supplements the earlier item.

Decision Required

Recommended (for decision by the Development Control Committee)

- 1) The two wall-mounted microcell antennae are neither prominent nor visually obtrusive in the street scene, and have no detrimental impact either on the character or appearance of the Conservation Area, the Listed Buildings at Nos. 104 and 106 High Street, or the street scene in general;
- 2) Having regard to:
 - i) the representations regarding health and perception of health effects;
 - ii) the two surveys carried out by the consultant in March and November 2004;
 - iii) Counsel's Opinion in respect of the microcell installation at 102 High Street;
 - iv) the advice from the Council's Conservation Officer;
 - v) policy guidance in PPG8, and the Council's Unitary Development Plan the appeal decision in respect of the microcell installation at 42-44 High Street, and;
 - vi) the data in relation to appeal decisions in respect of telecommunications development between January and September 2005it would not be appropriate to undertake enforcement action in this case;
- 3) Orange plc be advised of the Council's views in respect of the need for planning permission and Listed Building Consent in relation to this unauthorised development and be urged to regularise the position; and
- 4) The complainants be notified accordingly.

Reason for report:

To provide further information following the previous report.

Benefits:

To enhance the environment of the Borough.

Cost of Proposals:

None.

Risks:

Any enforcement notice may be the subject of an appeal to the Planning Inspectorate.

Implications if recommendation rejected:

There could be an award of costs against the Council in the event of an appeal against an enforcement notice.

Section 2: Report:

Brief History, Policy Context (Including Previous Decisions)

- 2.1 A detailed report on this matter was submitted to the Development Control Committee on 7 September 2004 (see **Appendix 1** attached to this report) with similar recommendations to those now stated. Members heard a deputation from a neighbouring resident. Members noted that no consultation of the local community on the microcells had taken place as the operator had not submitted a planning application for the equipment, but commented that operators were also required to undertake such consultation by the relevant code of practice issued by the Government and under the provisions of PPG8. They queried whether action could be taken to ensure that operators met their responsibilities under these.
- 2.2 They also noted the depute's comments regarding the validity of the readings taken in March and agreed that current readings from the microcell and information regarding the potential highest emissions of the microcell should be obtained.
- 2.3 They agreed that the cumulative effect of emissions of telecommunications equipment in the area also be investigated and further legal advice then be sought. Following representations from a Ward Member queries were also raised whether, if a number of masts were located in the vicinity, this constituted a base station.
- 2.4 The Committee resolved:

That a decision on this matter be deferred to allow officers to investigate the points raised above (and submit a further report on this matter to a future meeting of the Committee.
- 2.5 A second survey was carried out by the same consultant (ECS Limited) on 16 November 2004, taking a series of readings from the same points as those taken in the first survey in March. Both surveys are attached to this report as **Appendices 2** and **3**.
- 2.6 Following the receipt of the second survey legal advice was sought.

Relevance to Corporate Priorities

- 2.7 This report addresses the Council's stated priority of enhancing the environment of the Borough.

Background Information and Options Considered

- 2.8 The September 2004 report considered the following range of issues in respect of this development and it is not intended to repeat those in this report:

investigation;
the need for planning consent;
consultation;
formal advice and policies;
general advice;
health issues and alternative sites;
development within the historic environment;
residential amenity;
proposed microcell development at 42-44 High Street; and
advice on the appropriateness of planning enforcement action

- 2.9 Members are urged to refer back to section 6 of that report for details of those issues.
- 2.10 The purpose of this report is to update members in respect of the further information requested when the previous item was deferred.

The Survey by ECS Ltd, November 2004

- 2.10 The second survey (see **Appendix 3**) was carried out 8 months after the first survey and took measurements from the same reference points. As before, the survey was carried out using equipment that measures the combined effect of all electromagnetic fields within the given frequency range. In other words the survey does not differentiate between sources, but simply measures all electromagnetic fields in use at the time of survey. The survey therefore covers the frequencies used by all the mobile phone networks as well as the frequencies used by a great many other radio systems.
- 2.11 The second survey includes a summary table, on pages 7 and 8, of the readings for each site on both survey dates. The introduction to the second survey explains that:

“...In all cases, the changes are small and are of the order that would be expected for surveys done at different times in a location where the overall electromagnetic radiation levels have remained fairly constant. The small differences measured may be accounted for by:

- *differing transmitter power levels from the base stations*
- *minor differences in measurement locations*
- *different contributions from other transmitters (mobile phones, taxi cab radios, etc.)*

The key point to observe is that exposure levels in all cases are well within the international guideline levels.

One further observation is that, although the levels vary from place to place and time to time, it would be wrong to assume that the varying levels of exposure rates relate in some way to varying risks. I am aware of no widely-accepted risks to health at the levels we have measured (i.e. levels below the relevant international guidelines).....”

2.12 The comparative tables indicate that the highest levels of the total electromagnetic power densities are not materially different between the two surveys and are, dependent on the specific locations, many 1,000s of times below the ICNIRP maximum permitted public guideline set for the telecom operators 3 (the flagpole installations), and Orange (the microcell installation).

2.13 The survey concludes:

“...The ICNIRP guidelines are designed to provide for the full protection of everyone at the maximum permitted public values and these guidelines are endorsed by the national Radiological protection Board and the WQorld Health organisation. Therefore, when considering the much lower measured values, then no harm should be expected to result to anyone living in these buildings or nearby...”

2.14 Counsel’s Opinion was sought in July, following the second survey and after the public inquiry into the Discontinuance Order.

Advice from the Conservation Officer

2.15 Counsel’s opinion stresses the need to consider the advice of the Council’s Conservation Officer in respect of Listed Building and Conservation Area impact issues. Nos. 104 and 106 High Street are Grade II Listed Buildings, and the whole site is within the Harrow on the Hill Conservation Area.

2.16 The Conservation Officer has offered the following comments:

Impact on character and setting of the listed buildings:

The works can be split into 4 main categories – the microcells on the front / side elevations of 102 and 106, the equipment cabin at the rear, associated cabling, and any internal works to 104 -106 to facilitate the system.

“.... In terms of the microcells, PPG15 advises at para C68 that minor additions to listed buildings such as burglar alarms will require listed building consent if they affect the special architectural or historic character of the building. The document advises that only visually unobtrusive positions for such fixtures should be agreed.

The one on 102 High Street is obvious, being on the front elevation but this building is not listed so Listed Building Consent would not be required. The one on 106 is much less obvious because it is on the side elevation, tucked in with the rainwater hopper head and against a rendered wall which it blends into. It does have an impact and does in a small way affect the character and thus Listed Building Consent would, in my opinion, be required but I would not object to the proposal as I do not think it is in any way detrimental to the character of the Listed Building. It is a modern feature, much like an alarm box, and as such is inconsequential in terms of how the building is seen and appreciated.

The equipment cabin is not physically attached to the listed building and therefore does not require listed building consent. It does, however, affect the setting of the listed building. In my opinion, however, the cabin does not detrimentally affect the setting as it is in the service yard area at the rear of the Listed Building and is seen in association with all sorts of clutter such as wheelie bins, sheds etc., and this metal compartment is actually neater and less obtrusive than these other features. It is tucked up against railings and painted a dark colour and is therefore relatively unobtrusive.

The cabling on the rear external face of 104 is hidden amongst a mass of rainwater goods and so whilst again I think this probably does require Listed Building Consent ... it is relatively unobtrusive when seen in association with all the existing clutter. I did not particularly notice cabling from 106, which I think is hidden behind the parapet, which makes it so unobtrusive as to not cause a problem.

Other works – it appears to me that there may well be internal cabling which I cannot see and I also note that a basement room in 104 is being used to house electrical equipment. It certainly appears as if a new rear door to the basement has been installed. All these works are likely to require Listed Building Consent and without proper inspection I can't tell if they are acceptable or not. It would also depend what the earlier door looked like and how much alteration has taken place to any rooms. If the cabling is similarly hidden and the basement has just had freestanding equipment inserted in it, I do not see a major problem although we still need to resolve the basement door, which is not that attractive.

In summary therefore on Listed Building issues, consent is likely to be required but I would recommend that consent be granted, although I need to see inside the building to form a full view.

Impact on character of conservation area

The alarm boxes on both elevations are no more obtrusive than that allowed at 42-44 High Street (to which the Conservation Group had no objections). The cabling on the front elevation is arguably better hidden than that of 42-44 High Street and the equipment cabin is hidden at the rear in a service yard where one might expect to see sheds / storage in any event. Therefore in my opinion the entire system would not detrimentally affect the character of the area and would have less of an impact than the system allowed at appeal at 42-44 High Street. .

Telecommunications Appeal Decisions

2.17 Reference has been made in the previous report to health concerns and fear of health risk in relation to telecommunications installations. To supplement this an analysis has been carried out of recent telecommunications appeal decisions.

2.18 Since January 2005 there have been 394 appeals in respect of telecommunications development where health and / or fear of risk to health were raised as issues – these are examined below (**Table 1**):

Table 1: Telecommunication Appeal Decisions between January and September 2005

Total Decisions	Allowed		Dismissed		Compliance with ICNIRP public exposure guidelines		Fear of Risk to Health	
393	262	67%	131	33%	393	100%	6	1.5%

2.19 The 1.5% of the 393 appeal decisions where the Inspector accepted the perception or fear of risk to health all related to Dismissed appeals. The decision details are summarised below (**Table 2**):

Proposal	LPA	Summary of Issues
12.5m imitation telegraph pole in residential area	Eastbourne	<ul style="list-style-type: none"> ▪ Wide grass verge at backs of houses – existing trees about 6 to 7m high, streetlamps about 8m high ▪ Pole sited in a conspicuous position, against rear garden boundaries some 30m from rear of nearest dwelling ▪ Would be out of keeping in streetscene and cause substantial harm to character / appearance of area ▪ No health risk but weight given to perception of risk as equipment would be particularly conspicuous from a neighbouring dwelling and would be a constant reminder of health fears

10m pole in residential area	Sheffield	<ul style="list-style-type: none"> ▪ Sited on grass verge ▪ Harm to character / appearance of area due to overly dominant structure with little opportunity for landscaping ▪ Harm to residential amenity due to loss of outlook and perceived health risks
15m pole on roundabout in residential area	Bromley	<ul style="list-style-type: none"> ▪ No harm to character / appearance of area ▪ Concern about residential / visual amenity & outlook are more to do with effects on health
12m and 15 m poles on 2 roadside sites in residential area	Tamworth	<ul style="list-style-type: none"> ▪ No harm to residential amenity / loss of outlook ▪ Possible health implications if both masts are erected, although the Inspector seems to ignore
8m imitation telegraph pole in residential area	Reigate & Banstead	<ul style="list-style-type: none"> ▪ Sited 2m from garden fence ▪ Would appear dominant & intrusive in outlook from dwelling ▪ Prominent in skyline views ▪ Weight to perceived health fear
15m pole in residential area	Rushmoor	<ul style="list-style-type: none"> ▪ Harm to character / appearance of area ▪ Harm to residential / visual amenity due to scale / mass / perceived health risks at this exposed position

2.20 These appeal decisions all relate to street poles and are substantially bigger developments than the microcell installation at Nos 102 to 106 High Street. In the Officers' view this installation is not comparable with these cases. Additionally, there have been 2 electromagnetic surveys which confirm the low level of emissions in this locality.

Appeal Decision on Microcell Installation at 42-44 High Street, Harrow on the Hill

2.21 The Inspector in this appeal gave careful consideration in July 2004 to a similar installation further along High Street. The principal differences were that only one microcell was to be installed on the front wall, and the equipment cabinet was to be sited at the side of a well-used public footpath, rather than at the rear of a building in a private yard.

2.22 The Inspector gave due weight to the impact of the proposal on the character and appearance of the Conservation Area, and on the health issues.

2.23 The Inspector likened the microcell antenna to a burglar alarm, and the cabinet to a telephone or traffic light switch cabinet – a regular feature of our streets for many years.

2.24 The Inspector then considered health issues and the perception of risk to health. He acknowledged these as material planning considerations, but concluded by giving these very little weight, based on Government advice, compliance with ICNIRP and the lack of any substantive technical evidence of harm arising from the proposed installation.

2.25 Finally, the Inspector addressed the issues of a possible breach of human rights and concluded that there would be no breach of such rights.

Consultation with Ward Councillors

2.26 None

Financial Implications

2.27 None

Legal Observations

2.28 Included in the report

Conclusion

2.29 It is the officers' view that the microcell installation (taken as a whole and comprising the equipment cabinet at the rear and the two wall-mounted antenna) amount to development. This is not permitted development as the site is within a conservation area, and planning permission is therefore required. The telecom operator Orange disagrees with this view and considers the installation is *de minimis* (so small as to be of no account).

2.30 However, whilst a planning application (or Listed Building Consent) for this development has not been submitted, it is considered unlikely that the instigation of formal planning enforcement action would be successful. The equipment cabin at the rear of 104 High Street is sited unobtrusively against the rear of the building and is not visible from any public part of the Conservation Area, and has no detrimental impact on the character or setting of the listed building or this part of the Conservation Area.

2.31 It is considered that the two microcell antenna, on the front elevation of 102 High Street and on the flank elevation of 106 High Street, are unobtrusive and not detrimental to the character or appearance of the listed buildings to which they are attached or to this part of the Harrow on the Hill Village Conservation Area. The microcells were not noticed by any local residents following their unauthorised installation in 2004.

2.32 Government guidance in PPG 18 on enforcement advises at paragraph 7:

"7. While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not normally be issued solely to "regularise" development which is acceptable on its planning merits, but for which permission has not been sought... As paragraph 14 of DOE Circular 2/87 (W) 5/87 points out, it will generally be regarded as "unreasonable" for the LPA to issue an enforcement notice, solely to remedy the absence of a valid planning permission, if it is concluded, on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice. Accordingly, LPAs who issue a notice in these circumstances will remain at risk of an award against them of the appellant's costs in the enforcement appeal."

2.33 In the Officers' view, in all the circumstances it would be inappropriate to undertake enforcement action in respect of this installation.

Section 3: Supporting Information / Background Documents

Application file WEST/456/02/FUL

This page is intentionally left blank

LONDON BOROUGH OF HARROW

Meeting:	Development Control Committee
Date:	7th September 2004
Subject:	102, 104, 106 High Street, Harrow on the Hill
Key Decision:	No
Responsible Chief Officer:	Joint Report of the Chief Planning Officer and of the Borough Solicitor
Relevant Portfolio Holder:	Planning, Development, Housing and Best Value
Status:	Part 1
Ward:	Harrow on the Hill
Enclosures:	Appendix A - Site Plan Appendix B – Photographs Appendix C - report from ECS Ltd Appendix D - Copy of Appeal Decision Letter Ref: P/1017/03/CFU

1. Summary / Reason for Urgency (if applicable)

- 1.1 The report advises on an unauthorised telecommunications micro-system comprising an equipment cabin to the rear of 104 High Street, and two wall mounted microcell antennae on the front wall of 102 and the flank wall of 106 High Street, Harrow on the Hill.

2. Recommendation (for decision by the Development Control Committee)

- 2.1 The Committee agree that the two microcell antennae are neither prominent nor visually obtrusive in the street scene, and have no detrimental impact either on the character or appearance of the Conservation Area, or the street scene in general;
- 2.2 The Committee agree that, having weighed up the representations regarding health and perception of health effects, having regard to the consultant's survey carried out in March 2004, having regard to their previous decision in respect of 102 High Street, and taking into account the policy guidance in PPG8 and PPG15, it would not be appropriate to undertake formal enforcement action on these grounds, in this case;
- 2.3 No further action to be taken with regard to this matter;
- 2.4 The complainants be notified accordingly.

FOR DECISION

REASON:

To enable the Committee to consider fully the circumstances surrounding the unauthorised installation.

3. Consultation with Ward Councillors

3.1 All Ward Councillors were sent a copy of this report.

4. Policy Context (including Relevant Previous Decisions)

4.1 On 17th March 2004 this Committee resolved to make a Discontinuance Order in respect of a Hutchison 3G Mobile Phone Base Station installed on the roof of 102 High Street (planning application reference WEST/456/02/FUL) for the following reasons:

- (i) the development, by reason of its height and prominence, is unduly obtrusive and detrimental to the character and appearance of this part of the Conservation Area;
- (ii) the development, by reason of its height and prominence, is unduly obtrusive and detracts from the visual amenity of neighbouring residents and occupiers and of the street scene in general.

4.2 Planning application reference P/1017/03/CFU for the "installation of microcell antenna 110mm x 320mm at a height of 6m on the front elevation of No.44, with feeder cables and equipment cabinet at side of No.42" was refused on 16th September 2003.

4.3 The reason for refusal was:

"The proposed development, in particular the equipment cabin, would be visually obtrusive by reason of unsatisfactory size and siting, and be detrimental to the character and appearance of this part of the Conservation Area and the amenity of local residents.

4.4 The applicants appealed this refusal, and in a letter dated 16th August 2004 Mr P Graham, the Planning Inspector, for the First Secretary of State, upheld the appeal and granted planning permission for the development, subject to conditions.

5. Relevance to Corporate Priorities

5.1 This report addresses the Council's stated priority of enhancing the environment of the borough.

6. Background Information and Options Considered**6.1 Investigation**

6.1.1 The Council received a complaint from a member of the public that telecommunications equipment, additional to that previously installed at 102 High Street had been erected at the rear of 104 High Street, at some time in February

2004. An investigation of the site revealed a small telecommunications equipment cabinet (sited against the rear wall of 104 High Street) owned by Orange.

6.1.2 Subsequent investigation revealed that the cabinet formed part of a telecommunications micro-system, with cabling to two small wall-mounted antennae on the front wall at 102 High Street and on the flank wall of 106 High Street. No complaints have been received in respect of the two microcell antennae installed on the street frontages.

6.2 The Need for Planning Consent

6.2 The equipment cabinet and the two antennae are sited within a Conservation Area (article 1(5) land). The cabin falls within the provisions of permitted development under Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 and neither planning permission or a determination for prior approval is required.

6.2.2 Two microcell antennae are expressly excluded from permitted development by the provisions of Part 24 (h) of the 1995 Order and planning permission is required. Such permission was neither sought nor obtained by Orange, and they have since declined to submit an application to regularise the development. As the equipment cabinet was erected as part of the same development as the two antennae, it is likely that the whole development requires planning consent.

6.2.3 In October 2003 Orange published a "roll-out" plan which indicates all of their current sites and proposals within Harrow. The document included reference to this site with a note that planning permission had been granted. However, it is confirmed that no such permission has ever been sought or obtained from the Local Planning Authority.

6.3 Consultation

6.3.1 In the absence of any planning application, no consultation of Harrow School or of local residents has been undertaken, either by the developer or the Local Planning Authority.

6.3.2 However, since the original complaint about the equipment cabinet, four letters of objection have been received, including The Harrow Hill Trust and a joint letter from 10 nearby residents.

6.3.3 The Harrow Hill Trust object on the following grounds:

- the original proposal by Orange was made at 42/44 High Street, where planning permission was applied for and refused
- the development was then installed by Orange without permission at 102-106 High Street
- the developer was fully aware of the need for planning permission and should be made to apply
- the development creates a precedent
- that the (similar) development at 42-44 High Street was not considered to be de minimus so this development should not be considered de minimus.

6.3.4 The other objections have been made on the following grounds:

- the failure to apply for permission has meant that no public consultation has been carried out
- the issues are the same as those considered in respect of the flagpole mast when the Discontinuance Order was agreed
- the development is unauthorised and the developer should be required to submit a planning application
- the development detracts from the appearance of the Conservation Area
- the development creates a precedent
- the officers' report is one-sided as it ignores the Stewart Report on mobile phones and health
- the developer has totally ignored the consultation requirements set out in:
 - the ODPM's Code of Best Practice on Mobile Phone Network Development
 - Planning Policy Guidance Note 8 – Telecommunications
 - the Mobile Phone Operators Association's "10 Commitments"
 - the Local Planning Authority's own guidelines
- taking no action would be wholly inconsistent with the Committee's September 2003 decision to refuse a similar development at 42/44 High Street
- the officers' report ignores the strength of local feelings about health dangers and visual impact
- the Courts have held that adequate weight should be given to health of concerns and this development gives rise to a very significant degree of fear of health risk
- local residents should be able to make representations to the Committee before planning permission is determined
- the development is no de minimis because it affects locally listed buildings in a conservation area and because its emissions combine with those from the 3G mast and have a cumulative effect
- the microcell installation and the 3G mast should be looked at in the aggregate until such time as the Discontinuance Order appeal is determined
- failure to instigate enforcement action could set a precedent, sending a message that where mobile phone antenna are erected the Council will not insist on public consultation and their approval.

6.3.5 Additionally, one local resident indicates that no-one was aware that the additional masts (the microstation antenna) existed until the Council's technical expert picked up their signal.

6.4 Formal Advice and Policies

6.4.1 PPG sets out the position in relation to the determination of planning applications: **40.** The Government is committed to a plan-led system of development control. This is given statutory force by section 54A of the 1990 Act. Where an adopted or approved development plan contains relevant policies, section 54A requires that an application for planning permission or an appeal shall be determined in accordance with the plan, unless material considerations indicate otherwise. Conversely, applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify granting a planning permission. Those deciding such planning applications or appeals should always taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the development plan is relevant, it will be necessary to decide whether the proposal is in accordance with the plan and then to take into account other material considerations.

- 6.4.2 Relevant material considerations need to be considered within the overall context of the advice in PPG8 and in this case include:
- Character and appearance of the conservation area
 - Visual and residential amenity
 - Alternative sites and need
 - ICNIRP compliance
 - Health concerns

6.4.3 Relevant material considerations with regard to development in Conservation Areas need to be considered. Advice regarding the preservation or enhancement of Conservation Areas is provided in PPG15.

6.4.4 Advice on the appropriateness of the instigation of formal planning enforcement action is given in PPG18.

6.4.5 The relevant development plan policies in relation to this application are set out in Harrow Unitary Development Plan (adopted 30 July 2004) (the UDP):

EP31 Areas of Special Character
D16 Conservation Areas Priority
D24 Telecommunications Development

Additionally, the Harrow on the Hill Village Conservation Area Policy Statement covers these properties.

6.5 General Advice

6.5.1 When making decisions related to telecommunications installations, large or small, account has also to be taken of the advice in PPG8 Telecommunications relating to need. PPG8 advises:

Modern telecommunications are an essential and beneficial element in the life of the local community and in the national economy. New communications technology is now spreading rapidly to meet the growing demand for better communications at work and at home, in business and in public services. Fast, reliable and cost effective communications can attract industry to an area and help firms remain competitive, thus contributing to other policy goals, including increased population opportunities.

6.6 Health Issues and Alternative Sites

6.6.1 When considering public concerns about health issues and telecommunications equipment the Government gives advice in PPG8 – Telecommunications.

Health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker (usually the local planning authority) to determine what weight to attach to such considerations in any particular case.

However, it is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.

All new mobile phone base stations are expected to meet the ICNIRP guidelines. However, all applicants should include with their applications, a statement that self-certifies to the effect that the

mobile phone base station when operational will meet the guidelines. In line with the Group's recommendations the mobile phone network operator should also provide to the local authority a statement for each site indicating its location, the height of the antenna, the frequency and modulation characteristics, and details of power output. Where a mobile phone base station is added to an existing mast or site, the operator should confirm that the cumulative exposure will not exceed the ICNIRP guidelines.

Mobile phone operators already keep their RF power outputs to the lowest possible levels commensurate with effective service provision. They need to do this to ensure risk of interference within the network and with other radio networks is minimised. Whilst levels of power output are likely to go up and down during the day (depending on factors such as the number of people using their phones at any one time and the distance they are from the base station), the operators have confirmed that the base stations will, at all times, remain within the ICNIRP guidelines for public exposure.

- 6.6.2 In the absence of a planning application no information has been provided about compliance with ICNIRP or otherwise.

A survey of emissions was carried out by ECS Ltd on behalf of the Council on 4th March 2004. It is believed that this installation was operational at that time. As the readings of the survey equipment are cumulative of all emissions the reading noted in the report would include this installation. A copy of the ECS Ltd report is attached.

- 6.6.3 The typical output of a microcell antenna is substantially lower than that of a macrocell antenna such as the one on the roof of 102 High Street. Microcell antenna invariably fall well within the Government's safety guidelines.

- 6.6.4 PPG advises on this issue – see Appendix ***. It is generally accepted that installations comply with ICNIRP guidelines by a very high factor. However, the “perception of harm” is, of course, whether telecommunications masts emit electromagnetic radiation fields that could be harmful to those living and working nearby.

- 6.6.5 Appeal inspectors have varied in dealing with this issue but have clearly accepted it as a material consideration. Perceived fears have been accepted as understandable and relevant concerns, whether based on distrust of scientific advice or other expert evidence, or simple gut feeling antipathy to a particular use. Nevertheless, Inspectors have been reluctant to recognise public opinion per se as an arbiter of a planning application, and have generally adopted the “precautionary principle” in decision making in line with Government advice.

- 6.6.6 Details of alternative locations would normally be submitted as part of the planning application process. As a planning application has not been submitted on this occasion the usual details from the developer relating to alternative sites and need are not available.

- 6.6.7 Sections of UDP Policy D24 are relevant in the decision making process:

D24 PROPOSALS FOR TELECOMMUNICATIONS DEVELOPMENT WILL BE CONSIDERED FAVOURABLY PROVIDED:

- A) **NO SATISFACTORY ALTERNATIVE, AND LESS HARMFUL, MEANS OF MEETING THE NETWORK COVERAGE DEFICIENCY IDENTIFIED BY THE PROSPECTIVE OPERATOR IS AVAILABLE;**
- B) **CONSIDERATION HAS BEEN GIVEN TO SITING EQUIPMENT ON AN EXISTING BUILDING OR STRUCTURE OR TO SHARING FACILITIES (EITHER USING EXISTING FACILITIES OR REPLACING EXISTING FACILITIES WITH SHARED FACILITIES);**
- E) **THE PROPOSED SITE AND ANY EMISSIONS ASSOCIATED WITH IT DO NOT PRESENT ANY HEALTH HAZARDS.**

6.7 Development within the Historic Environment

6.7.1 Account should be taken of advice given in Planning Policy Guidance Note 15, Planning and the Historic Environment (PPG15), when considering development in a conservation area. PPG15 advises:

4.14 Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. This requirement extends to all powers under the Planning Acts, not only those which relate directly to historic buildings.

4.16 Many conservation areas include the commercial centres of the towns and villages of which they form part. While conservation (whether by preservation or enhancement) of their character or appearance must be a major consideration, this cannot realistically take the form of preventing all new development: the emphasis will generally need to be on controlled and positive management of change. Policies will need to be designed to allow the area to remain alive and prosperous, and to avoid unnecessarily detailed controls over businesses and householders, but at the same time to ensure that any new development accords with the area's special architectural and historic interest.

4.19 The Courts have recently confirmed that planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area. If any proposed development would conflict with that objective, there will be a strong presumption against the grant of planning permission, though in exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest.

4.20 As to the precise interpretation of 'preserve or enhance' the Courts have held (South Lakeland DC v Secretary of State for the Environment, [1992] 2 WLR204) that there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve. Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

6.7.2 Sections of several UDP policies relate to this issue:

D24 PROPOSALS FOR TELECOMMUNICATIONS DEVELOPMENT WILL BE CONSIDERED FAVOURABLY PROVIDED:

- C) **THERE WOULD BE NO DETRIMENTAL IMPACT ON CONSERVATION AREAS, LISTED BUILDINGS, IMPORTANT LOCAL VIEWS AND LANDMARKS OR OTHER STRUCTURAL**

FEATURES IDENTIFIED IN POLICY SEP5, AND, HAVING REGARD TO OPERATIONAL NEED, THERE WOULD BE NO SERIOUS RISK TO AMENITY IN RESIDENTIAL AREAS;

- D) THE PROPOSED INSTALLATION WOULD BE SITED AND DESIGNED TO MINIMISE VISUAL IMPACT, AND, WHERE PRACTICABLE, TO ACCOMMODATE FUTURE SHARED USE. CAREFUL CONSIDERATION SHOULD BE GIVEN TO SCREENING AND PLANTING; AND**

EP31 WITHIN THE AREAS OF SPECIAL CHARACTER, AS SHOWN ON THE PROPOSALS MAP, THE COUNCIL WILL:-

- A) RESIST THE LOSS OF, OR DAMAGE TO, FEATURES WHICH CONTRIBUTE TO THE AREA OF SPECIAL CHARACTER;**
- B) PRESERVE ARCHITECTURAL AND HISTORIC FEATURES WHICH CONTRIBUTE TO THE CHARACTER OF THE AREA;**

D16 THE PRESERVATION OF THE CHARACTER OR APPEARANCE OF CONSERVATION AREAS MAY BE CONSIDERED TO OVERRIDE OTHER PLAN POLICIES AND BUILDING CONTROL STANDARDS IN APPROPRIATE CASES.

- 6.7.3 The Harrow on the Hill Village Conservation Area Policy Statement was agreed as a Non-Statutory Policy Statement by the Development Services Committee on 27th August 12002. Policy (4) relates to this development:

PROPOSALS FOR ALTERATIONS AND EXTENSIONS SHOULD RESPECT THE ARCHITECTURAL STYLE AND CHARACTER OF THE EXISTING BUILDING IN TERMS OF BULK, SITING, DETAILED DESIGN AND MATERIALS. IN SOME INSTANCES THE OVERALL CHARACTER OF A GROUP OF BUILDINGS WILL NEED TO BE RESPECTED AND MAINTAINED.

- 6.7.4 PPG8 gives some general advice on small telecommunications developments such as this:

Some minor operations or changes of use of land may not consistent development which requires planning permission. For example, many of the smallest antenna systems may be covered by the normal principle of *de minimus*; or they may not have a material effect on the external appearance of the building on which they may be installed, and therefore may not fall within the legal definition of development. Most conventional television aerials and their mountings or pole have long been treated this way, and this approach should continue to be applied to small telecommunications apparatus in general (regardless of who installs it). The installation of some microcells, such as those similar in appearance to burglar alarms, may be treated in this way.

- 6.7.5 Whilst a great deal of this conservation areas character has been retained. However, the area has evolved over a period of time, and some more modern features now exist, such as traffic calming, television and satellite antenna, street furniture, alarm boxes and advertising.

- 6.7.6 The two microcell antennae are not prominent features in the street scene. No specific complaints were received in relation to the antennae. The two microcell antennae are white plastic boxes approximately 400mm long, 150mm wide and 120mm deep. In the case of 102 High Street the microcell is sited just below the flat roof parapet adjacent to the parapet at 104 High Street on the left hand edge of the front elevation. The microcell matches the colour of the front elevation of 102 which is white rendered. The microcell on the upper flank elevation of 106 High Street is sited directly above a black hopper and downpipe, and is seen against the backdrop of a rendered, buff-coloured flank wall.
- 6.7.7 Whilst 102 and 106 High Street are locally listed buildings, it is considered that whilst the antennae are on this occasion not *de minimus*, they are nevertheless small and unobtrusive and do not detract from the character and appearance of the Conservation Area.
- 6.7.8 The equipment box is situated in a service area to the rear of 104 High Street. It is located at the end of a concrete apron used for storing large wheeled refuse bins. In this location it is not readily visible from a public area. As it is located in such a utilitarian service area it does not have a detrimental impact on visual amenity from private areas.
- 6.7.9 The cabling runs from the equipment box, up the rear elevation of 104 High Street and across the roof of 102 High Street. Here it fits directly into the small antenna on the front elevation of 102 High Street and runs along the guttering to the antenna at 106 High Street. This cabling is not immediately visible to passers by in High Street, and does not form a prominent feature along the building frontages.

6.8 Residential Amenity

- 6.8.1 That a mast would be detrimental to the amenities of a residential area may be an argument that prevails especially where strong local opposition is a feature of the objections.
- 6.8.2 PPG8 encourages the use of existing buildings and other structures, such as electricity pylons, to site new antennas. Applicants are expected to demonstrate that they have explored this possibility. PPG8 requires the use of sympathetic design and camouflage to minimise the impact of development on the environment. It encourages the telecommunications industry to continue to develop innovative design solutions, in terms not only of the structure of masts and antennas but also the materials and colouring.
- 6.8.3 In the present case the microcell antennae are small in size, are sited unobtrusively, and resemble burglar alarms in general appearance, as such they do not constitute incongruous features in a residential or town centre area.

6.9 Proposed Microcell Development at 42-44 High Street

- 6.9.1 Planning application reference P/1017/03/CFU was submitted for the installation of a telecommunications microcell development including an equipment box, cabling and a small antenna.

6.9.2 The application was considered by the Development Control Committee at its meeting of 30th July 2003, where the matter was deferred for a site visit. The matter was placed before the Development Control Committee again at its meeting of 10th September 2003. At this meeting the Committee refused the application.

6.9.3 The formal decision was issued on 16th September 2003 gave the following reason for refusal:

The proposed development, in particular the equipment cabin, would be visually obtrusive by reason of unsatisfactory size and siting, and be detrimental to the character and appearance of this part of the Conservation Area and the amenity of local residents.

6.9.4 The applicant's appealed this refusal, and in a letter dated 16th August 2004, Mr P Graham, the Planning Inspector, for the First Secretary of State, upheld the appeal and granted planning permission for the development, subject to conditions.

6.9.5 In his letter the Inspector considers issues of visual amenity, impact on an adjoining listed building, public health matters and human rights issues. A copy of this letter is attached.

6.10 **Advice on the Appropriateness of Planning Enforcement Action**

6.10.1 Planning Policy Guidance Note 18 – Enforcement, gives advice with regard to circumstances where development has been carried out without planning permission.

7. While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not normally be issued solely to "regularise" development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances, LPAs should consider using the new "planning contravention notice" to establish what has taken place on the land and persuade the owner or occupier to seek permission for it, if permission is required. The owner or occupier of the land can be told that, without a specific planning permission, he may be at a disadvantage if he subsequently wishes to dispose of his interest in the land and has no evidence of any permission having been granted for development comprising an important part of the valuation. As paragraph 14 of DOE Circular 2/87 (W) 5/87) points out, it will generally be regarded as "unreasonable" for the LPA to issue an enforcement notice, solely to remedy the absence of a valid planning permission, if it is concluded, on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice. Accordingly, LPAs who issue a notice in these circumstances will remain at risk of an award against them of the appellant's costs in the enforcement appeal.

7. **The Breach of Planning Control**

7.1 Without planning permission, the erection of a telecommunications micro system including an equipment box, two antenna and associated cabling.

8. **Consultation**

8.1 Not applicable

9. **Finance Observations**

9.1 None

10. Legal Observations

10.1 Included in the report.

11. Conclusion

11.1 Whilst a planning application for this development has not been submitted, it is unlikely that the instigation of formal planning enforcement action would be successful, as the antenna do not appear to be detrimental to the character or appearance of the Harrow on the Hill Village Conservation Area, or the Locally Listed Building to which they are fixed.

12. Background Papers

12.1 None

13. Author

Glen More, Planning Enforcement Manager, extn. 5219

This page is intentionally left blank

ICNIRP Compliance Assessment of the mobile phone installation located on the roof of No.102 High Street, Harrow-on-the-Hill, London.

Summary:

The mobile phone Base Station installation operated by 3 complies with the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines by large margins.

The highest level of the total electromagnetic power density measured in the property next to the installation at No.100 High Street was only 0.0006 Watts per square metre (W/m^2). This level is more than 16,600 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by the operator 3. The low values found at this address are due to the main signal path from the antennas passing over the roof of the property.

The highest level of the total electromagnetic power density measured within a flat more remote from the installation was only $0.0016 W/m^2$. This value is 6,250 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$.

The highest value of the total electromagnetic power density measured within the surrounding area at street level was $0.0035 W/m^2$. This value is more than 2,800 times below the maximum permitted ICNIRP public guideline value set for the frequencies used by 3.

It can therefore be concluded, as the ICNIRP guidelines are designed to provide for the full protection of everyone at the maximum permitted public values, then when considering the very much lower measured values, no harm should be expected to result to anyone living in these buildings or nearby.

Compliance Assessment Survey

The Measurement Survey was conducted by Garry Homer, Director, Electromagnetic Surveys Limited on 4 March 2004, between 1.00 pm and 3.20 pm.

1. Background

The mobile phone operator 3 has a Base Station located at No.102 High Street. The antennas are mounted within the top section of a slim mast designed to appear as a flagpole on the roof of the building. Concerns have been raised by local residents about their safety while living close to the installation. This survey was commissioned to address these concerns.

2. Instrumentation

The instrument used for this survey was a Wandel & Goltermann EMR 300, serial number AP-0052, fitted with a probe that had a frequency response covering 100 kHz to 3000 MHz. The instrument was within its calibration period and functioned normally throughout the tests.

This professional instrument provides the total value for all the electromagnetic fields that are present within the frequency range of the probe. The probe is also isotropic, which means the probe does not need to be pointed in any particular direction to correctly interact with the electromagnetic fields that surround it.

3. Safety Standards

The Independent Expert Group on Mobile Phones chaired by Sir William Stewart recommended that as a precautionary measure, all mobile phone companies should use the guidelines issued by the International Commission for Non-Ionising Radiation Protection (ICNIRP) for areas where the public have access. Previously, the guidelines issued by the National Radiological Protection Board (NRPB) were used.

The Stewart Report only made precautionary recommendations to increase the protection afforded to the public. The NRPB guidelines can still be applied to all mobile phone occupational situations and to both public and occupational situations for all other radio frequency sources.

Like the NRPB guidelines, the ICNIRP guidelines are not statutory limits. However, there is a general 'Duty of Care' provision within Health & Safety legislation that requires compliance with guidelines issued by authoritative bodies such as the NRPB and ICNIRP.

The NRPB and ICNIRP guidelines were created after careful reviews of all the health related research that had been carried out worldwide. As the research did not show causation of other health outcomes, both the NRPB and ICNIRP guidelines are designed to prevent our bodies overheating. They start from the knowledge that has been gained over the past decades, that a 1°C rise in body temperature is easily controlled by our bodies perspiring etc.

What ICNIRP has done is to first set a value for the protection of workers to limit this temperature rise to a small fraction of 1°C. This ensures their body temperatures are not elevated by any more than about 0.1°C while working at the maximum permitted occupational levels. Then, as it is assumed that working employees are healthier than the general public, the maximum permitted public guideline level is set at one fifth of the occupational level.

This very much lower public level is set to ensure that even when the electromagnetic field levels are at their maximum permitted public levels, then no harm will be caused to anyone, young or old, no matter what state of health they are in.

The operator 3 uses a frequency of approximately 2,100 MHz for their transmissions from the Base Station to their customer's handsets. At this frequency, the ICNIRP occupational guideline is set at a power density of 50 W/m², averaged over any six-minute period. The ICNIRP public guideline for this frequency is set at one fifth of this value at 10 W/m², again averaged over any six-minute period.

The NRPB guideline for this frequency is 100 W/m² for both public and occupational situations, averaged over any 15-minute period.

The average value is specified within the guidelines to take account of the variations in the signal level that can be created by different radio frequency technologies. These times are the maximum time over which the readings should be averaged. Where the signal is known not to vary, then one instantaneous value will suffice.

4. Methodology

As the ICNIRP guidelines specify averaged values; the measuring instrument was also set to indicate averaged values to ensure any transient events were included correctly. The measurement time allowed for each reading was that sufficient for the indicated value to become stable and constant but did not exceed the 6-minute limit. Therefore, all the values recorded in this report were measured in accordance with the guidelines and can be directly compared with the maximum permitted guideline values to calculate the level of compliance at each measurement location. The level of compliance for each location is shown in the attached Tables of Results.

The instrument probe is sensitive to a wider range of frequencies than those used by this Base Station. This means the recorded values also include contributions from the wall mounted Orange antenna that is also located at No.102 High Street and the other local antennas on the roof above No.43 to No.47 High Street. There will also be small contributions from more distant mobile phone, emergency services, radio and television transmissions etc. Therefore, this measurement method will overestimate the contribution from the 3 Base Station and therefore provide a more severe assessment of compliance for the installation.

Where it was both possible and appropriate, all measurement locations were selected that had line-of-sight of the antennas. This was done to ensure that maximum values were captured. Common building materials can reduce the radio frequency power density level by factors of 10 or more.

5. Discussion

5.1 Survey Findings

Concern was expressed about the close proximity of the installation with No.100 High Street. However, the highest level of the total electromagnetic power density measured during the survey was found at street level near to No.17 London Road. The values measured within No.100 High Street were found to be low and comparable to some of the lowest values measured around the local area. This confirms expectations where, due to the height of the antennas and the shape of their radio frequency emissions, the main signal path from the antennas pass over the building.

During the measurement survey at this address, the signal level was seen to vary in a way that is uncharacteristic of the more constant 3G transmissions. This indicates that other significant radio frequency sources were present. However, approximations were not used to reduce the measured values to take account of these sources. Therefore, this methodology provides a 'worse case' assessment of the mobile phone installation operated by 3.

The significance of these other radio frequency sources can be interpreted from the Tables of Results. Measurements made at the rear of 45 High Street revealed a value of 0.0018 W/m^2 . This was at a position where the 3 installation could not be seen but where there was a clear line-of-sight of the antennas above this row of buildings. Measurements made at the front of these buildings were much lower where these antennas were not visible, even though there was clear line-of-sight of the 3 installation. The signal from these antennas was intermittent in a way that is characteristic of taxi, emergency services and paging transmissions.

5.2 Radiation

Most health concerns associated with mobile phone installations arise from the use of the term radiation. The Press and protest groups deliberately use this term to describe the emissions from mobile phone installations without providing any explanation of its meaning. People then become anxious as they are left to link these emissions with the dangers of nuclear sources of radiation, such as atom bombs and X-Ray machines etc.

Electromagnetic radiation is split into two parts, ionising and non-ionising. Ionising radiation occurs at frequencies above that of visible daylight, starting in the ultra-violet part of the electromagnetic spectrum and progressing through X-Rays and Gamma Rays to Cosmic Rays. It is the ionising energy of ultra-violet light that has led to serious concerns about skin cancer and the length of time that is spent in strong sunlight or on sun-beds.

Non-ionising electromagnetic radiation is everything below the ultra-violet part of the electromagnetic spectrum mentioned above. Mobile telephone frequencies are just a small part of this non-ionising electromagnetic radiation that includes radiated heat from fires, light, television and radio transmissions etc. It is referred to as non-ionising radiation as it does not have sufficient energy to change the electrical charge on atomic structures. It also does not have sufficient energy to significantly alter particle collisions in tissue or to break chemical bonds and affect our DNA. This is why most Physicists do not believe that low-level non-ionising electromagnetic radiation at levels, set by such authoritative bodies as ICNIRP and the NRPB, can pose any health risk.

5.3 Relevance of ICNIRP

The guidelines set by ICNIRP are being used by more and more countries as the basis for their own standards. Australia has recently issued their new guidelines with ICNIRP type reasoning and values. Previously, they had a lower temporary guideline that was introduced to allow them time to study the research data and to form their own opinion of what precautions were necessary.

The NRPB has recently completed a review of the research that has been undertaken since the Stewart Report was issued. They have not found any evidence of any effect that would undermine the relevance of the ICNIRP guidelines.

Some pressure groups champion the application of a standard based upon 3 Volts per metre (V/m), (equivalent to 0.0238 W/m^2), or some other parameter the mainstream worldwide scientific community does not accept. It should be noted the 3 V/m level has not been derived from any consideration of appropriate Health and Safety issues. This value has been set under European Electromagnetic Compatibility (EMC) regulations to avoid unnecessary interference with very sensitive electronic equipment. This is because some electronic equipment will contain metallic structures that can act as receiving antennas. They can also contain amplifiers that will boost the unwanted signals to levels that interfere with the normal operation of the equipment. However, the Tables of Results also show that all the electric fields recorded during this survey were smaller than 3 V/m.

It is widely accepted that interference to sensitive electronic equipment is possible at radio frequency levels below those contained in guidelines set to protect human health. Some older electronic equipment has not been deliberately designed to be immune to this type of interference. This is why some countries have introduced stricter guidelines based upon 1V/m for areas close to Hospitals. It is not done to protect the people directly from the radio frequency levels but to ensure the older medical equipment will function better.

It has been reported that an Australian solution to the potential problem of using a mobile phone in a hospital is to install small Base Stations within the hospital. A mobile phone's Adaptive Power Control reacts to the close proximity of a Base Station by lowering the phone's output power. A mobile phone will transmit at up to about 1/10th of the permitted ICNIRP guideline when it is used far away from a Base Station. Next to a Base Station, a mobile phone may transmit at about 1/1000th of the permitted ICNIRP guideline. This solution was introduced because the hospital administrators could not persuade their own consultants to turn their mobile phones off and not to use them at the patient's bedside.

Adaptive Power Control was designed into mobile phones to extend the time a phone could operate on one charge of its battery.

Potential interference problems in hospitals still exist from the type of two-way radios the Porters and security staff use. These two-way radios can be found to operate very close to the permitted maximum ICNIRP guideline values.

6. Conclusions

1. The mobile phone Base Station installation operated by 3 complies with the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines by large margins.
2. The highest level of the total electromagnetic power density measured in the property next to the installation at No.100 High Street was only 0.0006 Watts per square metre (W/m^2). This level is more than 16,600 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by the operator 3.
3. The highest level of the total electromagnetic power density measured within a flat more remote from the installation was only $0.0016 W/m^2$. This value is 6,250 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$.
4. The highest value of the total electromagnetic power density measured within the surrounding area at street level was $0.0035 W/m^2$. This value is more than 2,800 times below the ICNIRP maximum permitted public guideline value.
5. As the ICNIRP guidelines are designed to provide for the full protection of everyone at the maximum permitted public values, then when considering the very much lower measured values, no harm should be expected to result to anyone living in these buildings or nearby.

Garry Homer B.Sc. MIEEE
Director

6 March 2004

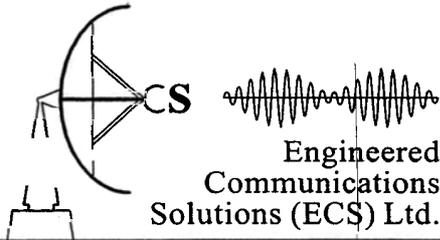
Tables of Results

Measurement Locations:	Measured Power Density W/m²	Times below the ICNIRP Public guideline of 10 W/m²	Electric Field V/m
No.100 High Street, side bedroom window overlooking the base of the flagpole style antenna	0.0006	16,667	0.48
No.100 High Street, centre of the above bedroom	0.0003	33,333	0.34
No.100 High Street, attic bedroom, near the wall nearest the mast	0.0002	50,000	0.27
No.100 High Street, attic bedroom, by the window	0.0003	33,333	0.34
No.100 High Street, study, by the desk near the window	0.0002	50,000	0.27
No.80 High Street, Lilly's bedroom, by the window overlooking High Street	0.0016	6,250	0.78
No.80 High Street, main bedroom, by the window	0.0004	25,000	0.39
No.80 High Street, living room, by the window	0.0001	100,000	0.19
High Street, by the gateway to 'The Park'	0.0002	50,000	0.27
High Street, outside No.74	0.0003	33,333	0.34
High Street, outside the 'Connoisseur'	0.0006	16,667	0.48
High Street, outside No.45	0.0005	20,000	0.43
High Street, outside No.49	0.0004	25,000	0.39
High Street, outside No.53	0.0005	20,000	0.43
High Street, outside No.57	0.0007	14,286	0.51
High Street, opposite No.100	0.0021	4,762	0.89
High Street, outside No.100	0.0022	4,545	0.91
London Road, outside No.9	0.0020	5,000	0.87
London Road, outside No.17	0.0035	2,857	1.15
London Road, outside 'Tithegate'	0.0029	3,448	1.05

Tables of Results

Measurement Locations:	Measured Power Density W/m²	Times below the ICNIRP Public guideline of 10 W/m²	Electric Field V/m
London Road, outside No.29	0.0017	5,882	0.80
London Road, outside 'Herga House'	0.0010	10,000	0.61
London Road, outside 'Tall Gate Cottage'	0.0010	10,000	0.61
London Road, outside 'Highlands'	0.0003	33,333	0.34
London Road, outside 'littlecourt'	0.0001	100,000	0.19
Harrow Park, opposite the driveway to 'Cairnryan Cottage'	0.0001	100,000	0.19
Harrow Park, opposite 'Syon'	0.0001	100,000	0.19
Harrow Park, opposite 'High Brow'	0.0004	25,000	0.39
Harrow Park, rear of 45 High Street	0.0018	5,556	0.82
Byron Hill Road, opposite No.5	0.0002	50,000	0.27
Byron Hill Road, opposite No.8	0.0001	100,000	0.19
Byron Hill Road, opposite No.14	0.0001	100,000	0.19
West Hill, by the roadway leading to 'West Hill Motors'	0.0002	50,000	0.27
West Hill, near to lamppost 'K980'	0.0001	100,000	0.19
West Hill, near to lamppost 'K1058'	0.0001	100,000	0.19
Roxeth Hill, outside 'Mount Pleasant Flat'	0.0002	50,000	0.27

This page is intentionally left blank



89 Victoria Road
Macclesfield
Cheshire
SK10 3JA
Tel: 01625 425700
Fax: 01625 424188

Harrow Council
Planning Services
PO Box 37, Civic Centre
Station Road
Harrow
HA1 2UY
FAO Mr Frank Stocks

LONDON BOROUGH OF HARROW ENVIRONMENTAL SERVICES		DES
		CPO
		BC
23 NOV 2004		DC
PLANNING SERVICES		FP
PASSED	FS	LP
Acknowledged		T

Monday, 22 November 2004

Dear Mr Stocks

Electromagnetic Survey – 102 High Street, Harrow on the Hill

I am pleased to enclose my colleague's latest survey of the area. You will recall that this survey follows on from a survey done earlier in the year during which local residents were concerned that an Orange microcell located on the face of 102 High Street might not have been operational.

As before, the survey was done using equipment that measures the combined effect of all electromagnetic fields in the frequency range 100kHz to 3000MHz. This range encompasses the frequencies used by all the mobile phone networks as well as the frequencies used by a great many other radio systems.

Pages 7 and 8 attached show the change in levels recorded since the first survey. In all cases, the changes are small and are of the order that would be expected for surveys done at different times in a location where the overall electromagnetic radiation levels have remained fairly constant. The small differences measured may be accounted for by:

- Differing transmitter power levels from the base stations
- Minor differences in measurement locations
- Different contributions from other transmitters (mobile phones, taxi cab radios etc)

The key point to observe is that exposure levels in all cases are well within the international guideline levels.

One further observation is that although the levels vary from place to place and time to time, it would be wrong to assume that the varying levels of exposure relate in some way to varying risks. I am aware of no widely-accepted risks to health at the levels we have measured (i.e. levels below the relevant international guidelines).

I hope this is helpful.

Yours sincerely

Richard Newstead MIEE

ICNIRP Compliance Assessment of the mobile phone installations located at No.102 High Street, Harrow-on-the-Hill, London.

Summary:

The mobile phone Base Station emissions measured during this and the first survey easily comply with the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines.

The highest level of the total electromagnetic power density measured in either this or the first survey at No.100 High Street was only 0.0006 Watts per square metre (W/m^2). This level is more than 16,600 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by the operator 3 and 15,000 times below the $9 W/m^2$ set for the frequencies used by Orange.

The level of the total electromagnetic power density measured at a window within a flat more remote from the installation was only $0.0017 W/m^2$. This value is more than 5,800 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by 3 and more than 5,200 times below $9 W/m^2$ set for the frequencies used by Orange.

The highest value of the total electromagnetic power density measured within the surrounding area at street level was $0.0035 W/m^2$. This value is more than 2,800 times below the ICNIRP maximum permitted public guideline of value of $10 W/m^2$ set for frequencies used by 3 and more than 2,500 times below $9 W/m^2$ set for the frequencies used by Orange.

The ICNIRP guidelines are designed to provide for the full protection of everyone at the maximum permitted public values and these guidelines are endorsed by the National Radiological Protection Board and the World Health Organisation. Therefore it can be concluded, when considering the much lower measured values, then no harm should be expected to result to anyone living near these installations.

Compliance Assessment Survey

The Measurement Survey was conducted by Garry Homer, Director, Electromagnetic Surveys Limited on 16 November 2004, between 1.40 pm and 4.40 pm.

1. Background

This survey was carried out to address the possibility that a small wall mounted antenna operated by Orange was not in service during the previous survey carried out in March this year. At that time attention was focussed on the installation operated by 3. This survey was commissioned to address these new concerns.

2. Instrumentation

The instrument used for this survey was the same as used before. That is, a Wandel & Goltermann EMR 300, serial number AP-0052, fitted with a probe that had a frequency response covering 100 kHz to 3000 MHz. Again, the instrument was within its calibration period and functioned normally throughout the tests.

3. Safety Standards

The position regarding guidelines has changed since the last report. In 2000 the Independent Expert Group on Mobile Phones chaired by Sir William Stewart recommended all mobile phone companies should use the guidelines issued by the International Commission for Non-Ionising Radiation Protection (ICNIRP) for areas where the public have access. The National Radiological Protection Board (NRPB) has now carried out a review of the research that has been completed since then and it now recommends the application of the ICNIRP guidelines for all frequencies, including the mobile phone frequencies.

The World Health Organisation also endorses the ICNIRP guidelines and promotes their use around the world. Also, the ICNIRP guidelines will be used in association with a European Directive on Electromagnetic Fields. The Health and Safety Executive expect this directive to be legally in force in the UK in 2008.

The ICNIRP guideline maximum permitted levels depend upon the frequency that is in use, as shown below.

Operator	Base Station Transmit Frequency (Megahertz) MHz	ICNIRP public level W/m ²
Orange	1800	9
3	above 2000	10

4. Methodology

This survey was carried out by visiting each measurement location that was used during the first survey. Again, as the ICNIRP guidelines specify averaged values; the measuring instrument was also set to indicate averaged values to ensure any transient events were included correctly.

5. Discussion of the survey findings

At the time of the first survey, attention and concerns were focussed upon the 3G transmissions from the tall slim mast mounted above 102 High Street. The new concerns about the wall mounted Orange antenna, were associated with the possibility that at the time of the first survey, this antenna was not in service, and therefore emission levels could now be higher.

The Tables of Results – 11/16/04 show the measured values for this survey. As the Orange antenna is now also the focus of attention, these tabulated results include a column to show compliance at the guideline level set for Orange's 1800 MHz transmissions. The same method as used for the 3G system has been used to calculate compliance for Orange. That is, all the measured value has been used to assess compliance, regardless of all the other sources of transmissions that are included in this value. Therefore, this compliance is a very pessimistic assessment for Orange due to the proximity of the larger 3G installation.

Overall, the measured values do not show any significant increase in levels. The differences in levels are shown in the Tables of Results – Change since first survey. Some levels were found to be lower this time. Two locations revealed slightly larger increases in the recorded values, however, these values are still very small compared to the guideline levels.

The main difference between the recorded values of these two surveys is some mobile phone transmissions are constantly varying depending on the number of calls that are being handled. Also, it was not possible to position the instrument probe in exactly the same position that was used in the first survey.

The increase that was found outside the 'Connoisseur' restaurant is interesting, as values were found to increase towards the restaurant windows and reduce towards the kerb edge of the footpath. This effect can not easily be attributed to the mobile phone Base Station transmissions, as the distance to these antennas remained almost constant as positions changed across the footpath. The effect is more likely to be due to the proximity of equipment or mobile/cordless phones that may have been in use in the restaurant. The value at the kerb edge was 0.0011 W/m^2 and a value of 0.0018 W/m^2 was found near to the restaurant window. The tabulated value of 0.0016 W/m^2 represented a position at the middle of the footpath.

As the new measured levels are approximately the same as the older values, it is highly likely the Orange installation was operational during the first survey. Therefore, it is reasonable to use the highest values recorded during either survey to characterise a slightly pessimistic normal situation. This is shown in the Tables of Results – Compliance using the highest values from this and the first survey.

While little has changed between this survey and the first, it is important to record one extra reading that shows how well ordinary building materials reduce the radio frequency levels. There was concern expressed about levels measured at a bedroom window at No.80 High Street. The recorded level during this survey was 0.0017 W/m^2 . Measurements made at locations within the same bedroom revealed a level of only 0.0001 W/m^2 at the centre of the room. Similar very low values were seen to continue to exist until within about 1m of the window, where the values started to rise. These lower values are due to these areas not having 'line-of-sight' of the antennas. In these areas, the levels can only be composed of much weaker indirect signals.

6. Conclusions

- 1 The mobile phone Base Station emissions measured during this and the first survey easily comply with the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines.
- 2 The highest level of the total electromagnetic power density measured in either this or the first survey at No. 100 High Street was only 0.0006 Watts per square metre (W/m^2). This level is more than 16,600 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by the operator 3 and 15,000 times below the $9 W/m^2$ set for the frequencies used by Orange.
3. The level of the total electromagnetic power density measured at a window within a flat more remote from the installation was only $0.0017 W/m^2$. This value is more than 5,800 times below the ICNIRP maximum permitted public guideline value of $10 W/m^2$ set for the frequencies used by 3 and more than 5,200 times below $9 W/m^2$ set for the frequencies used by Orange.
4. The highest value of the total electromagnetic power density measured within the surrounding area at street level was $0.0035 W/m^2$. This value is more than 2,800 times below the ICNIRP maximum permitted public guideline of value of $10 W/m^2$ set for frequencies used by 3 and more than 2,500 times below $9 W/m^2$ set for the frequencies used by Orange.
- 5 The ICNIRP guidelines are designed to provide for the full protection of everyone at the maximum permitted public values and these guidelines are endorsed by the National Radiological Protection Board and the World Health Organisation. Therefore, when considering the much lower measured values, then no harm should be expected to result to anyone living in these buildings or nearby.

Garry Homer B.Sc. MIEEE
Director

19 November 2004

Tables of Results – 16/11/04

Measurement Locations:	Measured Power Density 16/11/04 W/m ²	Times below the ICNIRP Public guideline of 10 W/m ²	Times below the ICNIRP Public guideline of 9 W/m ²	Electric Field V/m
No.100 High Street, side bedroom window overlooking the base of the flagpole style antenna	0.0004	25,000	22,500	0.39
No.100 High Street, centre of the above bedroom	0.0001	100,000	90,000	0.19
No.100 High Street, attic bedroom, near the wall nearest the mast	0.0001	100,000	90,000	0.19
No.100 High Street, attic bedroom, by the window	0.0001	100,000	90,000	0.19
No.100 High Street, study, by the desk near the window	0.0001	100,000	90,000	0.19
No.80 High Street, Lilly's bedroom, by the window overlooking High Street	0.0017	5,882	5,294	0.80
No.80 High Street, main bedroom, by the window	0.0003	33,333	30,000	0.34
No.80 High Street, living room, by the window	0.0001	100,000	90,000	0.19
High Street, by the gateway to 'The Park'	0.0001	100,000	90,000	0.19
High Street, outside No.74	0.0001	100,000	90,000	0.19
High Street, outside the 'Connoisseur'	0.0016	6,250	5,625	0.78
High Street, outside No.45	0.0006	16,667	15,000	0.48
High Street, outside No.49	0.0004	25,000	22,500	0.39
High Street, outside No.53	0.0006	16,667	15,000	0.48
High Street, outside No.57	0.0010	10,000	9,000	0.61
High Street, opposite No.100	0.0025	4,000	3,600	0.97
High Street, outside No.100	0.0020	5,000	4,500	0.87
London Road, outside No.9	0.0030	3,333	3,000	1.06
London Road, outside No.17	0.0034	2,941	2,647	1.13
London Road, outside 'Tithegate'	0.0024	4,167	3,750	0.95

Tables of Results – 16/11/04

Measurement Locations:	Measured Power Density 16/11/04 W/m ²	Times below the ICNIRP Public guideline of 10 W/m ²	Times below the ICNIRP Public guideline of 9 W/m ²	Electric Field V/m
London Road, outside No.29	0.0015	6,667	6,000	0.75
London Road, outside 'Herga House'	0.0015	6,667	6,000	0.75
London Road, outside 'Tall Gate Cottage'	0.0006	16,667	15,000	0.48
London Road, outside 'Highlands'	0.0003	33,333	30,000	0.34
London Road, outside 'Littlecourt'	0.0002	50,000	45,000	0.27
Harrow Park, opposite the driveway to 'Cairnryan Cottage'	0.0001	100,000	90,000	0.19
Harrow Park, opposite 'Syon'	0.0002	50,000	45,000	0.27
Harrow Park, opposite 'High Brow'	0.0005	20,000	18,000	0.43
Harrow Park, rear of 45 High Street	0.0013	7,692	6,923	0.70
Byron Hill Road, opposite No.5	0.0001	100,000	90,000	0.19
Byron Hill Road, opposite No.8	0.0001	100,000	90,000	0.19
Byron Hill Road, opposite No.14	0.0001	100,000	90,000	0.19
West Hill, by the roadway leading to 'West Hill Motors'	0.0002	50,000	45,000	0.27
West Hill, near to lamppost 'K980'	0.0002	50,000	45,000	0.27
West Hill, near to lamppost 'K1058'	0.0001	100,000	90,000	0.19
Roxeth Hill, outside 'Mount Pleasant Flat'	0.0002	50,000	45,000	0.27

Tables of Results – Change since the first survey

Measurement Locations	Change in Power Density from 04/03/04	Change in Electric Field from 04/03/04
	W/m ²	V/m
No.100 High Street, side bedroom window overlooking the base of the flagpole style antenna	-0.0002	-0.09
No.100 High Street, centre of the above bedroom	-0.0002	-0.15
No.100 High Street, attic bedroom, near the wall nearest the mast	-0.0001	-0.08
No.100 High Street, attic bedroom, by the window	-0.0002	-0.15
No.100 High Street, study, by the desk near the window	-0.0001	-0.08
No.80 High Street, Lilly's bedroom, by the window overlooking High Street	0.0001	0.02
No.80 High Street, main bedroom, by the window	-0.0001	-0.05
No.80 High Street, living room, by the window	No change	No change
High Street, by the gateway to 'The Park'	-0.0001	-0.08
High Street, outside No.74	-0.0002	-0.15
High Street, outside the 'Connoisseur'	0.0010	0.30
High Street, outside No.45	0.0001	0.05
High Street, outside No.49	No change	No change
High Street, outside No.53	0.0001	0.05
High Street, outside No.57	0.0003	0.10
High Street, opposite No.100	0.0004	0.08
High Street, outside No.100	-0.0002	-0.04
London Road, outside No.9	0.0010	0.19
London Road, outside No.17	-0.0001	-0.02
London Road, outside 'Tithegate'	-0.0005	-0.10

Tables of Results

Measurement Locations:	Change in Power Density from 04/03/04	Change in Electric Field from 04/03/04
	W/m ²	V/m
London Road, outside No.29	-0.0002	-0.05
London Road, outside 'Herga House'	0.0005	0.14
London Road, outside 'Tall Gate Cottage'	-0.0004	-0.13
London Road, outside 'Highlands'	No change	No change
London Road, outside 'Littlecourt'	0.0001	0.08
Harrow Park, opposite the driveway to 'Cairnryan Cottage'	No change	No change
Harrow Park, opposite 'Syon'	0.0001	0.08
Harrow Park, opposite 'High Brow'	0.0001	0.04
Harrow Park, rear of 45 High Street	-0.0005	-0.12
Byron Hill Road, opposite No.5	-0.0001	-0.08
Byron Hill Road, opposite No.8	No change	No change
Byron Hill Road, opposite No.14	No change	No change
West Hill, by the roadway leading to 'West Hill Motors'	No change	No change
West Hill, near to lamppost 'K980'	0.0001	0.08
West Hill, near to lamppost 'K1058'	No change	No change
Roxeth Hill, outside 'Mount Pleasant Flat'	No change	No change

Tables of Results – Compliance using the highest values from this and the first survey

Measurement Locations:	Measured Power Density W/m ²	Times below the ICNIRP Public guideline of 10 W/m ²	Times below the ICNIRP Public guideline of 9 W/m ²	Electric Field V/m
No.100 High Street, side bedroom window overlooking the base of the flagpole style antenna	0.0006	16,667	15,000	0.48
No.100 High Street, centre of the above bedroom	0.0003	33,333	30,000	0.34
No.100 High Street, attic bedroom, near the wall nearest the mast	0.0002	50,000	45,000	0.27
No.100 High Street, attic bedroom, by the window	0.0003	33,333	30,000	0.34
No.100 High Street, study, by the desk near the window	0.0002	50,000	45,000	0.27
No.80 High Street, Lilly's bedroom, by the window overlooking High Street	0.0017	5,882	5,294	0.80
No.80 High Street, main bedroom, by the window	0.0004	25,000	22,500	0.39
No.80 High Street, living room, by the window	0.0001	100,000	90,000	0.19
High Street, by the gateway to 'The Park'	0.0002	50,000	45,000	0.27
High Street, outside No.74	0.0003	33,333	30,000	0.34
High Street, outside the 'Connoisseur'	0.0016	6,250	5,625	0.78
High Street, outside No.45	0.0006	16,667	15,000	0.48
High Street, outside No.49	0.0004	25,000	22,500	0.39
High Street, outside No.53	0.0006	16,667	15,000	0.48
High Street, outside No.57	0.0010	10,000	9,000	0.61
High Street, opposite No.100	0.0025	4,000	3,600	0.97
High Street, outside No.100	0.0022	4,545	4,091	0.91
London Road, outside No.9	0.0030	3,333	3,000	1.06
London Road, outside No.17	0.0035	2,857	2,571	1.15
London Road, outside 'Tithegate'	0.0029	3,448	3,103	1.05

Tables of Results – Compliance using the highest values from this and the first survey

Measurement Locations:	Measured Power Density W/m ²	Times below the ICNIRP Public guideline of 10 W/m ²	Times below the ICNIRP Public guideline of 9 W/m ²	Electric Field V/m
London Road, outside No.29	0.0017	5,882	5,294	0.80
London Road, outside 'Herga House'	0.0015	6,667	6,000	0.75
London Road, outside 'Tall Gate Cottage'	0.0010	10,000	9,000	0.61
London Road, outside 'Highlands'	0.0003	33,333	30,000	0.34
London Road, outside 'Littlecourt'	0.0002	50,000	45,000	0.27
Harrow Park, opposite the driveway to 'Cairnyan Cottage'	0.0001	100,000	90,000	0.19
Harrow Park, opposite 'Syon'	0.0002	50,000	45,000	0.27
Harrow Park, opposite 'High Brow'	0.0005	20,000	18,000	0.43
Harrow Park, rear of 45 High Street	0.0018	5,556	5,000	0.82
Byron Hill Road, opposite No.5	0.0002	50,000	45,000	0.27
Byron Hill Road, opposite No.8	0.0001	100,000	90,000	0.19
Byron Hill Road, opposite No.14	0.0001	100,000	90,000	0.19
West Hill, by the roadway leading to 'West Hill Motors'	0.0002	50,000	45,000	0.27
West Hill, near to lamppost 'K980'	0.0002	50,000	45,000	0.27
West Hill, near to lamppost 'K1058'	0.0001	100,000	90,000	0.19
Roxeth Hill, outside 'Mount Pleasant Flat'	0.0002	50,000	45,000	0.27

This page is intentionally left blank



Appeal Decision

Site visit made on 04 August 2004

by Paul Graham DMA LARTPI FCIS SolicitorMRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
 408 Kite Wing
 Temple Quay House
 2 The Square
 Temple Quay
 Bristol BS1 6PN
 ☎ 0117 372 6372
 e-mail: enquiries@planning-
 inspectorate.gsi.gov.uk

APPEAL
 3165
 ALLOWED

Date 15 AUG 2004

Appeal Ref: APP/M5450/A/04/1143898

Nos.42 & 44 High Street, Harrow on the Hill

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Orange PCS Ltd against the decision of the Council of the London Borough of Harrow.
- The application Ref P/1017/03/CFU, dated 29 April 2003, was refused by notice dated 1 August 2003.
- The development proposed is the erection of a microcell antenna 110mm x 320mm at a height of 6m on the front elevation of No.44, with feeder cables to an equipment cabinet at the side of No.42.

Summary of Decision: The appeal is allowed and permission granted subject to conditions

Main Issue

- 1 The main issue is the impact the proposal would have upon the character and appearance of the Harrow on the Hill Village Conservation Area (CA), the appeal building and the setting of No.46 High Street.

Planning Policy

- 2 The development plan is the Harrow Unitary Development Plan. Policy E5 mirrors the statutory test that should be applied in considering new development in CAs by seeking to preserve or enhance their character. More detailed and specific criteria that are to be applied in CAs are set out in Policies E38 & E39. Policy E5 also looks to protect listed buildings. A high standard of design in all development is sought by Policy E6. Policy E52 addresses telecommunications development and indicates that permission will be granted where there is a need and where other reasonable alternatives have been considered. Again protection of CAs and Listed Buildings is highlighted. Policy E53 looks to ensure that street furniture is well designed. The latest version of the UDP has reached the modification stage on the road to adoption. Whilst therefore its policies should carry significant weight, the aims that underlie those that are relevant to this appeal are broadly similar to those within the adopted UDP and do not need to be repeated here. I do note however that the policy that deals with telecommunications proposals (D26) also looks to prevent health hazards.

Reasons

The Main Issue

Nos.42 & 44 High Street combine to form a three bay, three storey, brick built property with low-key shop fronts on the ground floor. They are located within the attractive western frontage to the High Street which displays a range of architectural styles and eras, and sits to the eastern side of the Conservation Area. The proposal is to attach to the front

wall of No.44 a small surface antenna fed by cables running down that front elevation and then along it horizontally at about the level of the first floor. Thereafter they would be fed over the flank elevation of No.42 to a ground level equipment cabinet sited adjacent to a public footpath known as Short Hill.

4. In my opinion both the antenna and the cabling would be visually innocuous. To the casual observer the antenna would attract no more attention than the two small burglar alarm boxes that are already fitted to the front elevation, and the cabling would be little more obtrusive than rain water down pipes. The equipment cabin, whilst fairly bulky would be similar to the metal boxes that serve land line based telephone systems, traffic lights and other such services and have been a regular feature of our streets for many decades. I conclude therefore that the proposal would not cause material harm to the character and appearance of the CA. Neither would it cause noticeable visual damage to the appeal building itself or to the Grade II listed cottage style property immediately to the south (No.46). The proposal would therefore accord with Policies E5, E6, E38, E39 and E53.
5. Furthermore, I am satisfied that the operator has given proper consideration to alternative sites. There appear to be no existing masts that would serve the purpose, other building owners approached are unwilling to treat, and a streetworks solution would almost certainly have more visual impact than the appeal proposal. ~~My conclusion on the main issue therefore points towards permission being granted.~~

Public Health Matters

6. I am conscious that many members of the public have expressed concerns regarding the effect upon health of electromagnetic waves generated by the equipment, particularly in relation to the occupants of the appeal property itself, nearby boarding school premises, and passing pedestrians. Planning Policy Guidance No.8 (PPG8) states that health considerations and public concern about them can in principle be material in determining applications such as this. It is, nevertheless, the Government's firm view that the planning system is not the place for determining health safeguards. If a proposed base station meets ICNIRP guidelines for public exposure, which the Government sees as being a proper precautionary response to potential risks, it should not be necessary for a decision maker to consider further the health aspects and concerns about them. Here, the scheme does accord with the guidelines and no substantive technical evidence has been submitted to challenge the Government's stance. Actual and perceived public health concerns are therefore a factor to which I propose to attribute very limited weight.

Human Rights

7. A number of local residents seek to invoke Article 1 to the First Protocol to the European Convention on Human Rights, which deals with situations where there is a potential loss of a person's home or severe impact of an environmental problem on its occupiers. Whilst not said in so many words I assume that what is being submitted is that the value of properties in the vicinity of the appeal site would reduce as a result of the proposed development. However for there to be a violation, it is normally necessary to show that the value of the property would be substantially reduced: and no detailed evidence to show that any properties in the area would be appreciably down valued by the proposal was submitted to me. As I have said, the scheme would anyway, in relation to emissions, accord with the ICNIRP guidelines. Accordingly I see no reason to suppose that values would be substantially reduced, and conclude that rights under Article 1 of the First Protocol would

not be breached by the proposal. As an aside, it is notable that PPG8 points out that financial or other loss to owners and occupiers of neighbouring property will rarely be a material planning consideration.

and

8. In addition to the normal time limit for the commencement of development, to protect the visual amenity of the CA, I shall require the colour of the equipment to be agreed with the Council.

Conclusion

9. I have taken account of all other matters, including whether residential amenity would be affected, but none of these factors carry sufficient weight to override my conclusion on the main issue. I conclude that the appeal should be allowed.

and

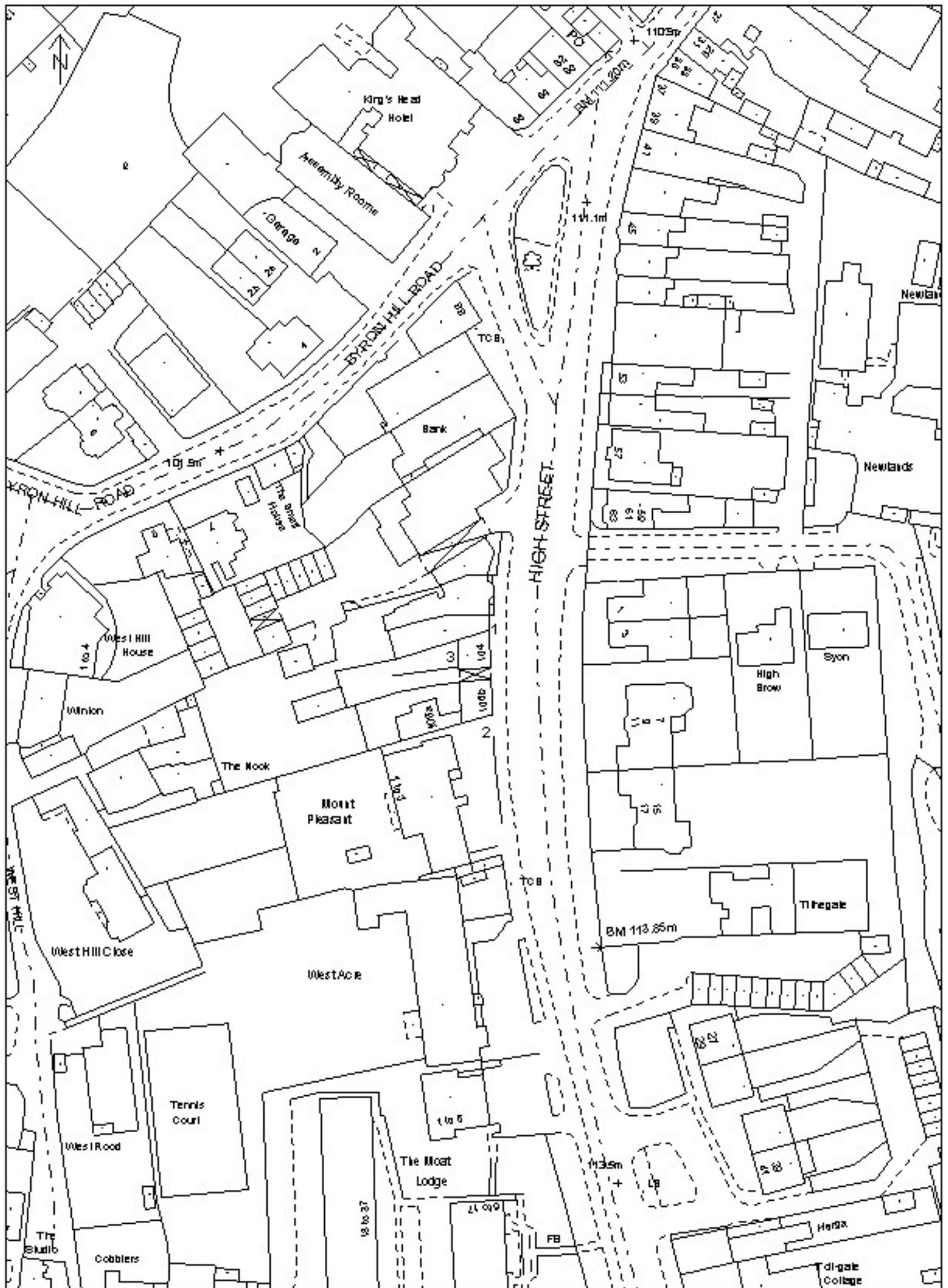
10. I allow the appeal, and grant planning permission for the erection of a microcell antenna 110mm x 320mm at a height of 6m on the front elevation of No.44, with feeder cables to an equipment cabinet at the side of No.42 at Nos.42 & 44 High Street, Harrow on the Hill in accordance with the terms of the application, Ref. P/1017/03/CFU, dated 29 April 2003, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) Before development commences, the colour of the materials to be used in the construction of the external surfaces shall be agreed in writing with the Council.



Inspector

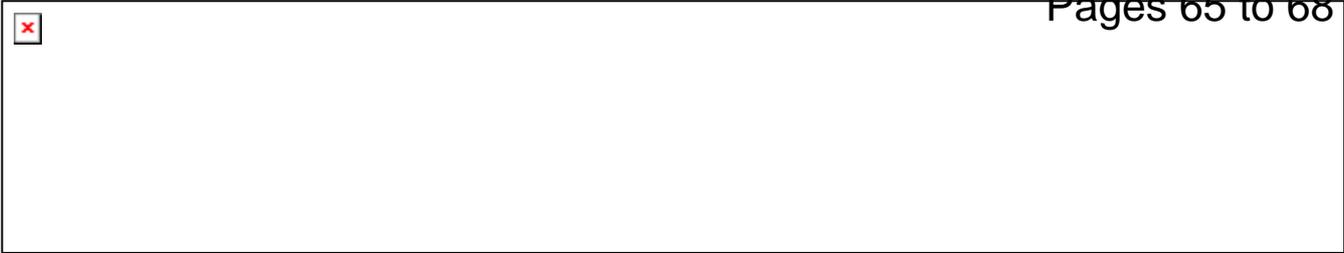
This page is intentionally left blank



This page is intentionally left blank



This page is intentionally left blank



Meeting:	Development Control Committee
Date:	11th October 2005
Subject:	354-366 Pinner Road, North Harrow Submission of revised drawing
Responsible Officer:	Group Manager (Planning and Development)
Contact Officer:	T.E. McAlister
Portfolio Holder:	Planning, Development and Housing
Key Decision:	No
Status:	Part 1

Section 1 : Summary

The purpose of this report is to request the Committee to agree a revised drawing in relation to planning application P/2447/04/CFU in order to ensure that the approved development is in accordance with the description of the development.

Decision Required

Recommendation (for decision by the Development Control Committee)

Approval of Drawing No. C81-431/105D in place of previously approved Drawing PP1-006 Rev.C

Reason for Report

The description of development in relation to planning application P/2447/04/CFU refers to 112 flats, whereas it has come to light that the approved drawings in fact show 113 flats. A revised drawing has been received which combines 2 flats into 1 thereby maintaining the number of proposed units at 112.

Benefits

Not applicable

Cost of Proposals

None to the Council

Risks

None

Implications if recommendations rejected

A planning permission would be issued which would be inconsistent in terms of the description of development and the approved drawings.

Section 2 : Report

Brief History, Policy Context (Including Previous Decisions)

2.1 Planning application P/2447/04/CFU was received on 8th September 2004. The description of development on the application form was as follows:-

‘A mixed use scheme – Metro-style supermarket + mixed tenure housing + community facility including affordable/keyworker accommodation.’

2.2 Part 9 of the form specified that the proposed number of housing units was 112. The application was accompanied by a Town Planning Statement and a Transport Impact Assessment, both of which stated that the proposal was for 112 units. A proposed mix of units was contained in each document which totalled 112. Based on the above the application was registered and notifications/consultations carried out on 13th September 2004 in relation to the following description of development:

‘Redevelopment for 3-6 storey building to provide supermarket, 112 flats, community facility; parking and access.’

2.3 Consideration of the application proceeded on the basis of 112 units.

2.4 The application was reported to the Development Control Committee on 9th February 2005 which resolved to grant planning permission subject to the prior completion of a S106 legal agreement. The agreement has not yet been finalised and formal permission has not therefore been issued.

Background Information and Options Considered

2.5 New architects have since been appointed for the project. In preparing construction drawings they examined the approved drawings and picked up that the number of flats shown on the plans is in fact 113.

2.6 In order to avoid any inconsistency between the impending decision notice and the approved plans, a revised drawing No. C81-431/105D has been submitted showing 2 one-bed flats for sale on the fourth floor combined into one 2-bed flat for sale, thereby reverting the number of units to 112.

2.7 This proposed revision would make no material difference to the consideration of the scheme and would have been recommended favourably had it formed part of the original submission.

2.8 The Committee is recommended to agree the revised drawing.

Consultation with Ward Councillors

2.9 Not applicable

Financial Implications

2.10 None

Legal Implications

2.11 Contained in the report

Equalities Impact

2.12 None

Section 3 : Supporting Information/Background Documents

3.1 Planning application P/2447/04/CFU
Letter from Id Partnership dated 15th September 2005
Drawing C81-431/105D

This page is intentionally left blank

Meeting:	Development Control Committee
Date:	11 th October 2005
Subject:	Sage House, 319 Pinner Road – Section 106 Agreement
Responsible Officer:	Director of Legal Services
Contact Officer:	Charlotte Lee
Portfolio Holder:	Planning, Development and Housing
Key Decision:	No
Status:	Public Part 1

Section 1: Summary

Decision Required

To extend the time for completion of the legal agreement to 31 January 2006.

Reason for report

The Development Control Committee authority for completion of the legal agreement expired on 10 September 2004 however, the agreement is not yet completed.

Benefits

None.

Cost of Proposals

The Council's legal costs concerning the agreement will be recovered from the developer.

Risks

As contained in the report.

Implications if recommendations rejected

Planning permission for the development will not be granted.

Section 2: Report

2.1 Brief History

On 10 September 2003 the Development Control Committee resolved to grant planning permission at the site for an additional floor of offices and 1st and 2nd floor rear extensions over the parking area linked with walkways at Sage House. Planning Permission was granted subject to completion of a legal agreement within one year of the resolution.

The Section 106 Agreement is to provide that:

The developer is to fund all costs of public consultancy, analysis, reporting and implementing of a Controlled Parking Zone in the immediate surroundings of the site, at any time within three years of first occupation of the development, if in the Council's opinion, a monitoring period shows unacceptable on-street parking. This is up to a maximum of £10,000 index linked.

While work commenced on this file immediately after the Committee resolution, negotiations as to the terms of the agreement stretched beyond the one year granted. The developer accepts that delays were mainly due to the lack of communication between the various parties involved for them. Negotiations over a clause affecting the developer's mortgagee also prolonged agreement.

Final agreement was reached in July 2005 and it is envisaged that a period of approximately four months (i.e. until 31st January 2006) is needed to complete. However, it is likely it will be completed before this date as both parties have reached agreement and now are able to complete upon Committee approval.

2.2 Options considered

Not applicable.

2.3 Consultation

Not applicable.

2.4 Financial Implications

All costs will be met by the developer. There are no costs to the council.

2.5 Legal Implications

The Committee is entitled to consider the whole application afresh, however the previous Committee decision is a material consideration.

2.6 Equalities Impact

None

Section 3: Supporting Information/Background Documents

Letter from the developer explaining the delay.

This page is intentionally left blank

- 5 AUG 2005

Received in Room 131

BRADCODE LTD RE: SAGE HOLDINGS LTD

Westbury House, 23 – 25 Bridge Street, Pinner, Middlesex HA5 3HR

Tel: +44 (20) 8429 5775

Fax: +44 (20) 8429 5789

email: atul@bradcode.com

The Chief Planning Officer
London Borough of Harrow
Garden House
St John's Road
Harrow
Middlesex HA1 2EE

Tuesday, 02 August 2005

Dear Sir

Reference: Sage House, 319 Pinner Road, North Harrow - Section 106 Agreement

Further to the letter of Ms. Lisa Hayward, dated 22 July 2005 (enclosed), we wish to write to you to present a few points as to the sequence of events and the various reasons for delay to be presented on our behalf to the Development Control Committee meeting in early September.

We wish to note that we had every intention to complete this matter within the allocated time and the main reason for not completing was due to lack of communication between the various parties for which we apologise.

We would like to present the sequence of events as follows:

- 10th September 2003
Planning permission granted subject to completion of a legal agreement under section 106 of the Town & Country Planning Act 1990, within one year of the date of the committee.
- 16th September 2003
LBH sent letter of approval
- 22nd September 2003
Simon Mynard (LBH) – legal asst (planning) – wrote letter asking for titles, etc.
- 25th September 2003
Simon (LBH) - wrote letter regarding costs £300/=
- 5th Jan 2004
Daniel Glinert (Glinert Davis) - asking for title deeds copies + costs and confirmation to liaise on behalf of Sage Holdings
- 5th Jan 2004
Atul (Bradcode Ltd) sent copies of title deeds + costs £300/= to Daniel.
- 7th Jan 2004
Daniel wrote to LBH-Simon Mynard, sent copies of title deeds + costs to LBH

13th February -20th May 2004

Correspondence between LBH &ADL Traffic regarding Draft Section 106 Agreement.

29th July 2004

Letter from Atul to Dudley Cottingham (Sage Holdings) regarding final draft of section 106 agreement for signing (Sage Holdings and HSBC)

7th September 2004

Letter from Daniel to LBH regarding HSBC comments on agreement. Waiting for reply from LBH

8th September 2004

Acknowledgement of letter by LBH- Lisa Hayward.

6th October 2004

Letter from Daniel to LBH-follow up regarding the decision for amendment by HSBC.

22nd October 2004

-Reply from LBH to Daniel regarding the changes to 106.
-Letter to Dave Green HSBC regarding the re-amendments by LBH.

2nd March 2005

Letter from Daniel to Dave Green HSBC regarding the letter from LBH (letter dated 21st February 2005).

8th June 2005

Call from Dave Green to verbally agree to the amended clause by LBH .

▪ July 2005

Final agreement reached – LBH letter regarding re-application to DCC for extension of time. DCC in beginning September.

As you can see it has been particularly difficult to co-ordinate communication with so many parties, especially with the traffic engineers, our solicitors and then HSBC who needed to make a few changes to the clauses at the very last minute. Had it not been for this delay we would have completed the agreement in time.

I trust that your report to the committee will emphasise our efforts to meet the original time scale and our ability to complete the legal agreement immediately after you have approval yourselves.

Yours faithfully



Atul Sangani

cc: Daniel Glinert, Glinert Davis
Ms. Lisa Hayward, LBH

Document is Restricted

This page is intentionally left blank