



**Orange's response to the
Barker Review of Land Use Planning**

on behalf of Orange PCS Ltd

24 March 2006



Introduction

Orange warmly welcomes the review and its acknowledgement that planning policy and its execution are vitally important in allowing economic growth and prosperity. Orange would also assert that sensible planning guidance that is efficiently used at a local level allows for social inclusion and the more effective delivery of public services. We also fully appreciate that Government is often under pressure from a vocal minority of activists, representing small geographical areas, to tighten the planning regime across a broad range of development types and, whilst all views and concerns should be considered, it is important that developers are able to satisfy demand in an appropriate way and for mobile operators this means providing sufficient coverage and capacity for the enormous consumer demand that exists, to meet license requirements and allow the UK to rapidly develop its use of technology. This is particularly important over the next few years as the UK operators roll out the third generation (3G) systems that will provide mobile broadband to consumers, business and public services across the country.

Economic contribution

As the Office of the Deputy Prime Minister recently stated¹, the UK is at the forefront of electronic communications technology and in 2004 the sector contributed £47.4 billion to the UK economy, forming about 4.1% of UK GDP, with the mobile phone industry specifically contributing around half of this, a figure which is set to rise further year on year.

More widely, the economic contribution of the mobile phone industry to EU countries is comparable with Europe's electricity, gas and water industry combined² and, of course, the very nature of mobile has a much wider positive impact on business and the economy by reducing unproductive travelling time, allowing faster and more efficient communication and decision making. 3G infrastructure allows broadband services, widely acknowledged to have major benefits to the economy, on the move.

The planning system

Mobile communications have become such an integral part of modern life and business that mobile coverage is now viewed by most people, and we believe the Government, as a key part of the nation's communications infrastructure, important in further developing the UK economy. It is therefore very important that the planning system also appreciates this situation and the overwhelming and increasing demand for mobile telecommunications nationwide and views the base stations that provide the coverage as a necessary part of national infrastructure.

¹ Jim Fitzpatrick MP in House of Commons 3 March 2005

² *The Economic Contribution of Mobile Services in the Europe Union before its 2004 expansion*, Ovum, 2005



The planning system is of vital importance to mobile operators, like Orange, as mobile telecoms systems need an infrastructure in place in the form of base stations. The nature of our business requires a large number of planning applications to be submitted for small scale local developments. These applications are for mobile phone base stations, the number and location of which are determined entirely by the demands of our customers, whether it be to fill gaps in coverage, meet the capacity demands resulting from the number of calls or as a result of a need to establish a comprehensive 3G network in accordance with licence requirements and Government policy.

New base stations, whether ground based mast structures or antennae placed on buildings, go through the planning process and the existing system favours small and less intrusive sites by allowing operators to install small antennae on rooftops after giving notice to the local authority (license notification) or through a prior approval application that allows the authority to refuse the application within a specified 56 day deadline (but with an underlying presumption of approval if no decision is made in that timeframe) or through a full planning application.

Therefore, the efficient and correct determination of planning applications has a direct effect on our customers' ability to use their phones. As Orange's need to submit planning applications is 'demand led', the need for them to be dealt with efficiently, allowing the developments to be erected speedily, is obviously of crucial importance to meeting consumer demand and expectations. It is vital for the efficient rollout of a telecoms network and meeting the objective of facilitating the growth of new and existing telecoms systems that the planning process provides fast, fair and consistent decisions based upon proper planning policies and procedures

Orange has invested over £4billion in building our network (in addition to license fees) and as such it is by far the largest single cost to our business and so any way to increase efficiency is of great importance to us.

Efficiency in planning - permitted development rights

Orange agrees with the review's aim of further increasing efficiency in the planning system and whilst much attention may be focused on larger developments, like airports and housing developments, it is right that all aspects of planning be considered.

Some of the review's questions ask about the impact of planning on encouraging or impeding business investment and the need to provide greater certainty for businesses in the process. It is right that the review notes the importance to business of giving developers some certainty with certain types of development as it allows plans to be made and does not delay the ability to meet demand.



The current system does provide some certainty to mobile phone operators because permitted development rights, whether in the form of license notification developments or prior approval planning applications, are important to operators because they give certainty in what types of development we will be able to proceed with and in what timescales. It is therefore important that this principle continues.

Currently small amounts of equipment, within specific size limitations, can be installed on other structures, like small antennae on rooftops, by giving notice to the local authority (license notification) whilst, in England, new ground based masts below 15m in height can be refused by local planning authorities within a 56 day period but if no decision is made there is an assumption that approval has been given. These rights are sometimes criticised by those who campaign against mobile phone network rollout, usually on the basis of perceived but unsubstantiated health concerns, because they believe that they give operators powers at the expense of individual's or local residents' opinion. This is generally not the case as most developments take place without opposition, operators will consult communities on all permitted development proposals and councils can refuse prior approval applications if they so wish. The fact, however, remains that the technical specifications of the issued frequency ranges mean that base stations must be put in certain locations in order to provide coverage to those areas.

These rights, particularly to install small antennae on existing structures, are extremely important to Orange as they provide some security and confidence in the planning system in terms of both what is a suitable development and also the strict timescales that must be abided by. The changes that were made a few years ago were widely accepted as having been successful in addressing the concerns that many communities have about this type of development but they have increased the regulatory burden on operators and planning departments.

Any further removal or reduction of equipment that can be installed under permitted development rights would severely delay and, on occasion, prohibit operators' network roll-out and would greatly add to regulation. We, therefore, believe that it is very important that there is no further removal of permitted development rights for mobile phone equipment.

Delays and malpractice in the planning system

Some of the review's questions raise the issue of how delays in the system affect business. This is a significant problem for mobile operators like Orange and one of the reasons why permitted development rights are important, as set out above.

A major delay to network rollout that affects mobile operators is when local planning authorities make decisions that are not in accordance with the Government's planning guidance and unfortunately this is a



problem that leads to both delays and significant costs for all concerned. When we consider that the wrong decision has been made, often by a planning committee against the advice of the planning officer, we strongly consider appealing to the Planning Inspectorate. We would, of course, rather not have to go down this path because of the costs and delays involved but sometimes we are left with little option.

Orange's 'success rate' with most appeals is generally very high as 60-70% of all appeals which we submit are allowed by the Planning Inspectorate. The most recent figures available are for the final quarter of 2005 during which Orange received 20 appeal decisions of which we won 13 and lost 7, equating to a 65% success rate. These high success rates indicate three principal issues of concern.

Firstly, it is clear that a large number of refusals by local planning authorities are unwarranted and unjustified. Typically, these refusals are often on grounds of alleged health effects contrary to very clear Government advice and planning guidance contained within Planning Policy Guidance note 8.

Secondly, it indicates an enormous amount of 'wasted' costs on behalf of both Orange and the Planning Inspectorate (as well as the local planning authority itself) in having to submit and consider a very large number of appeals which should never have had to be brought. Ultimately these costs are born by council tax payers and mobile phone consumers.

Thirdly, the appeal process inevitably adds considerable delay to the overall time taken to build a mobile base station. In individual cases this means that gaps in coverage or problems with capacity will continue to exist in particular locations. In the longer term and nationally, it means that service to consumers will be compromised and there will be a delay to the introduction of new more advanced mobile services, most notably 3G technology.

As the planning guidance is already accepted as being very clear for all those concerned changes to the guidance are not required and the focus of any action may be better directed at judging planning authorities' performance. It is important that when an authority consistently refuses suitable applications that some action is taken to discourage them from continuing to breach Government guidance. Unfortunately we find that some authorities, perhaps for political reasons rather than questions regarding an application's consistency with Government guidance, continuously reject telecoms applications and this causes a great problem for operators and consumers.

Efficient use of land – local council moratoria

Orange is aware of a worrying and unhelpful trend amongst many local authorities to have a policy, either formal or informal, of refusing to permit telecoms equipment to be sited on land that it owns or controls. This trend has appeared in recent years, presumably as a result of the increase in attention given to



perceived health concerns, and has a significant impact on providing mobile coverage and capacity in certain areas. These local policies are, of course, contrary to Government guidance.

Council controlled land makes up a very large proportion of the available land in many areas and is often extremely suitable for accommodating telecoms equipment and would fully comply with Government guidance on the most suitable siting of masts. The type of sites can range from the roofs of office blocks to depots or industrial areas and our experience is that base stations in these sorts of areas may not only meet the relevant technical requirements but also cause less concern from local people and certainly less than when more sensitive sites have to be used.

The councils' policies are usually counterproductive as operators are given no option but to look at non-council controlled locations, which in urban and suburban areas are almost always more heavily residential areas. The outcomes of such council policies, however well intentioned, are likely to heighten rather than reduce the community's concerns.

We would ask that the Review look at this problem and we again note that it is an area where Government guidance is being ignored.

All queries in relation to this response should be to Aleyne Johnson, Orange, 50 George Street, London W1U 7DZ – aleyne.johnson@orange.co.uk – 07866 571910