



Department for
Communities and
Local Government

Extending permitted development rights for mobile connectivity in England: Technical consultation

Summary of responses

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Introduction

1. The Government believes that a responsive planning system is vital to deliver sustainable development swiftly and smoothly to help boost economic growth. In May 2013, the Departments for Communities and Local Government and Culture, Media and Sport ran a technical joint consultation on proposals to extend permitted development rights 'Mobile connectivity in England'.
2. The consultation set out proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the 1995 Order) and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 to grant further permitted rights for mobile communications operators.
3. In this document "protected areas" refers to article 1(5) land i.e. National Parks, Areas of Outstanding Natural Beauty, conservation areas, and areas specified under section 41(3) of the Wildlife and Countryside Act 1981, the Broads and World Heritage Sites. "Non-protected land" refers to all other land, apart from Sites of Special Scientific Interest, which were excluded from the scope of the proposals in the consultation.
4. The proposed changes on which we consulted fall broadly into the following categories:
 - Maximising the use of existing structures and buildings to minimise the requirement for new ground-based masts;
 - Extending existing permitted development rights and thresholds; and
 - Clarifying a number of existing permitted development rights in the 1995 Order to remove ambiguity.
5. The consultation closed on 14 June 2013. There were 70 responses: 26% from local authorities and parish councils, 13% from professional trade associations, 33% from the mobile sector and operators, 13% from members of the public, 7% from the voluntary sector and 8% from other organisations. All the measures were supported by a majority of respondents.
6. This paper is a summary of the responses received and the Government's response to the consultation.

Background

7. Digital communications are an integral part of modern-day life. There are over 82 million mobile subscriptions in the UK¹, and data traffic more than doubled in 2012². 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.
8. The Secretary of State for Culture, Media and Sport announced a package of measures on 7 September 2012 to improve the country's communications infrastructure. This included a commitment to 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 particularly to support the sifter roll-out of 4G. Discussions with mobile operators and local government informed the development of the proposals in the consultation document.
9. 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.
10. The last major update of the 1995 Order was in 2001, with some minor adjustments to terminology in 2003. The approach adopted then 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.

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/>

Outcome of the consultation

Summary of responses by question

11. The consultation invited views on 11 permitted development right proposals with one question seeking views on the cost benefits and assumptions used. The questions and their results are set out below.

Antenna

Question1: 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 4m to up to 6m 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 4m to up to 6m and placement on buildings falling within existing restrictions?

12. There were 63 responses to part (i) of the question with 81% supporting the proposal, and 64 responses to part (ii) of the question with 78% supporting that proposal.
13. Some professional planners, their associated trade body and one national heritage organisation recommended that a specified off-set from the edge of buildings or structures should be set out in the regulations. A few sought reassurances that the new antenna height would continue to comply with the International Commission on Non-Ionizing Radiation Protection. Industry called for the removal of prior approval (siting and design) for wall mounted antenna. Those who did not support the proposal were primarily concerned with the potential impact on visual amenity.

Government Response

14. Operators are required to confirm to local planning authorities their developments fully comply with the International Commission on Non-Ionizing Radiation Protection. Whilst there was no proposed requirement to off-set the antenna in the consultation, mobile operators' responses confirmed that the change will enable the antenna to be placed further back from the edge. In addition, the 1995 Order and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (the 2003 Regulations) places requirements on operators to minimise the visual impact of equipment. We will implement the consultation proposal.

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 15m and up to 5 antenna systems on buildings above 15m?

15. There were 63 responses with 84% supporting the proposal.
16. Industry and one rural trade association called for 5 antenna systems regardless of building or structure height to maximise the use of existing sites, and to extend the measure to protected areas. Some professional planners and their associated trade association raised concerns with the amount of telecommunication equipment this could lead to being on site, but supported the proposal as it maximises the use of existing sites and sharing of infrastructure. There was support from local authorities, parish councils and professional trade associations. Those who did not support the proposal were concerned about the impact on the visual amenity.

Government Response

17. There was strong support for this proposal and we will implement the consultation proposal.

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 and Restrictions) 2003 should be amended to include the definition of antenna systems?

18. There were 61 responses to both parts of this question with 90% supporting both proposals.
19. Industry recommended that the proposal should be for 4 operators and not 3 as proposed. There was strong support from local authorities, parish councils and professional trade associations. Some who did not support the proposal called for a lower limit to further encourage sharing.

Government Response

20. We will implement the changes proposed in the consultation to the 1995 Order by moving, the provision regarding the number of operators out of the definition of ‘antenna system’ and into the main body of the permitted development right. On part (ii) the Department for Culture, Media and Sport has concluded that it does not need to amend the 2003 Regulations for the change to the 1995 Order to have effect.

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?

21. There were 61 responses with 93% supporting this proposal.
22. Industry sought clarification that the cover of an antenna system is included in the definition to avoid ambiguity. Some professional planners, their professional trade association and a national heritage organisation whilst supportive of the proposal called for structures required to grant safe access to antenna to be excluded from the permitted development right i.e. planning permission. The majority of local authorities, parish councils and professional trade organisations supported the proposal. Others not supporting the proposal did not add any comments.

Government Response

23. We agree that the cover/casing is an integral part of the antenna and as such should be included in the proposal to avoid future ambiguity. On further consideration of the drafting approach to adopt for regulations, we are merging this proposal with 8 (ancillary equipment) to include an interpretative provision which clarifies that any permitted development right for electronic communications apparatus (including antenna) also grants permission for ancillary development such as handrails, steps, ramps and fencing, support structure and casings subject to a test that they are for the purposes of the particular apparatus being developed. We will implement the proposed change with this adjustment.
24. Both the 1995 Order and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 (the 2003 Regulations) places requirements on operators to minimise the visual impact of equipment. This places a strong requirement on operators when designing and installing electronic communication apparatus to minimise its visual impact as is reasonably practical to do so.

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 m²) 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 15m and up to 2 for buildings or structures above 15m?

25. There were 63 responses with 84% supporting part (i) of the question and 63 responses with 82% supporting part (ii).

26. Planners, their professional trade association, parish councils, one national heritage organisation were supportive. Responses from industry clarified that the change they were seeking is for 'small cell antenna' whereas microcell is a specific type of small cell antenna (the largest). In addition, in view of their small footprint and ease of deployment they asked for the 1995 Order to be amended to include both non-protected and protected areas without (prior approval) and either an unlimited number of antenna or alternatively 4 antenna rather than the 2 we consulted on, regardless of height. This argument was supported by two rural trade associations as way of rolling out mobile access in rural and protected areas more quickly. A concern was raised regarding the proposed technical definition proposed and the 15m height thresholds. The majority who did not support the proposal left no comments, although one called for no limits on the number of antenna proposed.

Government Response

27. Working with the Department for Culture, Media and Sport we carefully considered the technical advice received. As the use of small cell antenna reduces the need for ground based masts, are quick and cost-effective to deploy and should therefore support the roll-out of 4G, we will bring forward changes for both non-protected and protected areas for buildings or structures regardless of their height. To further support access to broadband, the definition for small cell antenna will not be restricted to a particular type of electronic communications equipment, providing such equipment falls within the overall size limitations of the new definition for small cell antenna that we will make to the 1995 Order.

28. To encourage the sharing of infrastructure amongst the mobile operators we will maintain the proposed limit of 2 small cell antenna per building or structure subject to prior approval (siting and design) in protected areas and a permitted development right in non-protected areas.

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 4.5m aggregated limit for buildings or structures below 15m in height and 10m aggregated limit for buildings or structures above 15m with no single dish antenna is larger than 0.9m (industry standard)? and
- (ii) What other options, if any, or aggregated size thresholds should be considered?

29. There were 59 responses to part (i) of the question with 73% supporting the proposal and 11 responses to part (ii) with 91% support. The majority of responses to part (ii) were from the mobile industry.

30. Industry and its associated trade body put forward an option under part (ii) of the question calling for an aggregated limit of 10m irrespective of height in non-protected and 5m in protected areas. Some professional planners and their associated trade body whilst supportive of proposal (i) were concerned with the proposed levels of dish antenna and recommended an offset from the edge set in regulations, while other local authorities and parish councils supported the proposed change entirely. Those not supporting the proposal, including some local authorities and parish councils, and one national heritage organisation either left no comments or were mainly concerned with the impact on visual amenity.

Government Response

31. For clarification, the 0.9m limit for any single dish applies to buildings or structures below 15m. The limit above 15m is 1.3m for any single dish antenna.

32. We will implement the proposal set out in (i), as this received broad support and no clear evidence was submitted to support the suggested alternative approach (ii).

Radio Equipment Housing

Question 7: Do you agree that Part 24 of Schedule 2 to the 1995 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?

33. There were 61 responses to this question of which 84% supported the proposal.

34. Industry supported the proposal. Some parish councils raised concerns that the volume should be cumulative although the majority of local authorities and parish councils supported the proposal as did professional planners trade association. Of the few who did not support the proposal they either left no comments or thought the volume limit should be cumulative.

Government Response

35. We will proceed with the proposal set out in the consultation. In addition, we will clarify that the current upper limits in the 1995 Order (for all-land) of an individual development of not exceeding 90 cubic metres on the ground or 30 cubic metres on a roof are cumulative. Development above these thresholds will be subject to planning permission.

Ancillary equipment

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?

36. There were 62 responses of which 79% supported proposal part (i), and 61 responses of which 80% supported part (ii).

37. Industry called for permitted development rights in both protected and non-protected land i.e. no prior approval in protected land, and sought clarification whether there would be a new wider definition to the current one of 'development ancillary to radio equipment housing'. Some professional planners, their associated trade body and a national heritage organisation were concerned that the proposal could lead to ancillary equipment larger than the telecommunications equipment it serves. One national charity raised a concern in respect of the impact on the 2003 regulations. There was strong support from parish councils, local authorities and professional trade associations. Some who did not support the proposals either left no comments or thought that such decisions should lie with the local planning authority.

Government Response

38. Both the 1995 Order and the 2003 Regulations places requirements on operators to minimise the visual impact of equipment. This places a strong requirement on operators when designing and installing electronic communication apparatus to minimise its visual impact as is reasonably practical to do so.

39. As for proposal 4 (antenna), on further consideration of the drafting approach to adopt for changing the 1995 Order we are merging proposals 4 (to include supporting structures, fixings and antenna cover) and this proposal. We also agree that ancillary equipment is not just in relation to that already covered by the 1995 Order for radio housing cabinets. We will amend the 1995 Order to clarify that where permission is granted for any electronic communication apparatus that permission extends to security equipment, perimeter walls or fences, handrails, steps and ramps. As no changes are to apply to Sites of Special Scientific Interest they will be excluded from this change.

Upgrades to existing sites

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 m in diameter and up to 2 additional antenna of up to 3 m 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

40. There were 59 responses to part (i) of the question of which 73% supported proposal, 10 responses of which 80% supported part (ii) and 19 responses of which 89% supported part (iii).
41. There was strong support from local authorities, parish councils, professional trade associations, a national heritage organisation and industry. Industry advised that 3 antenna and 3 antenna dishes were needed and not two as an upgrade to 4G would require 3 of each, set at 120 degree to each other in order to offer 360 degree coverage. They further advised that the limitation of 2 of each as consulted would greatly reduce the benefits and restrict the effective roll-out of 4G. Industry also called for the removal of prior approval (siting and design) which was supported by a rural trade association.
42. Professional planners and their associated trade body supported the proposal subject to prior approval to ensure that siting and design considerations are taken fully into account together with local consultation. Those not supporting the proposal also pointed out that 3 antenna and 3 dish antenna are needed, others left no comments or were concerned with the potential visual impact. The majority supported extending the proposal to new sites as well as existing sites. No comments were left by the two who did not support the proposed change.

Government Response

43. Working with the Department for Culture, Media and Sport we have sought technical advice and will amend the 1995 Order to enable the installation of up to 3 antenna and up to 3 dish antenna of the size proposed in the consultation option (iii). This permitted development right will only apply in protected areas and will be subject to prior approval.

Amendments to permitted schemes

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 application?

44. There were 60 responses to this question of which 66% supported the proposal.
45. Industry supported this proposal for agreed changes to be confirmed in writing to avoid delays and uncertainty for operators. Professional planners and their trade association sought clarification that the change would be non-material (minor). There was strong support from parish councils and professional trade associations. Some professional planners, their trade association and one national heritage organisation were concerned that the changes have to be non-material.

Government Response

46. We will bring forward changes to the 1995 Order as set out in the consultation that minor amendments to approved schemes do not need a new prior approval application.

Extending existing masts

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 15m high should be able to be increased in height by up to 5m to 20m and in width by up to a third under a permitted development with prior approval?

47. There were 60 responses to this question of which 61% supported the proposal.
48. Industry, its professional trade association and other trade associations were supportive as was a national heritage organisation. Industry called for clarification on whether the proposal relates to the existing mast or a new mast on the site. For a new mast in non-protected areas they argued for permitted development i.e. no prior approval (siting and design) providing it is located within 5m of the existing site. Others pointed to permitted rights in Scotland and Northern Ireland (siting the new masts as close as reasonably practicable). In protected areas, industry asked that an existing 15m mast should be able to be extended by up to 2m to 17m and width by 10% and again within 5m of the original mast as permitted development without prior approval. In addition, the proposal should apply to existing and future masts. This was also supported by a rural professional trade association.
49. Many parish councils were supportive of the proposal as were some professional planners. Others planners and their trade association were not supportive. Others were not supportive of the proposal and wanted to retain the current requirement to secure planning permission.

Government Response

50. We did not consult on siting a replacement mast within a set distance or on protected land. As set out in the consultation for structural reasons e.g. wind loading on the increased height the existing mast may not be able to physically support an increase of 5m in height. In such situations the existing mast will need to be replaced with a new mast on the same site subject to a maximum new height of 20m and up to one third in width when compared to the original mast. There was overall support for the proposal and Government will amend the 1995 Order as set out in the consultation.

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.

51. There were 35 responses to this question with 42% agreeing our data and assumptions are correct.

52. Those not agreeing with the cost assumptions did not offer alternative data and assumptions but raised concerns over the visual amenity of the changes proposed in the consultation.

Government Response

53. Responses did not provide any strong evidence to challenge our data assumptions. The mobile operators' trade association has provided further data on the range of savings to business which we will publish in our final Impact Assessment.