Department for Culture Media & Sport

Department for Communities and Local Government

Mobile connectivity in England

Technical consultation

May, 2013
Department for Culture Media and Sport
Department for Communities and Local Government

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Introduction

1. Digital communications are an integral part of modern-day life. There are over 82 million mobile subscriptions in the UK[1], and data traffic more than doubled in 2012[2]. This is part of a wider transformation in the use of mobile and fixed broadband which is reinforcing the UK's position as a leading digital economy.

2. The Secretary of State for Culture, Media and Sport announced a package of measures on 7 September 2012[3]. Improving the country's communications infrastructure is integral to our ability to grow the economy and compete on a global scale. Improved connectivity changes the way we do business, use and deliver public services and consume digital entertainment.

3. The announcement on 7 September set out that Government would work with mobile operators, local authorities and other interested bodies to consider ways that the planning process could be further streamlined to support swifter deployment of mobile infrastructure. Discussions with mobile operators and local government have informed development of the proposals in this consultation document. These discussions have involved the Mobile Operators Association, the Local Government Association and the Planning Officers Society.

4. Mobile communications enable businesses and individuals to be more productive and offer new and innovative services. Demand for access to mobile communications on the move has increased significantly over the last 10 years with many people now seeing this as an everyday necessity. Increasingly it is accepted as the norm that we should be able to use the internet for work and leisure, purchasing goods and services, watching media, downloading music, and be confident that we can keep in touch with friends and family through mobile networks.

5. Consumers and businesses should be confident that their mobile technology will work wherever they are in the country. However, none of this can happen without the infrastructure that delivers mobile communications service. We are therefore proposing to go further in simplifying the planning process, while retaining appropriate safeguards, to support the swifter roll out of the 4th Generation (4G) of high speed mobile broadband technology. This will also provide greater capacity and connectivity for 2nd Generation (2G – voice only) and 3rd Generation (3G). Upgrading or replacing existing mobile communications equipment will provide greater access to operators' networks in rural areas where connectivity is currently the most limited.

[1] http://stakeholders.ofcom.org.uk/binaries/research/cmr/telecoms/Q3-2012.pdf
[2] http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/broadband-speeds/infrastructure-report-2012/.
[3] http://www.culture.gov.uk/news/media_releases/9331.aspx

6. In summary, the changes proposed in this consultation document will:

    - Maximise the use of existing structures and buildings.
    - Extend existing permitted development rights for mobile communications.
    - Clarify existing permitted development rights to remove ambiguity. and
    - Amend some permitted development right thresholds.

7. Prior approval on siting and design will be retained for all permitted development in protected areas. This means that the changes set out in this consultation are not reliant on Clause 9 of the Growth and Infrastructure Act 2013[4] which provides enabling powers so that we can implement changes for fixed (not mobile) communications infrastructure.

[4] http://services.parliament.uk/bills/2012-13/growthandinfrastructure.html

The consultation process and how to respond

Topic of this consultation	The further deregulation of planning regulations for mobile communications to help support economic growth and job creation and updating/clarifying existing regulations.
Scope of this consultation	The consultation seeks views on the Government's proposals to: 1. Amend Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to grant increased permitted development rights for quicker installation of communications infrastructure, 2. Update the Electronic Communications (Conditions and Restrictions) Regulations 2003 with complementary changes to installing communications infrastructure and 3. Updating and clarifying both sets of regulations to reflect technology changes and to remove ambiguity.
Geographical scope	These proposals relate to England only. The amendments to the Electronic Communications Code Regulations will relate to the UK, but will require complementary changes to planning legislation in Scotland, Northern Ireland and Wales before being effective in those countries.

Basic information

To	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: local planning authorities, businesses and Individuals who may be affected by the changes, community representatives, parish councils, National Park Authorities and other organisations representing the interests of the countryside.
Body/bodies responsible for the consultation	Department for Communities and Local Government and the Department for Culture Media and Sport.
Duration	The consultation begins on 3rd May 2013 and ends 5:00pm on 14 June 2013. This is a six-week period.

Enquiries	On changes to the General Permitted Development Order regulations Andy Swyer E-mail: andy.swyer@communities.gsi.gov.uk On changes to the Electronic Communications Code Regulations Jeanne Grey: jeanne.grey@culture.gsi.gov.uk

How to respond	By e-mail to: mobilecom@communities.gsi.gov.uk A downloadable questionnaire form will be available on the Gov.uk website at https://www.gov.uk/government/consultations/mobile-connectivity-in-england By post: Consultation Team (Mobile communications permitted development) Planning Development Management Division Department for Communities and Local Government 1/J3, Eland House Bressenden Place London SW1E 5DU

Background

Getting to this stage:	The current framework for permitted development is contained in Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 enables electronic communications network providers to construct electronic communications networks
Previous engagement:	No changes have been made to these parts of the 1995 Order or the Electronic Communications (Conditions and Restrictions) Regulations 2003 under this Government.

Background

8. The connection speeds required for various common online activities are set out in **Figure 1**[5]. The actual speed that a mobile consumer experiences is dependent on a number of factors including the distance from the nearest mast, the number of users at any one time and the topology of the area. Average mobile broadband speeds are generally significantly lower than fixed broadband speeds, and higher throughput applications such as high definition video streaming challenge the limits of capability of the current generation of connections.

Figure 1 activities and speed requirements

Number of simultaneous users	**Send an email, download one or submit a form online**	**Make a high Quality video call**	**Stream video in standard definition**	**Stream high definition video**
1	< 1 Mps	< 1.5 Mps	2.0 Mps	6-8 Mps
2	< 1 Mps	<3.0 Mps	2-4 Mps	12-16 Mps
3	< 1 Mps	< 4-5 Mps	3-6 Mps	18-24 Mps
4	< 1 Mps	< 6 Mps	4-8 Mps	24-32 Mps

Key: Mps – Mega BITs per second is used to measure data transfer speeds of high bandwidth connections.

24 Mps and above requires a superfast broadband connection

9. Following the auction of the 4G spectrum in February 2013, mobile operators will start the wide-scale commercial provision of 4G mobile services this year. This will need to be supported by a combination of new and upgraded infrastructure. We want 4G services to be widely available, particularly where current mobile communication provision is poor, and provided through a range of technologies including satellite and fixed wireless solutions. Capital Economics estimated in April 2012 that if £5 billion (in 2009 prices) is invested in the 4G supply chain it will create 125,000 new jobs. In addition, the swift roll-out of 4G is estimated to lead to a rise in GDP of approximately 0.5% per annum.

[5] Policy Exchange analysis

Planning process

10. While the provision of 4G should address the ever increasing demand for mobile and data usage, mobile phone operators may face difficulties in securing quick and successful decisions on planning applications for new infrastructure. The level of approval for mobile communications equipment in England during the period 2008 - 2012[6] is 72%, compared to the national average for other types of minor non-residential applications of around 85%**.** Some 1,749 mobile communications applications (28%) were refused. The number of applications undecided during this period is also significant at 1,454 (18%), compared to 35,393 (9%) for other minor non-residential developments.

11. Electronic communications permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the 1995 Order). In prescribed circumstances communications infrastructure does not require a planning application, although it may require prior approval for siting and design.

12. The last major update of these permitted development rights was in 2001, with some minor adjustments to terminology in 2003. The approach adopted at the time reflected the technology available. The current regulations pre-date the mainstream deployment of 3G services in the UK, which has enabled the introduction of data focussed technology e.g. smart phones, dongles and tablets, leading to significant growth in smartphone usage. There is a strong case to reflect the technological advances of the last decade and update the 1995 Order and the Electronic Communication Code (Conditions and Restrictions) Regulations 2003.

13. Under existing regulations, permitted development rights are in some circumstances subject to a prior approval process (which is set out at paragraphs 34 to 37). Land in certain areas is also currently excluded from certain permitted development rights i.e. Areas of Outstanding Natural Beauty, Conservation Areas, World Heritage Sites, National Parks, The Norfolk and Suffolk Broads, and Sites of Special Scientific Interest. In this consultation references to 'protected areas' refer to these areas which are set out in article 1(5) of the 1995 Order.

14. The proposals in this consultation do not amend the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. In addition, and in view of their exceptional status combined with the low numbers of commercial premises and householders in these areas[7], none of these proposals will apply to Sites of Special Scientific Interest.

[6] *The source of the data is Glenigan (https://www.glenigan.com/), a private firm that supplies information on the status of planning applications. Further information from Glenigan is commercially available for a fee.*

[7] There are 261 commercial and around 1,100 residential properties in Sites of Special Scientific Areas - OS Address Layer dataset http://www.ordnancesurvey.co.uk/oswebsite/products/os-mastermap/address-layer-2/index.html

15. Mobile network operators provided the following estimates of the likely numbers of existing sites that will need to be upgraded to support the swifter roll-out of 4G in the first 12-24 months: these will be in the order of 10,000 or more[8]. Of these, an estimated 30%-40% (3,000 - 4,000) will be covered under existing permitted development rights. This would leave 6,000 – 7,000 sites which do not fall within existing permitted development rights and would require planning permission. This is a significant number of applications for local planning authorities and mobile operators to process in a relatively short period of time. Delays to a few applications in one area are likely to slow the roll-out of 4G across the wider network.

16. All mobile deployments will continue to be covered by statutory consultation requirements set out in the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 ("the Electronic Communications Code"). Complementary changes will need to be made to the Electronic Communications Code regulations to enable the proposed changes to the 1995 Order to have effect. The proposed changes to the Electronic Communications Code are also set out in this consultation.

17. All of the changes proposed in this consultation are to be permanent. Some of the changes proposed will apply to protected or non-protected areas only, others to both protected and non-protected areas.

Code of Best Practice on Mobile Network Development

18. A Code of Best Practice on Mobile Network Development was published in 2002[9]. It provides practical advice on communication and consultation between operators, local authorities and local communities. It is now over 10 years old and needs to be updated to reflect lessons learned and advances in technology.

19. We believe that for the code to be effective it should be developed and owned by industry, local authority groups and other interested parties including those representing both non-protected and protected areas. The updated code will cover sympathetic siting, a requirement to consider schools and other local amenities, and the principles of engagement by mobile operators with communities and local planning authorities. For the first time, it will also include mobile operators' contractors. The new code will be in place before regulatory changes following this consultation are put into effect.

[8] Source the Mobile Operators Association

[9] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11486/codemobilenetwork.pdf

Policy context

20. The mobile phone sector is experiencing unprecedented growth in demand for mobile data. It is responding to ever greater demands from businesses and the public's appetite for faster online connectivity, larger data allowances and ever faster download speeds. Currently, 92% of individuals in the UK have a mobile phone and 39% of individuals own a smart phone with internet access[10]. International comparisons reveal that for the first time UK consumers are downloading more data on their mobiles and tablets than any other major nation[11]. Today we see over 32 million smartphone data users, 5.1 million users of mobile broadband and over a million 3G-enabled tablet users[12]. One estimate suggests the demand for mobile capacity will increase 80 fold by 2030.[13]

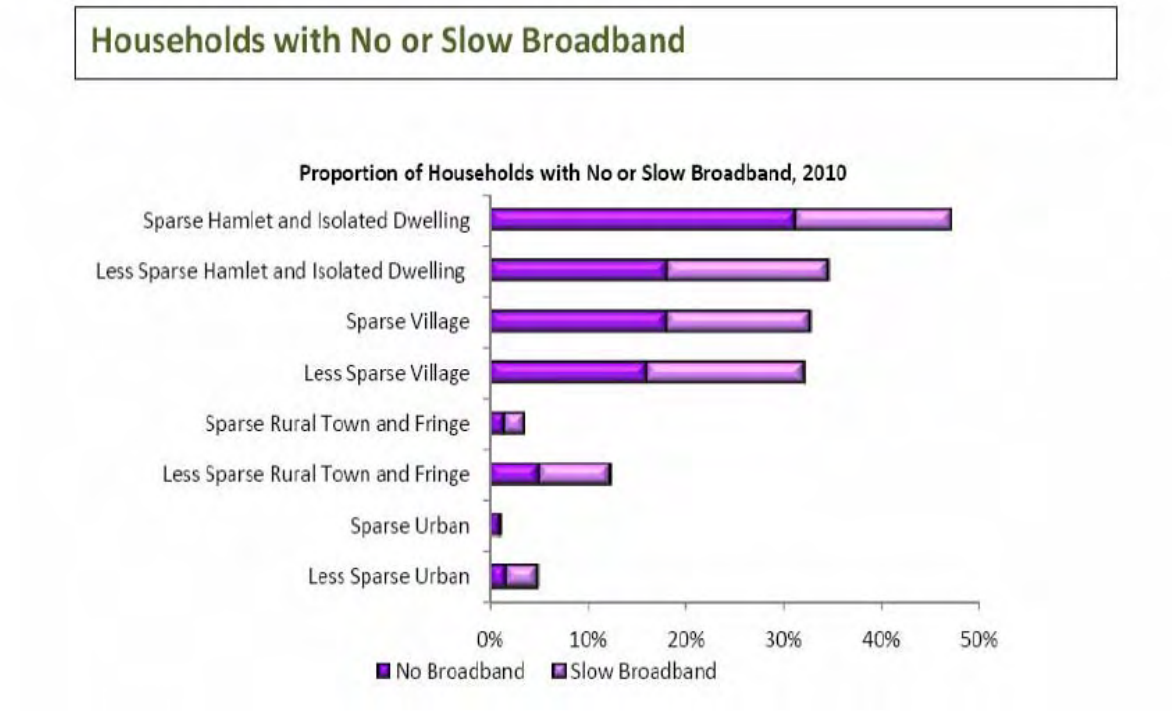
21. While the UK has high levels of internet penetration and online activity overall, not all parts of the country enjoy the same levels of access to the latest technologies or enjoy the sorts of speeds that enable the latest and most innovative services to be used[14]. This has created a rural divide with poorer access to mobile communications which harms the rural economy, hurts local businesses and prevents home working. We are committed to ensuring that we provide rural areas and other areas the market will not reach unsupported with superfast broadband infrastructure. We have allocated £530m to ensure that 90% of the population has access to superfast broadband and the rest of the country access to at least 2 Mbps (figure 1 set out activities and access speed requirements). Fixed, wireless, mobile and satellite broadband technologies will all have a role to play in delivering this challenging ambition.

22. While mobile broadband coverage continues to improve, there remain households who cannot receive mobile services (voice or broadband). Ofcom estimates that 0.3% of premises are in 'complete not-spots' (they have no 2G mobile coverage i.e. no mobile phone coverage); while 6.1% of premises are in 'partial not-spots' (they are served by only one or more, but not all mobile operators)[15].

[10] Ofcom: "Landline and Mobile Phone Services" 2011; Ofcom: "Adults media use and attitudes report" 2012
[11] Ofcom internatuional communications market report 2012
http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr12/international/
12 Ofcom Communications Infrastructure Report 2012
http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/broadband-speeds/infrastructure-report-2012/
13 Real Wireless report for Ofcom - http://www.ofcom.org.uk/static/uhf/real-wireless-report.pdf
14 Ofcom's Infrastructure Report, published in November 2012, showed that at present, rural areas are disadvantaged with respect to the commercial roll-out of superfast broadband. This reflects that rural areas are more commercially challenging when operators look to deploy new networks.
15 Ofcom Communications Infrastructure Report 2012
http://stakeholders.ofcom.org.uk/market-data-research/other/telecoms-research/broadband-speeds/infrastructure-report-2012/

23. The Department for the Environment and Rural Affairs regularly publishes statistics based on analysis of available data[16]. This shows that average broadband speeds are slower in rural areas and that a higher proportion of rural households have slow or no access to broadband. **Figure 2** shows the proportion of those with access depending upon location in 2010. There is a clear inequality of access to broadband in rural communities compared to urban areas. This lack of connectivity impacts on individuals' daily lives and restricts the start-up and growth of businesses. In 2011, the Government announced up to £150m funding to improve mobile coverage and quality across the UK – known as the Mobile Infrastructure Project. This is intended to improve mobile phone coverage whilst ensuring technical solutions are compatible with future technological developments.

Figure 2



[16] http://www.defra.gov.uk/statistics/files/broadband.pdf

24. In November 2012 sector-led analysis of the next generation of mobile data usage[17] reported that in developed countries:

- A doubling of mobile data use leads to an overall increase of 0.5 per cent point increase in GDP per capita growth rates.

- Countries characterised by a higher level of data usage per 3G connection have seen a one-off increase in their GDP per capita growth of 1.4 percent point increase.

- A 10% increase from 2G to 3G penetration leads to a one-off increase in GDP per capita growth of 0.15 per cent point increase.

25. The National Planning Policy Framework[18] supports the principles of good access to mobile communications and maximising the use of existing sites and sharing of infrastructure. It is essential that mobile communications infrastructure is deployed quickly as it has the potential to make a vital contribution to the growth of the internet economy i.e. it accounts for over 8%[19] of the UK's GDP which is a higher share than any other country in the G20. This figure is forecast to rise to over 12.4% by 2016, with the internet accounting for around a quarter of our economic growth.

26. Providing equal opportunities for households and businesses in rural and remote areas with access to mobile connectivity is important – it is in some of these areas that households and businesses have the most to gain. For example in the National Parks there are over 22,000[20] businesses, of which over 70% are Small Medium Enterprises, and in Area of Outstanding Natural Beauty there are more than 61,000[21] businesses, of which 74% are Small or Medium Enterprises. There are over 153,000[22] homes in the National Parks and over 467,000[23] in Areas of Outstanding Natural Beauty.

27. Having to secure planning permission adds uncertainty for mobile operators. Mobile infrastructure is expensive to install and even more so in the more rural areas. This planning uncertainty combined with: significant up-front cost, low numbers of people living and working in rural areas (compared to urban towns and cities) and the topology itself means that planning applications can take a significant amount of time and effort by both the mobile operators and the local planning authority in a situation where planning permission is not a certain outcome.

[17] The Impact of Mobile Broadband on National Economic Growth http://www.deloitte.com/assets/Dcom-UnitedKingdom/Local%20Assets/Documents/Industries/TMT/uk-tmt-GSMA-report-112012.pdf
[18] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
[19] Boston Consulting Group: "The Internet Economy in the G20" 2012
[20] Office of National Statistics – postcode directory
[21] Inter-Departmental Business Register 2010-11
[22] Inter-Departmental Business Register 2010-11
[23] Office of National Statistics – postcode directory[24] See glossary.

Legal background

Permitted development

28. Permitted development rights for electronic communications operators are set out in Part 24 of Schedule 2 to the 1995 Order. Schedule 2 contains various Parts, each of which deals with a different aspect of permitted development.

29. The 1995 Order sets out both what development is allowed under a permitted development right, and any exclusions, limitations and conditions which apply to the development. Where a proposed development does not fall within the permitted development limits, this does not mean the development is not acceptable for planning purposes, but it cannot be built without an application for planning permission to the local planning authority.

30. Permitted development rights may apply to listed buildings, but they only grant planning permission and do not remove the requirement for separate listed building consent for any works to the building.

31. Local planning authorities have power to tailor permitted development rights to the particular circumstances of their local area. They can extend permitted development rights locally by means of local development orders, following local consultation. If there are particular local concerns, councils can consult with the community about whether there are exceptional circumstances that merit withdrawal of permitted development rights locally using existing powers known as article 4 directions.[24] The National Planning Policy Framework is clear that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area.[25]

The Electronic Communications Code

32. The Electronic Communications Code as set out in Schedule 2 to the Telecommunications Act 1984, as amended (by the Communications Act 2003), gives network providers' special rights to assist with the installation of their networks. It enables them to construct infrastructure on public land (streets), and to take rights over private land, either with the agreement with the landowner, or applying to the County Court or the Sheriff Court in Scotland for a wayleave (a written agreement for access to private land or property). It also conveys certain permitted development rights. Ofcom is responsible for granting network providers Code powers following consultation.

[25].https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

33. The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 sets out restrictions and conditions. Regulation 3 sets out general conditions to which code operators are subject. Regulations 4 to 15 set out specific restrictions and conditions to which code operators are subject, relating to such matters as the installation of lines and electronic communications apparatus, the use of conduits and the maintenance and safety of apparatus. Regulation 16 sets out a condition to which code operators are subject, under which they are obliged to ensure that funds are available to meet certain specified liabilities. Regulation 17 imposes a duty on code operators to co-operate with planning authorities and with highway authorities (or, in Scotland, roads authorities) to produce and follow guidelines on how code operators should conduct the installation, including the positioning, of certain types of apparatus.

Prior Approval

34. Some of the permitted development rights in the 1995 Order are subject to prior approval on siting and design. This is a process which requires the local planning authority to reach a decision within a statutory 56 days (8 weeks), beginning on the date it receives the application, to make and notify its determination regarding the siting and appearance of the communication infrastructure, and to notify the applicant of its decision to approve or give the reasons for refusal. If no decision is made, or the local planning authority fails to notify the developer of its decision within the 56 days, permission is deemed to have been granted. The regulations require that a prior approval application to the local planning authority must be accompanied by a written description of the proposed development and a plan indicating its proposed location.

35. The 56 days enables the local planning authority to notify the interested parties (e.g. neighbouring residents), allow sufficient time for public representations, consider representations and produce an officer recommendation report, and if necessary hold a meeting of the planning committee.

36. In determining the prior approval application, the local planning authority is only able to consider the siting and appearance of the proposed development. The principle of the development itself cannot be a consideration as it has already been granted by the permitted development right. If refused, the applicant has the option of appealing to the Planning Inspectorate.

37. On siting for mobile communications equipment, the local planning authority is able to consider the height of the site in relation to the surrounding land, the existence of topographical features and natural vegetation, the site in relation to existing communications equipment, buildings, residential buildings etc. In relation to appearance, the local planning authority may consider matters such as the construction material, colour, design, dimensions, overall shape, solid or an open framework. The use of appropriate materials and colours may reduce the impact of the development on the visual amenity of an area. Any landscaping and screening offered to reduce the impact of the development on its surroundings may also be a consideration.

Proposals for change

38. The proposed changes in this consultation will only affect:

- Part 24 of Schedule 2 to the 1995 Order; and
- The Electronic Communications Code (Conditions and Restrictions) Regulations 2003.

Both of the current versions of these regulations are available on line:

General Permitted Development Rights

http://www.legislation.gov.uk/uksi/2003/2155/contents/made (see paragraph 31 of Schedule 2)

http://www.legislation.gov.uk/uksi/2001/2718/contents/made**.**

Electronic Communications Code (Conditions and Restrictions) Regulations

http://www.legislation.gov.uk/uksi/2003/2553/introduction/made

http://www.legislation.gov.uk/uksi/2009/584/contents/made

A glossary of technical definitions for mobile communications equipment is set out in **Annex 1**.

39. We are proposing action in the following areas to support economic growth and job creation by:

- Increasing permitted development rights to support the swifter roll-out of 4G mobile broadband, which provides more capacity and availability for 3G and 2G, facilitate the greater sharing of antenna[26] and masts, and promote greater rural connectivity. and

[26] The sleeve or outer structure encasing the actual mobile antenna.

- Updating existing planning and Electronic Communications Code regulations, to remove ambiguity, reflect the changes in technology and the number of operators in the market place.

40. The proposed changes to permitted development rights and the Electronic Communication Code have been grouped into infrastructure categories. None of the changes proposed will remove the statutory requirement already placed on mobile operators to consult with local planning authorities under the Electronic Communications Code. Local planning authorities will continue to be required to consider siting and design where prior approval applies. Planning permission will be required where the permitted development right thresholds proposed will be exceeded or the proposed deployment does not have a permitted development right.

Antenna

Proposal 1: *On existing buildings and structures, increase the current permitted development height limit for antenna from up to 4 metres to up to 6 metres before the prior approval threshold applies under existing permitted development rights. This applies to land in non-protected areas only.*

41. Currently in non-protected areas, paragraph A.2(4) of Part 24 of Schedule 2 to the 1995 Order provides that the installation, alteration or replacement of an antenna on buildings or structures (other than a mast), where the antenna extends above the highest part of the building but is less than 4 metres in actual height, has permitted development.

42. Prior approval is required from the local planning authority on siting and appearance for antenna which are taller than 4 metres. Planning permission is required if the antenna on its own is taller than 10 metres (or 15 metres where it is on a building which is 30 metres or more in height) or extends above the highest part of the building by more than 6 metres (or 8 metres if the building it is on is between 15 and 30 metres, or 10 metres if the building is more than 30 metres) – see paragraph A.1(c) and (d) of Part 24 of Schedule 2 to the 1995 Order.

43. The prior approval threshold of up to 4 metres has had the effect of encouraging operators to install antennas which extend below this height threshold. Antennas below 4 metres in height have less capacity and a shorter range. This means the antenna needs to be placed closer to the edge of buildings/structures to avoid disruption.

44. The proposal is to increase the height threshold for prior approval for antennas from up to 4 metres to up to 6 metres, while retaining the current thresholds at which planning permission is required. This change will support the swifter roll-out of 4G. Importantly, the increased antenna height will also provides additional capacity and connectivity for 2G and 3G transmitters on the taller 4G antenna. This change will also enable mobile operators to install antenna further back from the edge of a building – improving the visual appearance from the ground.

45. We propose that the increased threshold for antennas from up to 4 metres to up to 6 metres will also apply to wall mounted antenna. Paragraph A.1 (g)(i) and (n) of the 1995 Order provides that wall-mounted antennas may fall within the permitted development rights in specified circumstances. Wall mounted antenna are normally used when a suitable location is not possible on the roof of a building or structure.

46. On non-protected land, a permitted development right (without prior approval) would apply if the antenna is less than 4 metres in height on a wall / roof- slope which does not face a highway less than 20 metres away. However, planning permission is needed if the antenna is wall mounted on a building which is less than 15 metres in height (or if mounted below 15 metres on a building which is more than 15 metres in height) **and** the antenna is to be located on a wall/roof-slope facing a highway less than 20 metres away. We propose that the new height limit of up to 6 metres will also apply to wall mounted antenna subject to the restrictions set out in this paragraph and subject to prior approval.

47. Requiring prior approval (siting and design) and retaining the existing restrictions on the placement of wall mounted antenna will ensure that local communities and the local planning authority are effectively engaged and consulted on the location and design of the wall mounted antenna. This will ensure they are installed sympathetically to the building or structure they are located on and blend in to their surroundings. Wall mounting of antenna maximises the use of existing buildings/structures and minimises the number of new ground-based masts. Antenna above 6 metres (including their supporting brackets and fixings) in height would be subject to planning permission. The existing restrictions for listed buildings and scheduled monuments will remain.

48. This proposed change will not affect permitted development rights or threshold sizes for satellite dishes (Part 25 of the 1995 Order1995 (as amended)[27].

Question 1:

Do you agree:

(i) The current prior approval threshold for antenna height in Part 24 of Schedule 2 to the 1995 Order should be increased from up to 4 metres to up to 6 metres on land in non-protected areas to support the swifter roll-out of 4G and provide additional capacity for 2G and 3G?

(ii) Do you agree that Part 24 of Schedule 2 to the 1995 Order should be amended to add a new permitted development right with prior approval for roof or wall mounted antenna increasing in height from up to 4 metres to up to 6 metres and placement on buildings having to comply with existing restrictions?

[27] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7703/circularpdrantennas.pdf

Proposal 2: *Increase the number of antenna systems allowed on buildings – only applies to land in non-protected areas as permitted development.*

49. Paragraph A.1(g) and (h) of Part 24 of Schedule 2 to the 1995 Order currently limits the number of antenna systems allowed as permitted development on buildings. An antenna system is a set of antennas (usually comprising between 4 and 6 actual antenna) operated by a single communications operator. For buildings below 15 metres in height, the current limit is up to 2 antenna systems, whilst on buildings above 15 metres in height the current limit is up to 3 systems as permitted development. Currently, any proposed development exceeding these thresholds requires planning permission.

50. The proposal is to increase the number of antenna systems allowed under permitted development rights. On a building below 15 metres in height this will be increased from up to 2 antenna systems to up to 3 antenna systems and on a building above 15 metres in height increasing from up to 3 antenna systems to up to 5 antenna systems.

51. This proposed change will maximise the use of existing sites by encouraging the expansion on existing sites. This will in turn support the swifter roll-out of 4G.

Question 2:
Do you agree that the existing permitted development rights in Part 24 of Schedule 2 to the 1995 Order should be amended to allow development in non- protected areas for up to 3 antenna systems on buildings below 15 metres and up to 5 antenna systems on buildings above 15 metres?

Proposal 3: *Amend the definition of 'antenna system' to reflect mobile operators sharing of infrastructure. This applies to both land in non-protected and protected areas*

52. Paragraph A.4 of Part 24 of Schedule 2 to the 1995 Order defines an 'antenna system' as a set of antennas which are operated by a single operator only. This reflected the position of a single operator at the time the regulations were drafted. However, there are currently 4 mobile network operators. An important element of the proposed changes in this consultation is to encourage greater sharing of infrastructure to ensure the efficient use of existing sites.

53. We therefore propose to amend the definition in paragraph A.4 of an antenna system as one which is operated by "up to 3 operators". Placing a cap at three operators rather than the existing four operators in the market will further encourage the sharing of infrastructure.

54. A small change will also be needed to the Electronic Communications Code Regulations to mirror the definition of antenna systems in Part 24 of Schedule 2 to the 1995 Order to ensure that the two set of regulations are consistent.

Question 3:

(i) Do you agree that the definition in paragraph A4 of Part 24 to Schedule 2 to the1995 Order is amended to read: "a set of antenna operated by up to three operators or in accordance with the Electronic Communications Code"?

(ii) Do you agree that the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 should be amended to include the definition of antenna systems?

Proposal 4: *Amend part 24 of schedule 2 of the 1995 order to include and update definitions for 'antenna', to include the supporting structure, mounting, fixing and bracket. This applies to land in non protected and protected areas.*

55. Currently there is no definition of 'antenna' in paragraph A.4 of Part 24 only 'small antenna'. This has led to inconsistency in interpretation by local planning authorities with some authorities including the mountings and supports within the permitted development rights and others requiring a separate planning application for those components only. This ambiguity is unhelpful to all parties. It also leads to unnecessary delays which in turns adversely impacts on network delivery for customers and additional cost to mobile operators (planning application fees). We therefore propose that a definition of 'antenna' includes the *structure, mountings, fixings and brackets necessary to support the antenna*. A similar change will be made to the existing definition of 'small antenna'.

56. In addition, we propose to add a definition to paragraph A.4 to Part 24 Schedule 2 to the 1995 Order for Micro-cell antenna of up to 0.5 square metres and wall mounted antenna to include the *structure, mountings, fixings and brackets necessary to support the antenna*. Due to their size these have minimal impact on the building or structure whilst providing good local network coverage. These changes will be applicable to land in both non-protected and protected areas.

Question 4:

Do you agree that a definition for 'antenna' is added to paragraph A.4 that the definition of 'small antenna' Part 24 of Schedule 2 to the 1995 Order and antenna should include: *structure, mountings, fixings and brackets necessary to support the antenna*?

Proposal 5: *Wall mounted microcell antenna (of up to 0.5 metres^2) on buildings or structures to have a permitted development right with prior approval – this applies to land in protected areas only.*

57. Currently, paragraph A.1(o) of Part 24 to Schedule 2 to the 1995 Order provides that on land in protected areas planning permission may be needed where small antennas are proposed to be installed, altered or replaced on a building (not a dwellinghouse nor within the curtilage of a dwellinghouse).

58. Conventionally, expanding the capacity of mobile networks is achieved by adding more base stations (masts). However, this is a relatively slow and costly way to roll out capacity and therefore impedes the growth of mobile broadband and mobile telephone services. Small cell antenna are a cost-effective option and offer a faster way to add network capacity in selected areas to fill coverage gaps with minimal visual impact. Wall mounting small cell antenna of up to *up to 0.5 metres*^{2} maximises the use of existing structures/buildings thereby reducing the requirement for antenna on masts in protected areas.

59. The proposal is to enable a new permitted development right with prior approval (siting and design) of:

- 1 microcell antenna *up to 0.5 metres*^{2} for mobile services (communications and broadband) on buildings or structures below 15 metres in height subject to the restrictions in paragraph A.1(o) of Part 24 to Schedule 2 to the 1995 Order; and

- For buildings or structures above 15 metres we propose that up to 2 microcell antenna *up to 0.5 metres*^{2} for mobile services (communications and broadband) subject to the restrictions in paragraph A.1(o) of Part 24 to Schedule 2 to the 1995 Order.

60. Prior approval will enable the local planning authority and their communities to consider the siting and design of the small cell antenna for mobile services for buildings in protected areas and whether the development can go ahead (may only be declined on planning grounds). We are not amending the additional requirements for listed buildings or scheduled monuments.

Question 5:

Do you agree that Part 24 of Schedule 2 to the 1995 Order is amended to:

(i) Enable permitted development with prior approval of microcell antenna (up to 0.5 metres^2) for mobile services on buildings or structures (not listed or scheduled monuments) on land in protected areas? and

(ii) That the maximum number of microcell antenna is set at 1 for buildings below 15 metres and up to 2 for buildings or structures above 15 metres?

Dish antenna – land in non-protected areas

***Proposal 6: I**ncrease the total aggregated size limit of dish antenna on buildings as permitted development without prior approval. Applies to non-protected land only.*

61. Paragraph A.1(g)(ii) and (h)(i) of Part 24 requires that planning permission is secured if the total aggregated diameter of all the dish antenna on a building which is below 15 metres in height exceeds a total threshold of 1.5 metres and 3.5 metres for buildings above 15 metres in height. In addition, no individual dish antenna may exceed 0.9 metres (industry standard) in diameter.

62. Mobile communications operators use these dishes to provide point-to-point microwave backhaul for their antenna systems on buildings or other structures. As the use of mobile communications has expanded the emergency services and local authorities are using permitted development rights for the installation of communications equipment under Part 24 of the 1995 Order. Dishes have to be placed within line of sight. Sharing of equipment is limited to those providers with similar frequencies. In addition, due to obstructions some buildings are more optimal for dishes than others: leading to a concentration in those areas and exceeding the existing thresholds. This results in operators having to apply for planning permission, which adds uncertainty and leads to delays for the mobile operators which in turn impacts on their ability to roll-out services quickly which is needed to support the quick roll-out of 4G.

63. The proposal is to increase the aggregated dish diameter total threshold limit to 4.5 metres for buildings or structures below 15 metres in height and 10 metres for buildings above 15 metres. We also propose to retain the current restrictions that no single dish will have a diameter larger than 0.9 metres. This is a consistent approach for individual dish antenna sizes which should help to minimise the visual and physical impact whilst maximising the use of existing buildings to support the swifter roll-out of 4G. This will also provide greater capacity for 2G and 3G services on the new 4G antenna height.

64. The proposed change will not affect permitted development rights or thresholds sizes for microwave antennas (satellite dishes) under Class H of Part 1 or Classes A and B of Part 25 of the 1995 Order[28].

[28] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7703/circularpdrantennas.pdf

Question 6:

Do you agree:

(i) Part 24 of Schedule 2 to the 1995 Order is amended to permitted development without prior approval in non-protected land to a total aggregated dish size threshold for dish antenna is increased to 4.5 metres aggregated limit for buildings or structures below 15 metres in height and 10 metres aggregated limit for buildings or structures above 15 metres with no single dish antenna larger than 0.9 metres (industry standard)? and

(ii) What other options, if any, or aggregated size thresholds should be considered?

Radio equipment housing cabinet (mobile telecommunications equipment) – land in non-protected and protected areas

Proposal 7: *Clarification of the 1995 order that volume limits on the installation of radio equipment housing cabinet (mobile communications equipment) of up to 2.5 cubic metres are not cumulative: applies to non-protected and protected land.*

65. In non-protected areas paragraph A.1(l) of Part 24 of Schedule 2 of the 1995 Order provides that the installation, alteration or replacement of radio equipment housing (the technical term to describe mobile communications cabinets) requires planning permission if the development would exceed 90 cubic metres (30 cubic metres on a rooftop). In protected areas planning permission is required if the development would exceed 2.5 cubic metres. In non-protected areas a cabinet larger than 2.5 cubic metres requires prior approval of the local planning authority as to siting and appearance of the cabinet. In protected areas cabinets less than 2.5 cubic metres requires prior approval.

66. Paragraph A.2(4)(b) of Part 24 also provides that where the development volume would exceed 2.5 cubic metres in a non-protected area prior approval of the local planning authority as to siting and appearance is required. The volume limits of paragraph A.2(4) or A.1(l) are not intended to be cumulative. The current wording in the 1995 Order has however led to inconsistency in interpretation by local planning authorities i.e. some take the 2.5 cubic metres limit as being cumulative for mobile communications cabinets so that any new cabinets in excess of 2.5 cubic metres on a site are required to submit a planning application or go through the prior approval process. Whereas other local planning authorities consider cabinets in excess of 2.5 cubic metres as the threshold for requiring planning permission for an individual cabinet.

67. The proposal is to clarify the 1995 Order for radio equipment housing cabinets that the threshold of up to 2.5 cubic metres is not cumulative i.e. providing each cabinet is below of 2.5 cubic metres for both non protected and protected land. Cabinets on protected land will retain prior approval requirements on siting and design.

Question 7:

Do you agree that Part 24 of Schedule 2 to the1995 Order is amended to clarify that permitted development rights for radio housing cabinets for mobile communication equipment of up to 2.5 cubic metres is not cumulative?

Ancillary equipment – land in non-protected and protected areas

Proposal 8: *That ancillary equipment is considered in totality as part of the communications development for planning purposes, with prior approval requirements (siting and design) retained for developments in protected areas.* Applies to land in non-protected and protected areas.

68. Currently paragraph A.2(1) Class A(a) and Class A(c) of Part 24 Schedule 2 of the 1995 Order specifies that development is permitted subject to the condition that any antenna or supporting apparatus, radio equipment housing or development ancillary to radio equipment housing constructed, installed, altered or replaced on a building in accordance with that permission shall, so far as is practicable, be sited so as to minimise its effect.

69. However, the current wording has led to inconsistency in interpretation by local planning authorities as to what is 'ancillary': with some authorities including for example a handrail or the camouflaged antenna shroud as part of the totality of permitted development whereas others have treated it as separate elements requiring planning permission. This inconsistency leads to delays to the roll out of mobile communications and mobile operators incurring planning fees.

70. The proposal is that whilst retaining the requirement to be sited so as to minimise their visual effect: that the 1995 Order is changed to include the constructing, installing altering, replacing or operating the radio equipment housing including security equipment, perimeter walls or fences, handrails, steps or ramps should fall under permitted development. Development in non-protected areas will be without prior approval whereas protected areas will retain the requirement for prior approval (siting and design).

71. In addition, we propose to amend the Electronic Communications Code Regulations to make provision to allow ancillary equipment to be included in works permitted under the Code.

Question 8:

(i) Do you agree that A.2(1) Class A(a) and Class A(c) of Part 24 of Schedule 2 to the 1995 Order relating to ancillary equipment is amended?

(ii) Do you agree that the Electronic Communications Code Regulations should be amended to make provision for ancillary equipment to be included in works permitted under the Code?

Minor upgrades to existing sites - land in protected areas

Proposal 9: *Grant permitted development rights with prior approval (siting and design) for two specified changes to existing apparatus. Applies to land in protected areas.*

72. Paragraph A.2(1) Class A(a) and Class A(c) of Part 24 Schedule 2 of the 1995 Order enables the alteration or replacement of equipment in specified situations on a like-for-like basis. However, changes to upgrade equipment on an existing site in protected areas will usually require a new planning application despite having already secured planning approval which would have involved a consultation process with the local community and been approved by the local planning authority. The proposal is therefore to amend regulations that two specific upgrades will be classed as permitted development subject to prior approval. These changes will provide additional capacity and potentially connectivity in rural areas. We propose to define minor upgrades as a maximum of:

    - 2 additional point-to-point microwave dishes of up to 0.6 metres in diameter on an existing building or structure (including a mast). and

    - 2 additional antenna of up to 3 metres in height on an existing building or structure (including a mast).

73. In order to qualify for this permitted development right, we propose that the existing mobile infrastructure will need to have been operational (transmitting and receiving) prior to publication of this consultation. The aim is to encourage operators to maximise the use of existing infrastructure and minimise the time required for existing sites to be upgraded. This should support the swifter roll-out of 4G and provide additional capacity to support 2G and 3G capacity. Changes beyond the scope of the proposed change will be subject to planning permission.

74. Whilst the proposal is to only apply this change to existing infrastructure, it may be appropriate to consider another option of removing this requirement and extending the provision to include these specified upgrades for new sites which receive planning permission in the future. This would support the commitment and principles of this consultation i.e. maximising existing sites, providing greater capacity and connectivity in rural areas whilst retaining the safeguard of being subject to prior approval.

75. Retaining prior approval (siting and design) will enable the local community to be consulted and for the local planning authority to consider the application whilst fast-tracking the decision for mobile operators.

Question 9:

Do you agree:

(i) Part 24 of Schedule 2 to the 1995 Order is amended to enable mobile operators to install minor upgrades under permitted development rights with prior approval (siting and design) to existing sites of up to 2 additional point-to-point microwave transmission dishes of up to 0.6 metres in diameter and up to 2 additional antenna of up to 3 metres in total height?

(ii) That the permitted development should only apply to existing operational (transmitting and receiving) sites at the time of publication? Or

(iii) Should the proposed permitted development right be extended to include both existing and new sites which receive planning permission after publication of this consultation – subject to prior approval?

Amendments to permitted schemes – land in non protected and protected areas

Proposal 10: *Clarification that an agreed amendment between a mobile operator and local planning authority to an existing approved application does not require a fresh application. Applies to non protected and protected land*

76. Where planning permission and or prior approval has been granted by a local planning authority and subsequently a change to the way the development is carried out is agreed with the authority, then currently paragraph A.3(8) of Part 24 to Schedule 2 of the 1995 Order requires the change to be agreed in writing by the local planning authority. Some local planning authorities are interpreting the '*in writing*' requirement as the mobile operator having to apply formally through the prior approval process once more to consider the agreement already reached. This was not the intention of the provision. The proposed clarification is that a change agreed between the local planning authority and mobile operator to an existing approved application does not require a new application: simply confirmation of the agreement in writing.

Question 10:

Do you agree that Part 24 of Schedule 2 to the 1995 Order is clarified so that changes agreed between a mobile operator and the local planning authority to an existing approved application is not treated as needing to go through a prior approval process or a new planning application?

Mobile communications masts

77. While there is a strong demand for mobile connectivity across the UK, the siting of mobile communication masts can be an emotive issue for local communities. Mobile phone mast is a non-technical term which refers to the structure used to support certain types of base stations not all of which will have a mast. However, they are essential if businesses and householders are to have access to 4G, 3G or 2G mobile voice and data services.

78. There are around 51,000 base stations (excluding microcells)[29] in the UK of which around 10,000 are under 15 metres and around 1,000 between 15 and 20 metres in height. The approx breakdown[30], by type of installations is:

Base station type	Number	Percentage
Ground based sites (masts)	18,978	33%
Microcells (external small cell stations) on buildings or structures i.e. not masts	5,542	10%
Rooftop sites	11,767	21%
Street works (lamp posts and telegraph poles)	8,259	14%
Third party structures (water towers, pylons, third-party owned masts) and site sharing on other operators masts	12,472	22%
Total masts (excluding microcells)	**51,018**	**100%**

NB: where two operators share the same structure, each operator's equipment is counted as an individual base station for network purposes but not every base station counted above will therefore be a separate structure i.e. the actual total number is likely to be less.

[29] Data provided by the Mobile Operators Association
[30] Data provided by the Mobile Operators Association

79. For the purposes of this consultation we will refer to base stations as masts. Mobile masts and their associated infrastructure represent a significant investment for mobile communications operators. They tend therefore to be used only in places where a suitable existing building or structure is not already available. The proposals in this consultation have sought to maximise the use of existing sites on buildings or structures and sharing of equipment to minimise the need for new mobile communications masts. However, where a suitable building or structure is not available a new or upgraded mast will be the only technical solution to provide mobile connectivity to an area e.g. to deliver 4G and or to provide greater access and capacity for 3G and 2G. We therefore set out a proposal below for consideration in this consultation to complement the other changes proposed.

80. Our policy regarding mobile phone and TETRA masts[31] is that these should comply with the International Commission on Non-Ionising Radiation Protection guidelines which are designed to ensure the avoidance of known adverse effects on health, which arise in relation to heating of body tissues due to absorption of the energy carried by radio frequency electromagnetic fields. Mobile operators when applying for planning consent are required to confirm that the structure being proposed fully complies with this requirement.

81. Concern is sometimes voiced about the transmission and exposure to radio waves from mobile masts. Public exposure from the transmitting sites used to providing mobile radio services, whether for TETRA or mobile phones, is explored in the 2000 “Stewart” report from the Independent Expert Group on Mobile Phones. Their conclusion is that "*the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of guidelines*".

82. The Health Protection Agency’s independent Advisory Group on Non-Ionising Radiation[32] in its 2003 review concluded that "*exposure levels from living near to mobile phone base stations are extremely low, and the overall evidence indicates that they are unlikely to pose a risk to health.*" The Department of Health keeps the best available scientific advice under review since these reports and more recent studies, as reviewed by Advisory Group on Non-Ionising Radiation in 2012 and their advice remains unchanged.

[31] A nationwide (not Northern Ireland or Channel Islands) communications network for the emergency services.
[32] AGNIR’s 2012 review is available on the HPA website together with a press release at: http://www.hpa.org.uk/NewsCentre/NationalPressReleases/2012PressReleases/120426Mobilephones

Mobile telecommunications masts on land in non-protected areas

Proposal 11: *Existing masts (on land in non-protected areas) can be increased in height from up to 15 metres to up to 20 metres and width by up to a third as permitted development with prior approval for siting and design.*

83. Currently paragraph A.2(4) of Part 24 of Schedule 2 of the 1995 Order provides that the installation, alteration or replacement of a mast requires prior approval as to siting and design for the local planning authority. So an existing mobile communications mast which is up to 15 metres high will already have been fully considered by the local planning authority and local community regarding its siting and design.

84. It is proposed that the permitted development right for extending an existing mast in non-protected areas is amended so that the mobile operators have the option of extending the height from up to15m to up to 20m and the width of the existing mast by up to a third (to support additional equipment and for structural reasons) subject to prior approval (siting and design). To qualify as an existing mast it must have been approved, installed and be operational (transmitting and receiving) prior to the publication of this consultation.

85. This proposed change will ensure that operators:

- Engage in effective local consultation with communities and the local planning authority on the proposed changes and to consider representations before submitting the prior approval application under permitted development rights.

- Identify which existing masts to apply an increase in height from up to 15 metres to up to 20 metres to support the swifter roll-out of 4G and greater capacity for 2G and 3G.

86. The prior approval requirement will ensure that the local planning authority and local community have an effective say on planning grounds whether the development goes ahead. This also recognises that the additional height may be a material consideration in some instances. Where the increase in height is not considered acceptable following consultation in terms of siting and appearance, the local planning authority may decline the application for planning reasons only. The mobile operator retains the option of appealing the decision. This proposal is specifically to support the swifter roll-out of 4G and to provide greater coverage and capacity for 3G and 2G.

87. This change provides greater planning certainty for the mobile operators and crucially enables local planning authorities and communities to have a say in the design of the change. For structural reasons it may not be possible to extend an existing mast by up to 5m and may therefore necessitate a new mast on the same site but at the increased height and width. Heights above the threshold of up to 20 metres for masts will be subject to planning permission. On non-protected land, new ground-based masts above 15 metres in height will continue to require planning permission.

Question 11:

Do you agree that Part 24 of Schedule 2 to the 1995 Order is changed to enable existing operational masts at the time of the publication of this consultation (transmitting and receiving) on land in non-protected areas which are up to 15 metres high should be able to be increased in height by up to 5 metres to 20 metres and in width by up to a third under a permitted development with prior approval?

Benefits and impacts from our proposals

88. The proposed increase in scope of the permitted development should reduce the burden associated with securing any consent. Given that only siting and appearance information will be required for prior approval submission to the planning authority, the supplementary documentation accompanying an application is likely to be much lower than for a planning application. Arup research undertaken for the Department of Communities and Local Government looked into the costs associated with the prior approvals process. The total cost ranged from £1,410 to £8,665 for the submission but the upper band of this range fell to £4,335 when a case which was considered to require planning permission was removed. This is in line with expectations and supports the notion that permitted development with prior approval is a significantly less expensive route than planning permission.

89. In addition, individuals and businesses will benefit from wider access to mobile communications, particularly 4G and mobile broadband. This will provide freedom to expand and improve their existing businesses. They will be able to grow and thrive without the disruption and cost of relocating to other areas which have better access to communications. The online economy is very strong in the UK and the proposals in this consultation will support its continued growth. The internet contributes more to GDP in the UK than it does in any other G20 country i.e. 5.6% in 2011 [33] and forecast to rise to 12.4% in 2016.[34]

[33] AT Kearney: "The Internet Economy in the United Kingdom" 2012
[34] Boston Consulting Group: "The Internet Economy in the G20" 2012

90. Estimates provided of the *total* number of *existing* sites that will need to be upgraded to facilitate 4G in the first 12-24 months of rollout suggests there are likely to be in the order of 10,000 plus[35]. Based on the current planning regime, we think that circa 30-40% i.e. 3,000 - 4,000, would already be covered by permitted development rights. This is a significant number of applications for the mobile operators and for local planning authorities to process in a very limited time-window. Delays in one area will impact on the roll-out of 4G across the whole of an operator's network.

91. The Government wants 4G services to be widely available, particularly where provision is currently poor. Capital Economics estimated in April 2012 that if £5 billion (in 2009 prices) is invested in the 4G supply chain it will create 125,000 new jobs. In addition, the coming of 4G is estimated to lead to a rise in GDP of roughly 0.5% p.a.

Question 12: Do you:

(i) Agree with the assumptions, and cost savings set out in this consultation? And

(ii) If you disagree, please provide alternative assumptions; cost savings and data for the number of sites to be upgraded to facilitate 4G in the first 12-24 months of roll-out.

[35] Data provided by the Mobile Operators Association

Consultation questions – response form

We are seeking your views to the following questions on the proposals to support sustainable development and growth through encouraging the reuse of empty and redundant existing buildings where the original use was no longer required or appropriate.

How to respond:

The closing date for responses is 5pm, 14 June 2013.

This response form is saved separately on the Gov.uk website at https://www.gov.uk/government/consultations/mobile-connectivity-in-england.

Responses should be sent to: planningimprovements@communities.gsi.gov.uk and mobplanningconsult@culture.gsi.gov.uk

Written responses may be sent to:
Andy Swyer
Consultation Team (Mobile communications permitted development)
Planning Development Management Division
Department for Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

About you

i) Your details:

Name:	Peter Eversden
Position:	Chairman
Name of organisation (if applicable):	London Forum of Amenity and Civic Societies
Address:	70 Cowcross Street, London EC1M 6EJ
Email:	londonforum@blueyonder.co.uk
Telephone number:	020 8747 3281

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response ☒

Personal views ☐

iii) Please tick the box which best describes you or your organisation:

District Council ☐

Metropolitan district council ☐

London borough council ☐

Unitary authority/county council/county borough council ☐

Parish council ☐

Community council ☒

Non-Departmental Public Body ☐

Planner ☐

Professional trade association ☐

Land owner ☐
Private developer/house builder ☐
Developer association ☐
Voluntary sector/charity ☐
Other ☐

(please comment):	

iv) What is your main area of expertise or interest in this work? (please tick one box)

Chief Executive ☐

Planner ☒

Developer ☐

Surveyor	☐
Member of professional or trade association	☐
Councillor	☐
Planning policy/implementation	☐
Environmental protection	☒
Other	☐

(please comment):	

Would you be happy for us to contact you again in relation to this questionnaire?

Yes ☒ No ☐

ii) Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Question 1:

Do you agree:

(i) The current prior approval threshold for antenna height in Part 24 of Schedule 2 to the 1995 Order should change from up to 4 metres to up to 6 metres on land in non-protected areas to support the swifter roll-out of 4G and provide additional capacity for 2G and 3G?

(ii) Do you agree that Part 24 of Schedule 2 to the 1995 Order should be amended to add a new permitted development right with prior approval for roof or wall mounted antenna increasing in height from up to 4 metres to up to 6 metres and placement on buildings falling within existing restrictions?

Yes ☐ No ☐

Comments

Overall we are neutral on this question. Had (i) and (ii) been split into two questions we would have answered "yes" to (i) bearing in mind that it only applies in non-protected areas and is a fairly minor change; and "no" to (ii) because the impact of wall mounted antenna is potentially far greater than that of roof-mounted ones.

We question if BT and other telecom/broadband/4G suppliers are using the latest technology. Alacatel Lucent of France appear to have equipment which is less intrusive in the public realm.

Question 2

Do you agree that the existing permitted development rights in Part 24 of Schedule 2 to the 1995 Order should be amended to allow development in non-protected areas for up to 3 antenna systems on buildings below 15 metres and up to 5 antenna systems on buildings above 15 metres?

Yes ☒ No ☐

Comments

Where extra antennas are needed, better they are installed on a building that already has antennas rather than a nearby one that does not.

Question 3

(i) Do you agree that the definition in paragraph A4 of Part 24 to Schedule 2 to the 1995 Order is amended to read: “a set of antenna operated by up to three operators or in accordance with the Electronic Communications Code”?

(ii) Do you agree that the Electronic Communications Code (Conditions & Restrictions) Regulations 2003 should be amended to include the definition of antenna systems?

Yes [X] No [ ]

Comments

This is sensible and, indeed, overdue. Encouraging infrastructure sharing should reduce the overall amount of kit that needs to be installed.

Care should be given by service suppliers to the location and visibility from the street of the cabinets associated with the antennae.

Question 4

Do you agree that a definition for ‘antenna’ is added to paragraph A.4, that the definition of ‘small antenna’ Part 24 of Schedule 2 to the 1995 Order and antenna should include *structure, mountings, fixings and brackets necessary to support the antenna*?

Yes [X] No [ ]

Comments

It is clearly sensible to regard the fixings as part of the antenna.

See also the respone to Question 3.

Question 5

Do you agree that Part 24 of Schedule 2 to the 1995 Order is amended to:

(i) Enable permitted development with prior approval of microcell antenna (up to 0.5 metres^2) for mobile services on buildings or structures (not listed or scheduled monuments) on land in protected areas? and

(ii) That the maximum number of microcell antenna is set at 1 for buildings or structures below 15 metres and up to 2 for buildings or structures above 15 metres?

Yes ☐ No ☒

Comments

Wall mounted installations can have an impact on a building quite disproportionate to their size. We already know this from inadequately controlled installations of satellite antennas.

Question 6

Do you agree:

(i) Part 24 of Schedule 2 to the 1995 Order is amended to permitted development without prior approval in non-protected land to an aggregated size limit for dish antennas is increased to 4.5 metres aggregated limit for buildings or structures below 15 metres in height and 10 metres aggregated limit for buildings or structures above 15 metres with no single dish antenna is larger than 0.9 metres (industry standard)? and

(ii) What other options, if any, or aggregated size thresholds should be considered?

Yes ☐ No ☒

Comments

Some increase to maximise the use of existing sites seems sensible (as with question 2) but to treble the existing limits seems a leap too far. In fact, the proposal is even worse than it first looks. The existing 1.5m limit can only accommodate one 0.9m dish; 4.5m can accommodate 5 dishes. We would propose 3m on buildings below 15m and 6m above 15m.

Question 7:

Do you agree that Part 24 of Schedule 2 to the1995 Order is amended to clarify that permitted development rights for radio housing cabinets for mobile communications equipment of up to 2.5 cubic metres is not cumulative?

Yes ☐ No ☒

Comments

Although it is stated that the limit was not intended to be cumulative - it should be. Otherwise it creates the perverse incentive for operators to split their equipment over 2 or more cabinets rather than apply for one of the required size.

The cabinets should be positioned away from the edge of the roofs of buildings on which they are placed.

Security railing should be minimised.

Question 8

(i) Do you agree that A.2(1) Class A(a) and Class A(c) of Part 24 of Schedule 2 to the 1995 Order relating to ancillary equipment is amended?

(ii) Do you agree that the Electronic Communications Code Regulations should be amended to make provision for ancillary equipment to be included in works permitted under the Code?

Yes ☐ No ☐

Comments

These questions should not be aggregated. There are many examples of works permitted under the Code still requiring planning permission and that should be the situation here: (i) "no"; (ii) "yes". The range and type of ancillary equipment ("including security equipment, perimeter walls or fences, handrails, steps or ramps" - paragraph 70 above) is such that to give blanket permitted development rights is quite unacceptable.

Question 9

Do you agree:

(i) Part 24 of Schedule 2 to the 1995 Order is amended to enable mobile operators to install minor upgrades under permitted development rights with prior approval (siting and design) to existing sites of up to 2 additional point-to-point microwave transmission dishes of up to 0.6 metres in diameter and up to 2 additional antenna of up to 3 metres in total height?

(ii) That the permitted development should only apply to existing operational (transmitting and receiving) sites at the time of publication? Or

(iii) Should the proposed permitted development right be extended to include both existing and new sites which receive planning permission after publication of this consultation – subject to prior approval?

Yes ☐ No ☒

Comments

What is being talked about here is not "upgrades" but the installation of additional equipment. This should be subject to the normal rules.

Question 10

Do you agree that Part 24 of Schedule 2 to the1995 Order is clarified so that changes agreed between a mobile operator and the local planning authority to an existing approved application is not treated as needing to go through a prior approval process or a new application?

Yes ☐ No ☒

Comments

The proposal would exclude the local community from and consideration of the proposed changes. The community would have been consulted before the original application was approved; it should be consulted over any changes.

Question 11:

Do you agree that Part 24 of Schedule 2 to the 1995 Order is changed to enable existing operational masts at the time of the publication of this consultation (transmitting and receiving) on land in non-protected areas which are up to 15 metres high should be able to be increased in height by up to 5 metres to 20 metres and in width by up to a third under a permitted development with prior approval?

Yes ☒ No ☐

Comments

On the basis that this only applies in non-protected areas and prior approval will still be required, on balance we can say "yes".

Question 12:

Do you agree:

(i) With the assumptions and cost savings set out in the consultation? And

(ii) If you disagree, please provide alternative assumptions; cost savings and data for the number of sites to be upgraded to facilitate 4G in the first 12-24 months of roll-out.

Yes ☐ No ☒

Comments

The underlying assumption that the planning process is a "burden" (paragraph 88) is fundamentally flawed. Only a thoroughly uncivilized country would regard taking into account the impacts on the wider community and protecting the nation's built heritage as a burden. Furthermore, if the investment in 4G is to be of the order of £5 billion (paragraph 91), then the cost of compliance with planning controls will be trivial by comparison.

Thank you for your comments.

Consultation information

About this consultation

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

If you have any queries or complaints regarding the consultation process, please contact:

DCLG Consultation Co-ordinator
Zone 6/H10 Eland House
London SW1E 5DU

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Glossary

Article 4 directions

Article 4 of the 1995 Order allows local planning authorities to consult with their local communities about whether to withdraw particular permitted development rights over a specified area. Where an article 4 direction is in place, those permitted development rights no longer apply, and a planning application must be submitted. Article 4 directions do not affect development which has already been begun or completed under the permitted development rights.

Guidance on the operation of article 4 directions is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5679/2160020.pdf

Annex 1: technical definition for mobile telecommunications equipment

2G: second generation of mobile telephony system. Uses digital transmission to support voice, low-speed data communications, and short messaging services.

3G: third generation of mobile systems. Provides high-speed data transmission and supports multi-media applications such as video, audio and internet access alongside conventional voice services.

4G: fourth generation of mobile systems. It is designed to provide faster data download and upload speeds on mobile networks.

Antenna: a device which radiates radio waves.

Femtocell: a small base station, typically installed indoors to improve indoor mobile coverage, although there is also a standard for outdoor femtocells

Macrocell: provides the largest area of coverage within a mobile network. The antennas for macrocells can be mounted on ground-based masts, rooftops or other existing structures. They must be positioned at a height that is not obstructed by terrain or buildings. Macrocells provide radio coverage over varying distances depending on the frequency used, the number of calls made and the physical terrain. Macrocell base stations have a typical power output in tens of watts

Microcell: provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp posts and other street furniture. The antennas are smaller than macro cell antennas and, when mounted on existing structures, often blend in with building features to minimise visual impact. Microcells provide radio coverage over distances, typically between 300m and 1000m and have lower output powers compared to macrocells, usually a few watts.

Picocell: provides more localised coverage than a microcell. These are normally found inside buildings where coverage is poor or where there are a high number of users such as airport terminals, train stations or shopping centres

Face mounted Antenna: fixed directly to brick work or other material of an existing structure.

Dish Antenna: transmits and receives highly focussed radio waves in one direction

Base station: is a macrocell, microcell, picocell or femtocell site and consists of transmitters and receivers in a cabin or cabinet connected to antennas by feeder cable.

Radio Equipment Housing: a structure which protects transmitters and receivers from damage. They can be in the form of large cabins or smaller cabinets.

Mobile telecommunications mast**:** - a ground-based structure that supports antennas at a height where they can satisfactorily send and receive radio waves. Masts themselves play no part in the transmission of the radio waves.

Small cells: types of small cells include femtocells, picocells, and microcells broadly increasing ins size from femtocells (the smallest) to microcells (the largest)