

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES

TO:	PLANNING APPLICATIONS COMMITTEE		
DATE:	9 OCTOBER 2019		
TITLE:	MHCLG CONSULTATION ON PROPOSED REFORMS TO PERMITTED DEVELOPMENT RIGHTS TO SUPPORT THE DEPLOYMENT OF 5G AND EXTEND MOBILE COVERAGE		
COUNCILLOR PAGE	PORTFOLIO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT	
COUNCILLOR MCKENNA		CHAIR, PLANNING APPLICATIONS COMMITTEE	
SERVICE:	PLANNING	WARD:	BOROUGHWIDE
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**1. PURPOSE AND SUMMARY OF REPORT**

- 1.1 The Ministry of Housing, Communities and Local Government (MHCLG) and the Department for Digital, Culture, Media & Sport (DCMS) published their consultation document in August 2019. A copy of the document can be viewed at: <https://www.gov.uk/government/consultations/proposed-reforms-to-permitted-development-rights-to-support-the-deployment-of-5g-and-extend-mobile-coverage>
- 1.2 The document seeks views on changing the permitted development rights in England for structures required to extend mobile phone coverage and to adapt to 5G networks for operators with rights under the Electronic Communications Code. The current permitted development rights for Code Operators is found in Part 16 Schedule 2 of the Town & country Planning (General Permitted Development)(England) Order 2015 (as amended in 2016).
- 1.3 This report summarises the main changes proposed and sets out initial officer views on these proposed changes. The report asks Committee to note the consultation document, agree the initial offer response to the proposed changes to permitted development rights, and to delegate authority for final representations to be agreed by the Chair of Planning Applications Committee and the Lead Councillor for Strategic Environment Planning and Transport for submission by the consultation end date of 4<sup>th</sup> November 2019.

**2.0 RECOMMENDED ACTION**

- 2.1 That the Committee notes the publication of the Proposed Reforms to Permitted Development rights for mobile telecommunications operators.
- 2.2 Agree the initial officer commentary on the proposed changes to permitted development rights as set out in this report; and
- 2.3 Delegate authority for final representations on the consultation to be agreed by the Chair of Planning Applications Committee and the Lead Councillor for Strategic Environment Planning and Transport.

### 3. BACKGROUND AND ISSUES

3.1 The consultation document covers the following main areas:

- **The case for the reform**
- **Potential changes to the General Permitted Development Order (GPDO)**

#### *Case for reform*

3.2 Being able to access a good phone or internet signal is increasingly essential for people at home, at work or when travelling. Many businesses rely upon on-line trading and liaison with their customers and suppliers. However, there are parts of the country where mobile data access is either poor or non-existent and the Government has committed to improve mobile signal coverage and, more recently, to introduce 5G networks across the country. Ofcom's Connected Nations report 2018 found that good 4G coverage (from the 4 main operators) was available across 67% of the UK, 25% of the country was not covered by all 4 but did have some service from at least one of the 4 main operators but 8% of the country had no 4G coverage at all.

3.3 In 2014 a deal was secured with mobile network operators to secure investment to achieve coverage targets. Connected to this was a change, in 2016, to planning regulations in England to extend permitted development rights to enable ground and building-based telecommunications equipment and masts to be built without applying for planning permission. The Electronic Communications Code (the Code) was introduced in 2017. This sought to encourage and support network investment by making it cheaper to install and upgrade communications equipment. In 2018 national planning policy was amended to support the expansion of electronic communication networks and there was a commitment to keep the planning regime under review so that it can better support new technologies coming forward, such as 5G.

3.4 The consultation document states the Government wants to be a "world leader in 5G" and all 4 main mobile network operators have committed to begin deploying 5G from this year. Para 10 of the consultation document says about 5G:  
*"More than any previous generation of mobile networks, it has the potential to improve the way people live, work and travel, and to deliver significant benefits to the economy and industry through the ability to connect more devices to the Internet at the same time - creating the so called "Internet of Things"."*

3.5 To improve coverage and to deploy 5G network operators are primarily seeking to upgrade existing sites by making masts bigger or taller to take more equipment or to increase coverage. Currently mobile network operators either need to apply for full planning permission for the equipment or, on some limited sites, can make use of permitted development rights with prior approval from the LPA needed or sometimes they only need to provide notification to the LPA of their intention to carry out work.

3.6 The consultation seeks views on amending or creating new permitted development rights to grant planning permission for the following:

- a) to enable deployment of radio housing equipment on land without requiring prior approval, excluding on sites of special scientific interest, to support 5G deployment,
- b) to strengthen existing masts to enable sites to be upgraded for 5G and for mast sharing without prior approval.
- c) to enable the deployment of building-based masts nearer to highways to support 5G, subject to prior approval; and
- d) to enable higher masts to deliver better coverage and to allow mast sharing, subject to prior approval.

- 3.7 The main change consulted on is to relax restrictions on sites in Article 2(3) land - so those sites in conservation areas, areas of outstanding natural beauty, an area specified by the Secretary of State under the Wildlife and Countryside Act 1981, the Broads, a National Park or World Heritage Sites.
- 3.8 Balanced against the commitment to meet customer demand for full and improved network coverage is considerable public concern. This concern covers such issues as anxiety about the possible impacts on human health caused by more intensive use of telecommunications technology; to a dislike for the appearance of the masts and other equipment needed to enable the network coverage to be provided. This new generation of tall masts - initially phone masts were little higher than lampposts at approximately 15m high - are now proposed at around 20m to 25m high. These also need to be made thicker in order to be structurally sound and to support the weight of the equipment. In some cases, the column design may need to be substituted by 'lattice' tower structures.
- 3.9 Members may recall that at their last meeting in September a question from a member of the public was raised regarding the Council's policy on 5G.

#### 4. THE QUESTIONS

- 4.1 ***The first set of questions in the consultation document are primarily directed towards the Code Operators:***
- 1.1 if the reforms would help them meet the Government's ambitions,
  - 1.2 what impact they would have on their planned deployment of 5G technology and,
  - 1.3 if the changes were introduced what mitigation could the operators offer to reduce visual impacts
  - 1.4 if the changes were introduced what measures could ensure that redundant equipment was removed and land restored, and finally
  - 1.5 if the changes were introduced what measures could the operators offer to ensure use of existing sites was maximized before new sites identified.
- 4.2 The next set of questions are about changes to the GPDO. Officers' proposed response is shown as follows:

##### ***Question 2: Changes to Permitted Development***

- 4.3 Currently, under the GPDO as amended in 2016, where the volume of any single development on unprotected land exceeds 2.5 cubic metres, or the development is located within protected Article 2(3) land or a site of special scientific interest, there is a prior approval process to be followed giving the local planning authority the opportunity to consider the siting and appearance of the development. Where the size of the radio equipment exceeds the thresholds in the General Permitted Development Order criteria, then an application for planning permission to the local planning authority is required.
- 4.4 The consultation document explains that the 2016 amendments to the General Permitted Development Order enabled fixed-line Code Operators to continue to install, alter or replace fixed-line broadband equipment, including cabinets, on Article 2(3) protected land or on unprotected land, without the requirement for prior approval from the local planning authority, enabling faster deployment of broadband. As equipment housing is similar in size and appearance to the cabinets required to support fixed-line broadband infrastructure, the proposed changes are considered to be consistent with this approach. They are therefore proposing that the permitted development rights for equipment housing should be amended to remove the requirement for prior approval for development within protected Article 2(3) land, and for development on unprotected land which exceeds 2.5 cubic metres.
- 4.5 **Question 2.1: Do you agree with the principle of amending permitted development rights for equipment housing to remove the requirement for prior approval for**

development within Article 2(3) protected land and on unprotected land which exceeds 2.5 cubic metres, to support deployment of 5G?

- 4.6 **Proposed response:** Yes / No / Not Sure - Officers agree that greater flexibility would be appropriate on 'unprotected land' (i.e. land outside of conservation areas in the case of Reading Borough), but do not agree that reduced oversight through Planning control would be appropriate within conservation areas (Article 2(3) land) where this could conflict with the Council's duty to preserve or enhance the character or appearance of the area due to its special architectural or historic interest.
- 4.7 **Question 2.2: What impact could this proposal have on the surrounding area and how could this be addressed?**
- 4.8 **Proposed Response:** Officers consider that the Local Planning Authority should retain full control on those sites in Article 2(3) area. As each site should be considered on its own merits, it is not possible to prescribe how the impact of these developments would be mitigated with any confidence.
- 4.9 Under the current General Permitted Development Order, Code Operators are able to:
- a. Replace a mast with another mast of the same height; or
  - b. Increase the height of the mast up to 25 metres above ground level on unprotected land, subject to prior approval where it exceeds the height of the original mast and is taller than 20 metres above ground, or
  - c. Increase the height of the mast up to 20 metres above ground level on Article 2(3) land or land which is on a highway, subject to prior approval.
- 4.10 This means that when the Code Operator proposes to increase the width of the existing ground-based mast beyond one third, or to increase the height of the existing mast beyond the current height of 25 metres on unprotected land, or 20 metres on Article 2(3) land or land which is on a highway (whichever is greater); an application for full planning permission is required.
- 4.11 Given that to accommodate additional 5G equipment and to enable more site sharing, many existing ground-based masts would need to be strengthened by increasing their width - often by more than one third - under the current regulations a full planning application is required. However, currently the installation of new ground-based masts is permitted development with no restriction on the width of the mast, subject to the prior approval of the local planning authority. Therefore the proposed change would allow existing masts to be made wider in line with new masts.

### ***Question 3: Strengthening existing masts***

- 4.12 **Question 3.1: Do you agree with the principle of amending permitted development rights to allow an increase in the width of existing ground-based masts by more than one third, to support 5G deployment and encourage greater utilisation of existing sites?**
- 4.13 **Proposed response:** Yes/ No / Not Sure  
The current width limit for new masts is appropriate, but it would be sensible for the same rules to be applied to existing masts. An increase in width by up to a third should be the limit before prior approval is needed.
- 4.14 **Question 3.2: If yes to question 3.1, what increase in width should be granted through permitted development rights, without prior approval, to ensure that the visual impact on the surrounding area is minimised?**  
N/A
- 4.15 **Question 3.3: To further incentivise operators to maximise the use of existing sites, should permitted development rights be amended to increase the height of existing**

masts to the relevant permitted height without prior approval? If yes, what restrictions are appropriate to protect safety and security, and visual impact considerations?

4.16 **Proposed response:** Yes / No / Not Sure

Many existing sites in Reading Borough are within the Public Highway using 'lamppost swap out' style masts designed to mimic lampposts. The new generation of taller and wider masts no longer disguise themselves effectively as lampposts or other highways infrastructure and a new approach is needed. This might involve fewer but taller masts in more visually discreet locations. This should be subject to public scrutiny under an application for Prior Approval, or Full Planning Permission.

4.17 A better approach might be to reduce the Prior Approval deadline below 56 days to reduce 'delays' for developers.

**Question 3.4: Are there any other amendments to permitted development rights that would further incentivise operators to maximise the use of existing sites? If yes, what are these and what restrictions would be appropriate to ensure that the visual impact on the surrounding area is minimised?**

4.18 **Proposed response:** Yes / No / Not Sure

For the reasons given in 3.3 it may in fact be preferable to find new, visually discreet sites, or sites on existing buildings to achieve the additional height required.

**Question 4: Masts on buildings near to highways**

4.19 **Question 4.1: Do you agree in principle with creating a permitted development right to grant permission for masts to be located within 20 metres of a highway on buildings less than 15 metres in height, in all areas?**

4.20 **Proposed response:** Yes / No / Not Sure

4.21 **Question 4.2: If yes to question 4.1, what restrictions (if any) could be put in place to control the deployment of infrastructure within 20 metres of a highway on a building less than 15 metres in height, taking into consideration potential impacts on safety to accommodate vehicle lines of sight, and visual impact on local amenity?**

4.22 **Proposed response:** Limit overall height; e.g. to 25 metres above ground level.

4.23 **Question 4.3: If yes to question 4.1, do you agree that this permitted development right should be subject to the prior approval process by the local planning authority?**

4.24 **Proposed response:** Yes / No / Not Sure

The design, location and visual sensitivity of buildings varies widely and a suitably efficient Prior Approval process would still allow the necessary infrastructure to be provided in a timely manner.

**Question 5: Enabling higher masts**

4.25 **Question 5.1: Do you agree in principle with amending permitted development rights to increase the height of new masts, subject to prior approval?**

4.26 **Proposed response:** Yes / No / Not Sure

The Prior Approval process is an efficient way of delivering infrastructure while striking an appropriate balance between the needs of the developer and ensuring design quality and safety in the wider public interest.

4.26 **Question 5.2: If yes to question 5.1, what permitted height should masts be increased to and why?**

- 4.27 **Proposed response:** The height limit is less of a concern. It should be on a case-by-case basis. The important point is to ensure that a degree of control and scrutiny is maintained through the Prior Approval process.
- 4.28 **Question 5.3: If yes to question 5.1, should a lower height limit be permitted for masts located in Article 2(3) land or on land on a highway and why?**
- 4.29 **Proposed Response:** Yes / **No** / Not Sure. As with 5.2, the height limit is less relevant. It is the degree of control over siting and design to allow a proper case-by-case assessment that is important.
- 4.30 **Question 5.4: If yes to question 5.1, what restrictions (if any) should be put in place to control development of permitted higher masts?**  
**Proposed response:** None suggested

## 5. COMMENTARY

- 5.1 There appears to be a degree of inconsistency within the existing Permitted Development rights for masts and other telecoms equipment which could favour provision of new masts rather than replacing existing masts.
- 5.2 In practice, in the case of Reading Borough, a replacement mast usually involves a completely new mast in any case as many existing masts are of the single use monopole or lamppost swap-out type and cannot be easily altered.
- 5.3 It is considered that the key priority for the LPA should be to strike an appropriate balance between retaining control over telecoms equipment to ensure that the visual impact is properly assessed and to properly assess the impact in terms of public (usually highway) safety. Officers advise that the Prior Approval procedure provides for this and should not be weakened. It is especially important that proper controls are maintained in conservation areas, but also generally as visual sensitivities are not confined to conservation areas. There is a general aim within Planning to preserve ‘visual amenity’ across all areas. It is also relevant to note that many listed buildings exist outside of conservation areas and their setting could easily be harmed by insensitive development.

## 6. CONTRIBUTION TO STRATEGIC AIMS

- 6.1 The Planning Service contributes to the Council’s strategic aims in terms of:
- Seeking to meet the 2019 Corporate Plan objectives for “Keeping the town clean, safe, green and active.”
  - Seeking to meet the 2019 Corporate Plan objectives for “Providing homes for those in most need.”
  - Seeking to meet the 2019 Corporate Plan objectives for “Providing infrastructure to support the economy.”

## 7. COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 There is no reference to these matters in the changes proposed.

## 8. EQUALITY IMPACT ASSESSMENT

- 8.1 Where appropriate the Council must have regard to its duties under the Equality Act 2010, Section 149, to have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 There are no direct implications arising from the proposals.

## **9. LEGAL IMPLICATIONS**

9.1 These are dealt with in the Report.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no direct financial implications resulting from this report.