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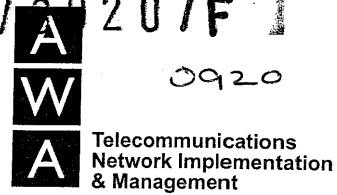
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21st March 2005

Our Ref: RP/63373

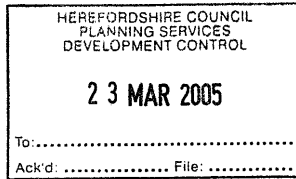
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RECORDED DELIVERY

FAO Mr S. Holder



Dear Sir

PROPOSED TELECOMMUNICATIONS INSTALLATION ON BEHALF OF T-MOBILE UK LIMITED CONSISTING OF A 22.5m LATTICE TOWER, TWO ANTENNA, ONE DISH AND GROUND BASED CABINETS WITHIN A FENCED COMPOUND ON LAND AT QUEENS TUNNEL, SWAGWATER LANE, GORSLEY, ROSS-ON-WYE, HR9 7SL

Please find attached a planning application in respect of the above proposed development.

Requirements for the proposal

T-Mobile UK Limited provides an electronic communications network authorised under the provisions of the Communications Act 2003 and is a company to whom the electronic communications code applies under section 106 of the Communications Act 2003.

The proposed installation is required in connection with the provision of coverage to a stretch of the M50 motorway from Oxenhall Wood to Linton Wood and the local area. Thus it will provide and improve on the in-building coverage to residential and commercial properties as well as in-car coverage to the motorway and local road network. This is increasingly important where there is a growing reliance by both businesses and householders on mobile technology.

Enclosed are a set of coverage plots which show the existing and predicted levels of mobile phone service in the area. These plots clearly indicate the extent of the unsatisfactory situation of coverage in this area at the present time, the predicted improvements post-development and how the current proposal will form an integral part



Andrew Wilkes & Associates Limited
Registered in England No. 3938900

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of the operator's network, demonstrating that there is a need for an installation in this area.

Visual amenity

This site has been selected because it is considered that the location affords the best coverage possible whilst having a minimal impact on the character and appearance of the surrounding area.

The site selected next is off a private gravel track serving the woodland. The proposed mast will in effect be sited within a group of mature trees of about 16m to 20m in height and therefore it and the fenced compound will be well screened from view from outside the woodland. These trees will afford some excellent screening of the mast when viewed from all directions including the land to the south which is in the direction of Steelworks Farm. From this direction, any glimpse of the mast will have the backdrop of this woodland behind it. There will be minimal views of the mast by users of the M50 motorway, but this will be fleeting glimpses as the trees which border close to the motorway will mostly screen it from this perspective. Furthermore, with regards to ground level perspective, these trees around it (360 degrees) will also act as an effective screen and backdrop especially when viewed from closer quarters. Whilst the 22.5m height will allow for the antenna (each about 1.4m high) to be just above the ambient tree line, in order to work effectively and provide the necessary coverage up and down the motorway and surrounding area, the close location of the trees will mean that it will ensure that it does not stand isolated on the skyline.

The undulating land around it means that the top of the mast will not unduly protrude on the skyline. In addition there are a number of taller trees set within this woodland that appear higher than the ambient canopy height. Furthermore, with no bulky head-frame attached (the antenna's and dish will be attached directly to the latticework of the tower), it will not appear overbearing and so particularly noticeable in the context of the landscape.

The slimline lattice tower has been selected as it is considered that this type of design is the least obtrusive type of telecommunications mast, particularly where, as in this case, there is no bulky headframe, in that it allows some permeability of the background through the structure, reducing its overall impact. Furthermore, the open lattice work of the mast is considered the best design when located close to trees as, due to the open nature of the latticework, it readily blends in with the numerous, branches and twigs of the adjacent trees, thus minimising its impact in the landscape whereas a more solid structure such as a monopole, would stand out. Thus such a structure would be particularly unobtrusive in the context of its particular setting.

Also, the slimline lattice design is capable of being shared. In addition the lattice mast could be painted an appropriate colour to your choice if you felt it to improve upon its appearance. The galvanised grey finish/colour of the mast and equipment though, is considered to be particularly discrete when set within the shadows created by the trees.

It is also appreciated that the site lies within an Area of Landscape Character and that such designations are important in protecting sensitive areas. However, the fact that land lies within such an area is not in itself sufficient reason for not allowing telecommunications development. This is particularly the case where it can be

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demonstrated that there are very special circumstances to outweigh a presumption against inappropriate development such as the need to set up an effective and comprehensive telecommunications network. Account has to be taken of the operational need for a particular installation and where, as in this case, it is considered that the siting within the woodland and lattice design of the mast with no headframe is the best that can be achieved in this area, it is considered that the benefit derived from the proposal should outweigh any limited visual harm caused. Any view of it, would only be glimpses and in any event its height and screened location would not be over bearing or demonstrably harmful to the visual amenities of the area. It is therefore considered that it accords with policy LA2 of the emerging Unitary Development Plan.

Furthermore, it is appreciated that the woodland is recognized as a Site of Importance to Nature Conservation. In this instance the location is close to a gravel track which would be used by vehicles for the purposes of building and subsequently servicing the proposed installation. The site is on the edge of a wide 'turning area' which is bordered by a row of trees, on the bank leading to the M50 motorway. There are a mixture of trees here but predominantly self-seeded silver birch. It is proposed to remove one thin silver Birch which is presently leaning over, and clear the scrub around it. (The attached photos have an arrow pointing to this sapling tree). The development would not affect the taller mature trees, such as the mature Larch Tree, on this belt. If you consider it necessary my client would be prepared to accept a condition requiring them to peg out the site before development commences. By doing this, the LPA would ensure that no mature trees will be affected. Details of the foundations can also be agreed prior to the commencement of the work. As there is a proven need for this telecommunications installation, it is considered that being sited on the edge of this gravelled turning area, being served by an existing gravelled trackway, the proposed development would not demonstrably undermine the SINC and its conservation value as advocated in Policy NC4 of the emerging UDP.

It should be noted that the Forestry Commission wish to keep the 'turning area' clear to allow their 'logging vehicles' enough space to turn. Thus re-siting the mast onto the turning area, and further from the trees, is not possible.

The site is also well away from any known school. The nearest residential property is on the opposite side of the M50 motorway a good 60m away. The trees and the presence of the motorway would mitigate any visual impact that the height of the mast would have.

Alternative site search

As you appreciate, there have been extensive investigations into numerous alternative sites in this area in order to provide the coverage to the target area/cell. The alternative sites considered are described in detail below.

Among the sites considered were the following:

- **Existing Vodafone mast on land at Woodside Cottage to the south of the M50 motorway (NGR367520 227010)** – The possibility of mast sharing or co-locating with this existing Vodafone mast was investigated. However, either option is not possible. This is because Woodside Cottage and its curtilage land used to be in the ownership of the Forestry Commission who allowed the mast on their land in the first place. This dwelling and its land and since been sold and the current owner has

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been approached. They are not willing to allow more telecommunication equipment on their land whether by a mast share or the building of a separate mast. They are also understood to have intentions to not renew the lease with Vodafone once it expires, thus eventually necessitating the removal of the Vodafone mast.

- **Hay Wood (NGR 368765 227475)** - A site was investigated within Hay Wood which is just to the south of the M50 Motorway. However, due to the height of the trees, the distance it is away from the motorway, a substantial tower would need to be built to provide the required level of coverage. Compared to the preferred site at Queens Wood, it is considered that the extra height and bulk of this tower would be significantly more conspicuous in the landscape. This option has therefore not been pursued further.
- **Bailey's Timber Yard at Shaw Common** – This site is fairly exposed and so any mast here will not be well screened in the landscape. The site is also further north and coverage would overlap with the neighbouring T-Mobile installation at Four Oaks. This will also leave a gap in the coverage to the south-west, necessitating the need for an additional mast.
- **Oxenhall Wood to the north of the M50 motorway** – This site is again too far north and coverage would overlap with the neighbouring T-Mobile installation at Four Oaks. This will also leave a gap in the coverage to the south-west, necessitating the need for an additional mast.
- **Dymock Wood near Gorsley Common** – This site is too far south and coverage would overlap with the neighbouring T-Mobile installation at Gorsley Common. This will also leave a gap in the coverage to the north-east, necessitating the need for an additional mast.

The current proposal was therefore selected as being the best available in terms of its siting and appearance and the level of coverage that could be achieved. It is about equidistant between the two neighbouring cells at Gorsley Common and Four Oaks and it will thus provide coverage to this existing gap. The design of the proposed mast equipment is as unobtrusive as possible and it is therefore considered that the proposal is in accordance with both central and local government policies and guidance.

Publicity

You are probably aware that the telecommunications industry has adopted the 'ten commitments' to ensure that the site selection process takes into consideration the need to consult interested parties prior to the submission of formal proposals. This involves using a 'traffic light model' to assess the extent of publicity required.

In this case the site is set a good distance from sensitive locations, such as schools and nurseries and residential properties and it was therefore felt that a 'Green' rating was appropriate. The LPA and Ward Councillors were consulted prior to the submission of this application and we received no objections from the Ward Councillor.

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Policy

It is appreciated that the site lies within the an 'Area of Landscape Character' and that such designations are important in protecting sensitive areas. However, the fact that a site lies within such an area is not in itself a sufficient reason for not allowing telecommunications development, particularly where, as in this case, there are very special circumstances sufficient to outweigh any presumption against development. It has been accepted in previous appeal decisions that the need to set up an effective and comprehensive telecommunications network amounts to these special circumstances. Furthermore, it can be argued that the proposed telecommunication installation will be beneficial to the rural economy in the area, as the installation will also provide coverage to local business, the local tourist industry and the road network as well as residential users. To this end it would meet the requirement of the local plan policy and the advice in PPG7.

Account has to be taken of the operational need for a particular installation and where, as in this case, it is considered that the siting and design of the proposal is the best that can be achieved in an area, particularly the benefits of using a tall building and its present appearance, it is considered that the benefit derived from the proposal should outweigh any limited visual harm caused. It has been demonstrated that there is a definite need for this installation in order to provide coverage to this particular cell for the benefit of local residents and businesses and the transport network. It will therefore meet a social as well as economic need for the local community as well as visitors.

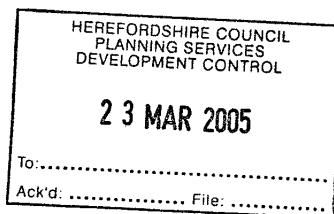
Health

Recent Government advice set out in PPG8, in response to the precautionary approach suggested by the Stewart Report, advises that all installations should meet ICNIRP guidelines for limiting exposure to electromagnetic fields. If such assurance is given, the Local Planning Authority should not need to consider the health effects further. A statement to this effect is included with the application.

Conclusion

It is felt therefore that, given the technical constraints and the characteristics of the area, the site that has been chosen provides the best solution to the network requirements of my Client in this area without unduly or adversely affecting the character and appearance of the area. It is therefore in accordance with both national and local policies for acceptable telecommunications development.

I hope that this provides sufficient information to enable a favourable recommendation to be made in regard to the siting and appearance of the installation but please do not hesitate to contact me if you require any further details or wish to discuss the matter further.



SE05/0920/F
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Twin Oaks
Steelworks
Gorsley
Ross on Wye
Hfds. HR9 7SL

21/05/05

Herefordshire Council
Southern Planning Services
PO Box 230
Blueschool House
Blueschool Street
Hereford. HR1 2ZB



FAO Mr Jonathon Barrett, Head of Planning Services

Dear Sir

Re: Planning Application For Proposed Telecommunications installations consisting of a 22.5m lattice tower and ancillary development.
Application No. SE2005/0920/F
T Mobile U.K. Ltd For Proposed Telecommunication Development on Land at Queens Tunnel, Swagwater Lane, Gorsley, Ross on Wye, Hfds. HR9 7SL.

The follow are my representations on the above proposed development, please take these considerations into account in your deliberations.

Observations and Objections:

1. Planning Policy Guidance Note 8 (PPG8), Appendix Para. 9 states that publicity for prior approval should be the same as that for full planning permission -

Objection - The location of the site notice was restricted to members of the public in so far as it was placed in an isolated area on a dead end lane, only accessed by a very limited number of people (either accessing the one home at the end of the lane or walking across private land). A second notice at the proposed site in the woods, down a long rutted track would again only be viewed by those able to walk a considerable distance. The track is not open for public vehicular access. This directly discriminates against the mobility or visually impaired members of the local community, hence contravening the Disability Discrimination Act

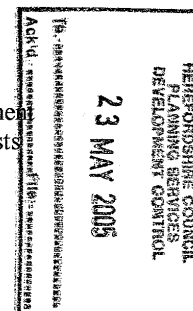
Objection - If people cannot see the site notice, they are effectively disempowered of the right to the statutory consultation process.

Objection - The time period for making representations was not displayed.

Objection - Whilst the notice indicated that the documents relating to the proposed development would be available for public inspection, the locality

is remote from the locality of the proposed development, thereby making it difficult for documents to be inspected, and appropriate comments made upon them.

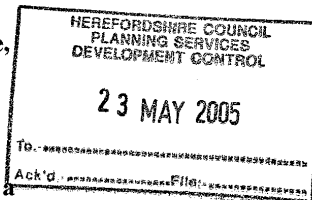
2. **Objection** - Why did the Planning Department not canvas a few local residents for their views. **The lack of this process has severely reduced the available response time for local residents.** This problem was recognised in the Government commissioned **Stewart Report**, clearly demonstrates that the current arrangements are not working satisfactorily, as people are left feeling "**excluded and dis-empowered**" in this consultative process. Which is arguably a violation of the communities rights to a fair hearing enshrined within Article 6.1 of the European Convention on Human Rights and Fundamental Principles (ECHR) as well as being contrary to the Common Law doctrine of **justice must not only be done, but must be seen to be done.**
3. **Objection** - There appears to have been little or no pre-application consultation with the local community by the Operator, contrary to both the guidance set out in paragraphs 9 to 11 of PPG8, and the industries own voluntary code, the Ten Commitments and Traffic Light schemes. Or at the very least there is no evidence of these consultations having taken place, most certainly as a local resident I have not been invited to participate.
4. **Objection** - That no one should have their health placed at risk when clear, unequivocal concerns have been raised by nationally appointed health bodies on the long term health effects of constant bombardment by microwave radiation. **This technology has not yet been proved as being safe.** I (*and the majority of my neighbours*) have deep-seated concerns and worries regarding mobile masts and their perceived detrimental effect on health grounds. Current research on this matter has merely concentrated on the effects of **tissue heating** from microwave emitting antenna. There is, however, a large body of scientific research that now challenges this view with regard to other possible symptoms such as increased cancer risk, sterility, effects on heart pacemakers etc, as well as the biological affects which has only had a limited degree of research, the results of which all point to potential adverse effects.
5. **Objection** - Recent research commissioned by the Dutch Government has demonstrated that there is a risk to health from '**G3**' base stations, as well as an adverse effect upon the well-being of local residents. This research adds on to other recent research reports indicating that there is a potential adverse biological effect, not only on the human population, but also on life forms such as the Nemenode Worm, which is a parasite in sheep and cattle, and which is seen to increase its fertility and size, thereby potentially affecting the food chain, as well as having a profound adverse effect upon agriculture.
6. **Objection** - That the "**precautionary principle**" recommended in the Government commissioned **Stewart Report**, which calls for a cessation in the erection of masts close to people until more is known about the possible health effects of mobile phone technology, appears to have been ignored. Of particular concern is the knowledge that a neighbour to whom the proposed mast will be closest has been



battling for the last two years, after the agreed period expired, to have an existing mast removed. It is wholly unfair, if this mast should be erected at all, that it should be placed towering over their home. Precaution should be taken until such time as research is complete and a health risk either is or is not proven.

7. **Objection** - I note that PPG8 Appendix para 64 states that masts are a particular height which allows signals to clear trees and urban clutter (*houses?*) and that Telecommunications development may need particular locations in order to work effectively. However, it also states that these prominent locations may be exactly the locations that would pose challenges to policies for the protection of high quality landscapes. The higher outputs required in these localities points to the potential that local residents could be **slow cooked** as they sleep in their beds, which as you will be aware is the purpose of microwaves I, for one, consider the Steelworks area to be a quality rural area the net result of this development being approved will see a negative impact upon the quality of life of the community which in turn will have a negative impact on local amenity.
8. **Objection** - There appear to be quite a number of existing masts in the area. It would appear that the planning applicant has given little or no consideration (*more importantly there is no evidence*) to mast sharing or sharing an existing site in the area as an alternative to developing this site. The Government has attached considerable importance to mast sharing in order to keep the numbers of sites and installations to a minimum **PPG 8, Para. 19 to 23**. Conditions in code operators licences require applicants to explore the possibility of site or mast sharing, from PPG8 it is clear that evidence should accompany any application made to the local planning authority, whether that is a prior approval application under Part 24 of the GPDO or an application for planning permission under the T&CPA 1990. Other telecommunication operators (02, Orange, Vodafone, 3) **cannot** refuse a request that mast sharing takes place unless there is a demonstrable reason why not. OFCOM have been granted the power to force shared use for this very reason. If not mast sharing, operators are at least encouraged to site new masts alongside existing ones on sites already deemed suitable for this purpose. **It is not apparent from any correspondence or information available for viewing at the Council Offices that mast sharing was considered to the degree required.**
9. **Objection** - It would also seem that the Code System Operator has given scant regard to the prospect of placing the mast on a site that is more remote from the proposed site. Again PPG8 requires information to be submitted on alternative sites. His Honour Mr Justice Richards at paragraph 41 of *Phillips v First Secretary of State & Ors [2003] EWHC 2415 (Admin) (22 October 2003)* recognises that it is important for decision makers to take the prospects of a more suitable into account:

"Further, although the guidance states that it should not be necessary to consider the health aspects of a development that complies with specified standards for public exposure, it recognises that public concerns about the health implications of a development can still be a material consideration (see paragraphs 97ff of the Appendix). No doubt the existence of such concerns is one of the reasons why the location of telecommunications structures is such a

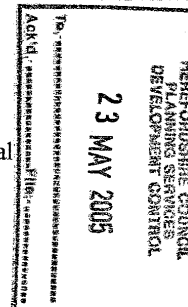


sensitive issue. It seems to me to follow in as a matter of principle, that if there were two alternative sites each of which was otherwise acceptable in environmental terms, it would be open to a decision-maker to refuse approval for one of those sites if the location of a mast on that site would give rise to substantially greater public concerns than its location on the alternative site. To take an example close to the facts of the present case: if one of the sites were close to a nursery school and residential properties, whereas the other was in an industrial estate some distance away from the school and residential properties, the greater public concern about the former might tip the balance against the grant of approval for it. I am not saying that that is how a particular application would be decided or ought to be decided, but only that it would be lawful for a decision-maker to approach the matter in that way."

Whilst, I make no comment on whether the LPA should or should not approve another site for the proposed installation, or as to the suitability of any such site. There are potentially sites that might be considered more remote in terms of their locality to existing sensitive developments, such as residential premises. I therefore urge the LPA to make inquiries to determine whether such a site does exist and whether the operator has done all they should in taking that or any other site into account. And to investigate why the Operator has failed to give sufficient information to the LPA on those potential alternatives in order that the LPA can take them into account within their determination.

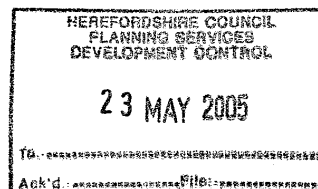
10. **Objection** - That the legal precedent resultant from those court cases where the High Court granted leave to apply for judicial review due to the failure of the respective local authorities to take the concern of the local communities on health effects of masts - *R v Stockport Metropolitan Borough Council ex parte Smith - The Queen on the application of Julia Herman & Others v Winchester City Council and Orange Personal Communications Services Limited* - Mr Justice Hooper & The Honourable Mr Justice Ouseley - Case No. CO/956/2001 - *R v. Forest of Dean Borough Council*. As well as the decision in the Section 288 appeal to the High Court in *Trevett v Secretary of State for Transport, Local Government and the Region* where the court found that it would fetter the obligation of the decision maker to take the concerns of the public on health into account if they were to restrict their deliberations solely to whether an ICNIRP compliant certificate had been submitted by the Operator. And the fact that the Secretary of State conceded in *Yasmin Skelt v First Secretary of State* that health concerns are a material planning consideration. If an ICNIRP compliant certificate has been presented by the phone Operator is not sufficient to stop full and proper consideration of health concerns, and such a failure is sufficient to overturn any decision where health is not taken fully into account

11. **Objection** - That the proposed mast will be an eyesore and that the proposal would have a detrimental effect on the locality generally, and on amenities that ought, in the public interest, to be protected. No consideration, or insufficient consideration has been given to the adverse effect the proposal will have on the amenity of the area, or indeed this particular site.



12. **Objection** - That the proposed development in no way benefits the local community. Mobile phone coverage is more than adequate in this area the new mast is simply a commercial venture by the Operator in order to capture a wider area of the Borough away from this locality. The licence obligation that the operator has for this type of coverage is only 80%. This means that the operator is not required to have full coverage, or even near full coverage, any coverage above that 80% is effectively only being sought for commercial reasons, and not from any obligation. This clearly counts against the Operator on the question of the need for this specific installation, and they must therefore present sufficient evidence to demonstrate that this site is needed. It is clear that your authority is entitled to discount the need for coverage in the locality by 20%.
13. **Objection** - That the proposed development is out of character with the local area. A mast with little or no screening is not going to blend in at all with the local area, so ensuring further detriment.
14. **Objection** - That with the expected future concerns on mobile phone mast safety being similar to those recently raised regarding overhead power lines and television broadcast antennae, private property values will plummet in areas where masts have been erected in or near to residential properties. It is interesting to note that US and other European countries stipulate a minimum exclusion zone of 500m from mast sites to the vulnerable. The Stewart Report also recommends such exclusion zones **Paras 1.44-1.48 Stewart Report. It is also note worthy that the Ombudsman in relation to an objection over the failure of Swindon Borough Council to follow the correct procedures recommended that to correct the maladministration that the local authority pay the deference in loss of value of the property, which resulted in the local authority making total compensation payments of 119,500.**
15. **Objection** - That the development will cause widespread physical interference and disruption to existing television and other telecommunication services due to the physical obstruction or reflection of the wanted signals. Local Authorities need to have taken into account that the potential for interference has been fully considered in the siting and design of this development, as it would be impossible to correct this situation after the site becomes operational. This also can be material planning consideration according to **PPG 8, Para. 33.**
16. **Objection** - That the proximity of the development to residential property will be invasive and intrusive. And thereby affect the amenity of the area. The site is inappropriate. As is the proposed design for this location. I urge you to consider the effect the size and design of this mast will have on the amenity and views of the local area, towering as it will some 22.5m into the air, which will contrast with the woodland landscape of the locality. PPG8 makes it clear that a rejection of permitted development permission is acceptable for base stations should the LPA conclude that it would have an adverse effect on the amenity of the area. I also take this opportunity to draw your attention to the factors listed in PPG8 Annex 1 para 13 that may involve siting:

the height of the site in relation to surrounding land;



the existence of topographical features and natural vegetation;
the effect on the skyline or horizon;
the site when observed from any side, including from outside the authority's own area;
the site in relation to areas designated locally for their scenic or conservation value;
the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character;
the site in relation to residential property; and
any other relevant considerations.

17. **Objection** - The mast has the potential to destroy, or at the very least adversely affect local wildlife.
18. **Objection** - The installation has the potential for adversely affecting livestock, in particular cattle, sheep and horses from the biological effects. Research at the Nottingham University has demonstrated that there is an effect upon the make-up of the nematode worm, which was seen to increase its fertility by 30% and size by 10% when subjected to the non thermal effects of mast emissions. The net effect of this is devastating to the agricultural industry that spends millions every year eradicating the nematode worm. The effect is also potentially apparent in the effect upon the food chain. The present site is such a site that will see these concerns being realised.
19. **Observation** - Under current legislation, including the aforementioned relevant Health & Safety Guidelines and the European Human Rights Act, there is already the very real potential for individual litigation processes to be instigated against Local Authorities, corporate bodies or individuals involved in any way in the approval, erection and operation of apparatus proposed in this and similar applications. It is therefore advised that you seriously consider investigating the legality and consequences, whether current or future, of your involvement in any approval of this and other similar applications in this Borough. Particularly in respect of your public liability insurance cover against the effects of emissions. Lloyds of London has recommended to its members that they do not cover the risks from mast emissions.

For all the reasons set out above I ask that this application be rejected.

Yours faithfully



Miss H. Wadley

