

**REPORT TO:** Cabinet

**DATE:** 28th October 2010

**SUBJECT:** Protocol for Lifting the Moratorium on the Siting of Mobile Phone Masts on Council Land

**WARDS AFFECTED:** All

**REPORT OF:** Peter Moore  
Environment and Technical Services Director  
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**CONTACT OFFICER:** David Street – Asset & Property Manager, Technical Services  
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**EXEMPT/  
CONFIDENTIAL:** No

**PURPOSE/SUMMARY:**

To advise on the implications of amending the masts protocol by including the Area Committees in the site selection and consultation process and of delegating to the relevant Area Committee the decision to authorise the use of Council land for the siting of telephone transmission masts.

**REASON WHY DECISION REQUIRED:**

On 30<sup>th</sup> September, Cabinet requested that the subject report be deferred pending the receipt of further advice. In practical terms the protocol can be readily amended to substitute the Area Committees in the site selection and consultation process and the Council's constitution also amended to permit the Area Committees to take the decision to authorise the use of Council land for the siting of telephone transmission masts.

**RECOMMENDATION(S):**

That Cabinet: -

1. Consider the implications of revising the Protocol and the Constitution and if agreeable endorse the revised protocol document appended to this report and;
2. Agree to delegate decision making on the use of Council land for the siting of telephone transmission masts to the relevant Area Committee.
3. Agree that the proposed amendment to the Council's constitution be submitted to Council for ratification.

**KEY DECISION:** Yes

**FORWARD PLAN:** Yes

**IMPLEMENTATION DATE:** After the call-in period

**ALTERNATIVE OPTIONS:** There are options to apply different parameters to the protocol, for example, to expand the consultation process and delegate decision making to a more local level. However, it is reiterated that to extend and complicate the process significantly will deter applications because the requirements could become too onerous or the process becomes too time consuming. This would defeat the original intention of the protocol which is to provide sites that are more suitable and acceptable than those which are available by right, i.e. on the highway.

## IMPLICATIONS:

### Budget/Policy Framework:

**Financial:** There are no direct financial implications arising out of this report. There will be some costs associated with evaluating proposals to site masts on Council owned land, but it is anticipated that these will be covered by any licence fees which will be charged to the mobile phone operators. The fees received will be used to cover the costs of implementing the protocol and evaluating specific requests therefore there should be no net cost to the Council.

**Legal:** The protocol as outlined in the report complies with legal requirements and recommended best practice.

**Risk Assessment:** The protocol incorporates risk assessments based on industry best practice

**Asset Management:** The proposals have been developed in accordance with good asset management practice.

### CONSULTATION UNDERTAKEN/VIEWS

FD 536 - The Interim Head of Corporate Finance & Information Services has been consulted and has no comments on this report.

The views of the Head Of Corporate Legal Services have been taken into account in drafting this report.

### CORPORATE OBJECTIVE MONITORING:

| <u>Corporate Objective</u> |   | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|----------------------------|---|------------------------|-----------------------|------------------------|
| 1                          | Creating a Learning Community   |                        | ✓                     |                        |
| 2                          | Creating Safe Communities   |                        | ✓                     |                        |
| 3                          | Jobs and Prosperity   |                        | ✓                     |                        |
| 4                          | Improving Health and Well-Being   | ✓                      |                       |                        |
| 5                          | Environmental Sustainability  |                        | ✓                     |                        |
| 6                          | Creating Inclusive Communities  |                        | ✓                     |                        |
| 7                          | Improving the Quality of Council Services and Strengthening local Democracy | ✓                      |                       |                        |
| 8                          | Children and Young People   |                        | ✓                     |                        |

### LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Revised Protocol for the Evaluation of Requests to lift the Moratorium on the Siting of Mobile Phone Masts on Council Land; Cabinet report dated 30<sup>th</sup> September 2010

## **1.0 Background**

1. Full Council on 22 October 2009 in considering the moratorium on the siting of telephone masts on Council land:

RESOLVED: That:

- (1) the moratorium be revised so that it can be lifted by the Cabinet on a case by case basis; and
- (2) Officers develop a protocol for evaluating requests to lift the moratorium and site mobile phone masts on Council land and report this back to the Cabinet for approval.

2. Cabinet on 4<sup>th</sup> March 2010, in consideration of a draft protocol

RESOLVED: That:

- (1) the Protocol be submitted to the Overview and Scrutiny Committee (Regeneration and Environmental Services) and each Area Committee for consideration prior to approval at a future meeting of the Cabinet.

3. Cabinet on 30<sup>th</sup> September 2010 after consideration of the comments provided by the Overview & Scrutiny Committee (Regeneration and Environmental Services) and all Area Committees on the draft protocol to govern the lifting of the current moratorium on the siting of telephone transmission masts on Council owned land:

RESOLVED:

That the report be deferred for consideration at the next meeting and the report be supplemented with details of the implications of delegating the decision-making process to the Area Committees.

## **2.0 Implications Arising from Delegation of Decision Making to the Area Committees**

- 2.1 Although it is difficult to anticipate the precise reaction of the telephone mast operators it has been consistently advised and reported that any changes to the original protocol that appeared to or effectively made the process appear onerous and unwieldy was likely to deter use of the protocol.
- 2.2 If a revised protocol is adopted only time will tell if the operators are willing to utilise it rather than rely on their statutory rights on the Highway, however the operators will be encouraged to utilise the Protocol to derive mutual benefit.
- 2.3 Given the likelihood of each Area committee having a different stance on the siting of masts on Council owned land there is the

possibility of an inconsistent utilisation of the protocol which may undermine the confidence of the operators in the process.

### **3.0 Proposed Revisions to the Masts Protocol**

- 3.1 The protocol document has been revised to show the specific changes required to enable the Area Committees to participate at an early stage in the site selection and consultation procedure
- 3.2 The proposed revisions should enable the Area Committees to consider any proposals to utilise Council owned land and involve their constituents in the site selection process.

### **4.0 Changes to Council Constitution**

- 4.1 Members are requested to consider and approve a specific revision to the Council's constitution to enable the Area Committees to take the decision to permit telephone transmission masts to be sited on Council owned land as follows:

“AREA COMMITTEES – Specific Delegations

Environmental and Technical Services

- 1. Determination of applications for permission to site mobile phone masts on Council owned land within the Wards covered by the Area Committee, in accordance with the Council's protocol”.

### **5.0 Conclusion**

- 5.1 If Cabinet agrees to the proposed revisions to Protocol and amendment to the Constitution then the latter should be reported to the next meeting of Council for ratification. Thereafter the protocol can be implemented.