

Landscape Institute

Proposed reforms to permitted development rights to support the development of 5G and extend mobile coverage

Response from the Landscape Institute

For: Ministry for Housing Communities and Local Government

Date: 28th October 2019

1 Summary

The Landscape Institute welcomes this opportunity to comment on the principle of amending permitted development rights for 4G and 5G operators, and on the circumstances in which it would be appropriate to do so. We support the government's intention to "*keep the planning regime under review and to listen to suggestions from industry for how new technology is best supported in the planning regime*".

However, it is vital that the government also listens to the local communities who will be affected by the proposed development of new and expanded communications infrastructure.

In principle the Landscape Institute supports several of the draft proposals put forward in the consultation document. We understand why the industry seeks to achieve wider 4G and 5G mobile network coverage, and we appreciate that these proposals would help to meet the government's ambitions in relation to mobile geographical coverage.

Nevertheless, the aim of the planning system is to ensure that all forms of sustainable development will deliver environmental and social benefits as well as economic gains. Apart from the exceptions proposed for SSSI's, the proposals would run counter to national planning policies in NPPF which recognise the importance of 'protecting and enhancing' designated sites and valued landscapes, including National Parks, AONBs, World Heritage sites, and Registered Parks and Gardens.

We therefore consider that, in the designated areas that are specifically protected by national policies in NPPF, it will in most cases be inappropriate to expand PD rights without prior approval. This will enable the local planning authority to control the siting and appearance of apparatus and to undertake public consultation with local residents and statutory consultees.

We acknowledge MHCLG's intention to revise the proposals to take account of the findings of the 2019 'Protected Landscapes Review'. However, we are concerned that the current proposals to

relax the General Permitted Development Order (GDPO) contradict the Glover panel recommendations that Permitted Development Rights should be reviewed and 'tightened up' in these areas.

2 Who we are

The Landscape Institute (LI) is the royal chartered body for the landscape profession. We represent over 5000 landscape architects, planners, designers, managers and scientists.

As a professional organisation and educational charity, we provide training, accreditation, technical advice, and standards to maintain the high quality of the landscape profession in the UK. We protect and enhance the built and natural environment for the public benefit. We work closely with many professionals working in designated and valued landscapes and have extensive membership expertise in planning policy.

3 Full Response

Question 1: Role of Industry

Question 1.2: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what impact would they have on planned deployment of 5G technology?

The consultation document helpfully points out that "*the choice between these approaches is about balancing the importance of local democratically elected representatives making decisions on infrastructure which affect their local community and giving mobile network operators certainty that decreases the risk, cost and time associated with deployment of infrastructure.*"

The Landscape Institute takes the view that the planning system is designed to protect the public interest and that government should not in any circumstances expand the permitted development regime where such actions would prejudice the visual qualities of valued landscapes and the amenities of local communities.

Question 1.3: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what further measures could industry offer to reduce visual impacts of new electronic communications infrastructure and how would these be delivered?

The Landscape Institute is very concerned about the potential individual and cumulative effects of a greater number of bulkier and taller mobile network masts, which could result in significantly greater adverse landscape and visual impacts. We are particularly concerned about the landscape and visual impacts of taller and bulkier 4G and 5G masts within areas designated for their historic, cultural and landscape value, as listed above.

Within and adjacent to the boundaries of these designated areas the proposed relaxation of PD rights is inconsistent with national policies in the NPPF that seek to safeguard the landscape and visual quality of such designated areas and their settings.

You will be aware that the designation of an SSSI relates predominantly to biodiversity and scientific criteria rather than to any special landscape or visual qualities. Therefore, it is inconsistent to offer protection to nature conservation sites and not to the valued landscapes of National Parks, AONBs, Conservation Areas etc, within which local communities and visitors will be adversely affected by the visual intrusion caused by the proposed expansion of the digital communications network.

To mitigate potential adverse impacts we would amend the General Permitted Development Order (GDPO) in order to require industry to adopt special measures for all extended and enlarged mast installations in all the designated areas named above. Such measures should include specific limitations, conditions and restrictions in order to mitigate the visual impacts of any expanded structures.

For example:

- Prior approval will always be required for the proposed installation of any replacements or enlargements that would increase the height of an existing mast by more than 25% in height and/or by more than a third in volume (including the apparatus attached to the mast structure);
- Code Operators will be urged to take advantage of all aspects of digital miniaturisation as they emerge, to minimise the need to enlarge and strengthen mast structures to support additional equipment;
- Code Operators will be urged to support the design of new construction systems for strengthening, replacing and enlarging masts using lightweight frameworks, open lattices and mesh fabrications, to minimise the visual intrusion of taller masts;

We strongly support the proposals a) and b) put forward in paragraph 38 of the consultation document, to strengthen the Code of Best Practice in terms of the design and appearance of equipment housing, masts and other structures relating to 4G and 5G communications infrastructure. Revisions to the GDPO and 'Code of Best Practice' should reflect the emphasis on high quality design in NPPF, and seek to minimise visual impacts.

The industry is urged to initiate an international design competition for a modern mast structure [Network Rail recently ran a successful design competition for new station footbridges]. Government may then consider whether 'prior approval' could be removed if the chosen design is adopted by operators;

Further comments in questions 2-5 below.

Question 1.4: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what further measures could industry offer to ensure that equipment at redundant sites is removed and the land is restored, and how would these be delivered?

In our view it is very unusual for landowners, developers and operators to be willing to undertake the restoration of redundant sites, unless they can profit from some form of new development that justifies the costs of clean-up and restoration. Therefore we consider that it will be necessary to impose a mandatory duty on all operators to remove redundant equipment and restore previously-developed land to an appropriate after-use.

We propose that this duty should be enforced via specific limitations, conditions and restrictions in the General Permitted Development Order, as there is no certainty that any additional assurance in the industry's voluntary 'Code of Best Practice' would be effective in delivering such hoped-for improvements.

Question 1.5: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what further measures could industry offer ?

We strongly support the observation in the consultation document that "*although shared sites tend to be slightly bigger, fewer sites are needed to improve coverage and capacity.*" Strict limitations on the number of new mast sites within National Parks, AONBs, Special Landscape Areas, Conservation areas, Listed Buildings, Ancient Monuments, World Heritage sites, and Registered Parks and Gardens are to be welcomed.

However, we consider that in those designated areas it will be essential to impose a mandatory duty on all operators to demonstrate that the capacity in the network, for the re-use or expanded use of existing sites and infrastructure in the local area, has been fully assessed and maximised before any new sites are identified.

This will involve providing evidence (to the relevant local planning authority) that the operators have adequately explored the potential for increased sharing of infrastructure, strengthening and re-using existing masts, and/or building masts onto or into existing buildings. Clearly the need to provide such evidence to satisfy the local planning authority can only be enforced if all proposals for new masts within designated areas are subject to planning permission.

We therefore propose that this duty should be enforced via specific limitations, conditions and restrictions in the General Permitted Development Order. There is no certainty that any additional assurances in the industry's voluntary 'Code of Best Practice' would be effective in safeguarding local amenity and minimising the unwanted proliferation of digital infrastructure.

Question 2: Enabling deployment of radio equipment housing on land without requiring prior approval, excluding on sites of special scientific interest, to support 5G deployment

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?

No

We note that radio equipment housing ('equipment housing') "*can range in size from a small cabinet to a purpose-built cabin serving several operators. It can be placed within a building, underground, on the ground or on a rooftop.*"

This proposal refers to equipment housing that EXCEEDS 2.5 cubic metres, which is equivalent to the 'standard' roadside cabinet used to house 'fixed-line' equipment. Where housing for radio equipment is proposed to exceed the PD limit, that is over 2.5 cubic metres, but would not be prominent in the public view, being underground, within an existing building, or hidden on a rooftop, then we consider that the requirement for prior approval for such development could quite reasonably be removed.

However, where cabinets or cabins or other forms of housing that are larger than 2.5 cubic metres in volume -

- will be sited at ground level;
 - will be prominent in the public view, and
 - will be located in an area designated for its landscape, cultural or historic value, including protected Article 2(3) land, and protected by policies in NPPF (National Parks, AONBs etc),
- then the requirement for GDPO 'prior approval' should not be removed.

Question 2.2: What impact could this proposal have on the surrounding area and how could this be addressed?

The consultation advises that the industry's Code of Best Practice seeks to ensure that, *"especially in the case of new sites, equipment is sympathetically designed and camouflaged where appropriate, in line with national planning policy principles and relevant adopted local planning policies"*.

We therefore reiterate our comments made above, that it is inconsistent to exclude SSSIs from the requirement to apply for prior approval and not the designated areas that are specifically protected by national policies in NPPF, including Article 2(3) land.

In those designated areas, prior approval is a necessary safeguard. It will be important for the local planning authority to consider the size, height and bulk of a proposed cabinet or "housing" on a site-by-site basis. Existing boundary treatments and landscape features will help determine whether the proposed "housing" should be taller, or wider, or deeper, than the 'standard' roadside cabinet, or whether the proposal would be unacceptably obtrusive in that particular location.

Question 3: Strengthening existing ground-based masts to enable sites to be upgraded for 5G and for mast sharing without prior approval

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?

Qualified yes -

In principle the Landscape Institute supports the greater utilisation of existing mast sites for upgrading equipment and for mast-sharing by different operators, to improve the coverage and capacity of digital infrastructure networks whilst minimising the need for new development sites. We are encouraged by the comment in paragraph 45 that *"shared sites tend to be slightly bigger ..."*

The term 'slightly' suggests 'not very much bigger'. However, an amendment to the GDPO that would allow unrestricted increases in the width of existing ground-based masts *"by more than one third"* could be interpreted as allowing an increase by half or by two thirds, or by more than 100%, at any height, under permitted development rights. In our view a strict limit needs to be placed on the potential increase in width that will be permitted.

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?

We note that GDPO Part 16 Communications Class A "A1 - Development not permitted: ground-based apparatus" makes specific reference to mast sites within designated areas and SSSIs:

Extract - A.1(1) Development is not permitted by Class A(a) if -

(c) in the case of the alteration or replacement of an existing mast (other than on a building or other structure, on article 2(3) land or on any land which is, or is within, a site of special scientific interest)—

(i) the mast, excluding any antenna, would when altered or replaced—

(aa) exceed a height of 20 metres above ground level;

(bb) at any given height exceed the width of the existing mast at the same height by more than one third; or

(ii) where antenna support structures are altered or replaced, the combined width of the mast and any antenna support structures would exceed the combined width of the existing mast and any antenna support structures by more than one third.

In areas which are designated for their landscape quality or cultural or historical value, including Article 2(3) land, we would not support any increase in width of more than a third, without prior approval.

We would suggest that in most cases an increase in width (or depth) of up to a third could potentially be mitigated by judicious boundary treatments and/or screen planting around the mast site and/or between the mast site and the public footpath, cycle track or road from which it is viewed. In such locations, the local planning authority should have an opportunity to assess whether any potential visual impacts of enlargement could reasonably be absorbed into the surrounding landscape or townscape, or adequately mitigated.

If the GDPO is amended in this way the regulations should make it very clear that a permitted increase in width does not imply that permission would be granted for any increase in the overall height of an existing mast.

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?

No

We refer again to GDPO Part 16 Communications Class A "*A1 - Development not permitted: ground-based apparatus*" which makes specific reference to mast sites within designated areas and SSSIs:

Extract - A.1(1) Development is not permitted by Class A(a) if -

(c) in the case of the alteration or replacement of an existing mast (other than on a building or other structure, on article 2(3) land or on any land which is, or is within, a site of special scientific interest)—

(i) the mast, excluding any antenna, would when altered or replaced—

(aa) exceed a height of 20 metres above ground level;

For any mast that is located in an area designated for its landscape, cultural or historic value, including protected Article 2(3) land, and protected by policies in NPPF (National Parks, AONBs etc), the requirement for GDPO 'prior approval' should remain. Any increase in the height of such masts will need to be assessed on a site-by-site basis, to minimise the potential visual intrusion of a taller mast carrying additional apparatus in each particular location. Therefore the GDPO 'prior approval' requirement should not be removed.

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?

As above, we consider that it will be essential to impose a mandatory duty on all operators to demonstrate that the capacity in the network, for the re-use or expanded use of existing sites and infrastructure in the local area, has been fully assessed and maximised before any new sites are identified.

This will involve providing evidence (to the relevant local planning authority) that the operators have adequately explored the potential for increased sharing of infrastructure, strengthening and re-using existing masts, and/or building masts onto or into existing buildings. Clearly the need to provide such evidence to satisfy the local planning authority can only be enforced if proposals for new masts are subject to prior approval.

We therefore propose that this duty should be enforced via specific limitations, conditions and restrictions in the General Permitted Development Order. There is no certainty that any additional assurances in the industry's voluntary 'Code of Best Practice' would be effective in safeguarding local amenity and minimising the unwanted proliferation of digital infrastructure.

Question 4: Enabling deployment of building-based masts nearer to highways to support deployment of 5G and extend mobile coverage

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?

Yes in principle

We note the inconsistency of planning permission being necessary for new masts on a building less than 15m tall located within 20 metres of the highway as compared to the permitted development right that allows operators to alter or replace an existing mast on a building which is less than 15 metres in height, within 20 metres of the highway.

We accept that "*mobile network operators wish to deploy building-based masts in close proximity to highways.*" In principle we support this proposal in order to improve mobile coverage alongside busy main roads. However, in rural areas where traffic tends to be light and where settlements tend to be small and scattered, we consider that a mast and apparatus, installed on a 15m high building within 20m of a road, could have a disproportionate adverse impact on the local landscape character.

Whilst this proposal could encourage greater use of existing buildings for the siting of apparatus, and reduce the need for new ground-based masts, we consider that such proposals should always be subject to prior approval by the local planning authority.

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?

In principle we consider that the total height from ground level of masts, apparatus and equipment installed on buildings should be limited to no more than 25metres in unprotected areas. In designated areas including Article 2(3) land, on listed buildings, Ancient Monument sites and buildings within a Conservation area, the limit should be no more than 20metres. Prior approval should be required in all cases.

If an existing building is to be used to install a mast and apparatus, and that building is closer than 20m from a highway, then we would not consider it necessary to define a minimum distance for the proximity of the mast to the carriageway. However, the usual restrictions governing highway safety and inter-visibility should apply.

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?

Yes, as above

Question 5: Enabling higher masts to deliver better mobile coverage and mast sharing

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

Yes

We note the current permitted development right to erect new ground-based masts of up to 25 metres in height in unprotected areas and 20 metres on Article 2(3) land, or land which is on a highway, subject to prior approval. For new ground-based masts which will be taller than 25 metres in an unprotected area and above 20 metres in Article 2(3) land, or on a highway, or in an SSSI, planning permission is required.

In principle, and in unprotected areas, we would have no objection to the amendment of PD rights to increase the height of new ground-based masts above the 25m current maximum, but always subject to prior approval. This relaxation would hopefully promote the installation of fewer but taller masts.

However, NPPF paragraph 113 specifies the expectation that the "*use of existing masts, buildings and other structures for new communications capacity, including wireless, should be encouraged*". Any amendment to the GDPO must ensure that operators are required to fully justify any proposal for a new mast by demonstrating how different options such as mast-sharing, structures on buildings, etc, have been examined and found not to be feasible or practical in that location.

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

It is our view that the siting, design and height of each individual proposed new mast will need to be assessed on a site-by-site basis, in discussion with the local planning authority and the local community, to minimise the potential visual intrusion of a tall mast carrying additional apparatus in a particular location.

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?

Yes

We reiterate our comments made above, that it is inconsistent to require SSSI areas to be afforded special consideration and not the designated areas that are specifically protected by national policies in NPPF, including Article 2(3) land.

In those designated areas prior approval, and a lower acceptable height limit for new masts, will be a necessary safeguard. It will be important for the local planning authority to consider the size, height and design of a proposed new mast on a site-by-site basis. Analysis of local landscape character, natural assets, important views and landmarks will help to determine whether the proposed mast would be unacceptably obtrusive in that particular location.

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?

We note the quoted example of a 50 metre mast, deployed in the rural community of Kildary and Milton in Scotland. We acknowledge that, in some locations, a proposal for a single tall mast would be preferable to a proliferation of smaller masts.

It is our view that the siting, design and height of each individual proposed new mast will need to be assessed on a site-by-site basis, in discussion with the local planning authority and the local community, to minimise the potential visual intrusion of a taller mast carrying additional apparatus in a particular location. Therefore the GDPO 'prior approval' requirement should not be removed.