

Response to DCMS and DCLG consultation

Mobile connectivity in England

June 2013



Overview of response

The Broadband Stakeholder Group (BSG) welcomes this consultation from DCMS and DCLG. The BSG supports the broad objectives of the consultation as well as those of the growth package set out by the Secretary of State for Culture, Media and Sport in September 2012. The BSG has long-called for the removal of non-sectoral regulatory barriers to private sector investment and broadband roll-out and accordingly this initiative is welcome.

It is particularly timely to give much needed support to an efficient rollout of 4G mobile services where communities across the UK are calling for these services to be made available in their areas and which promise many benefits to UK consumers and businesses.

However in addition to supporting roll-out, this consultation exercise also offers government the opportunity to go further to future proof the planning system to accommodate anticipated ongoing needs in a world where the ability to access digital services becomes ever greater.

Accordingly, in addition to expressing support for the measures proposed, the BSG sets out areas where the government may wish to go further to ensure that the planning system supports its overall objective of the UK having the best broadband provision in Europe. These suggestions relate to two main issues:

- The proposals regarding upgrades to existing sites should go further to allow upgrades to occur under permitted development without prior approval. The BSG believes that this is necessary to realise the full potential of the proposals. Without making this change there is a danger that the proposals may not be that impactful on the ground as the administrative burden and timescales in seeking prior approval could be quite similar to those experienced in having to apply for full planning permission.
- The BSG also proposes that there should be further easing of restrictions in protected areas as this will help bring provision in rural areas where the need can often be greatest.

The BSG also supports three additional proposals to what is covered in the consultation document, focusing on the issue that some new infrastructure will be necessary to support 4G roll-out:

- Permitted development with prior approval should be extended to 20 metres from the current 15 metres for new masts in non-designated areas
- There should be permitted development, with prior approval, for new masts up to 15m in protected areas
- The timescale for emergency works should be increased from 6 months to 12 months

Responses to consultation proposals

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) 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?

The BSG supports the proposed increase in height limit for antenna and that this change is likely to encourage antennas to be sited further back on the rooftop, limiting visual impact from the street. The BSG however believes that permitted development should apply without prior approval for face mounted antennas as this would encourage their deployment over roof-mounted structures which have the potential to be more visually intrusive.

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?

The BSG believes that up to five antenna systems should be permitted on buildings regardless of the height of the building and that this should apply in both non-protected and protected areas. The BSG believes that this would maximise the use of existing buildings most efficiently.

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

The BSG agrees with this proposal but suggests that there should be no limit on the number of operators utilising an antenna system. This would have no disadvantage in that there would be no visual impact from four rather than three operators utilising the equipment and the proposal would also maximise use of existing buildings. On a broader note this suggestion would also align with the government's encouragement of sharing infrastructure between commercial providers.

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?

The BSG is fully supportive of this proposal as it will ward off ambiguity and prevent different and inconsistent interpretations by planning authorities when considering issues concerning antenna and their siting. We propose that the above suggested definition also includes any 'shroud' element of an antenna. This would recognise the environmental benefit of shrouding and prevent subjecting shrouding to a different level of planning permission, which sometimes occurs at present and which is both unhelpful and illogical.

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 metres²) 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?**

The BSG believes that as this type of antenna is of very limited visual impact, it should only require permitted development (not requiring prior approval) in both non-protected and protected areas (bar listed buildings or scheduled monuments) and should not be subject to a maximum number which can be installed.

We also believe that in non-protected areas, an exception should be made for small antennae that fall within paragraph A.1(g), i.e. that are mounted on a wall or roof slope facing a highway which is within 20 metres of the building or structure on which the antenna is to be located. We are concerned that, in cities, it will be difficult to roll out this small cell technology *without* facing a highway, due to the nature of the urban environment. We think that small cell antennae should be permitted development on walls facing highways.

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?**

The BSG supports the proposal for an increase in the thresholds for aggregate dish sizes. However the proposed aggregated dish size limit of 10m should apply regardless of the height of the building, which would maximise use of existing buildings. Consideration, within certain thresholds, should also be given for permitted development for dish antennas on buildings within protected land. An aggregate size of 5m, i.e. half of the size in non-protected land, seems appropriate. As per our response to question 5, listed buildings or scheduled monuments would continue to be protected via the separate system for listed building consent. The role of dish antennas in providing coverage in rural areas is extremely important and making their deployment easier would aid the objective of bringing better connectivity to rural areas.

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 communication equipment of up to 2.5 cubic metres is not cumulative?

The BSG welcomes this proposal as it addresses ambiguity that currently exists in the drafting of the current regulations. This should result in a positive outcome in that there is more clarity for planning authorities and operators and should support enhanced consistency in the treatment of such issues.

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?***

The BSG broadly welcomes this proposal but would counsel that all such ancillary equipment should be classes as permitted development (without the need for prior approval) whether this occurs in protected or non-protected areas. This would prevent instances where ancillary equipment has to seek prior approval when the installation it is supporting does not; which seems both a burdensome and illogical requirement.

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 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?***

The BSG is supportive of the proposal to allow additional point-to-point microwave transmission dishes on existing sites. However we see no reason why this cannot amount to three rather than two additional antennas to be permitted in light of the fact that a 4G upgrade involving separate antenna would require a minimum of three antennas to work. Furthermore in order that such changes can be expedited efficiently we propose that these should be classed as permitted development without prior approval.

We strongly endorse the suggestion that this applies both to existing and new sites as some new sites will inevitably be required as part of 4G roll-out.

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?

The BSG fully endorses this proposal as it removes a somewhat illogical process of entering a lengthy application process in a situation where agreement has already been made between a mobile operator and a local planning authority.

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?

The BSG believes that the proposed increases in mast sizes should apply both to existing masts and to the replacement of an existing mast (within 5 metres of the original). Again, we believe this should be allowed under permitted development, without prior approval, in non-protected areas. Within protected areas, we think it would be proportionate to allow existing masts up to 15 metres high to be extended or replaced by up to 2 metres and in width by a tenth (and similar terms for a replacement mast within 5 metres of the original) through permitted development without prior approval.

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***

In line with our responses in relation to the proposals set out in this consultation document, the BSG believes that the proposals as drafted will have limited impact unless proposals are changed so that they involve permitted development without prior approval.

The Code of Best Practice on Mobile Phone Network Development makes clear that the application requirements under the prior approval process are exactly the same as full planning. As such there is a risk that in enacting these proposals as drafted, there is a change in word but not in deed and that the desired outcome – facilitating quicker 4G upgrade – is not realised to its full potential.

In light of both the need to accelerate roll-out and to remove barriers to roll-out in economically challenging areas the case for this to us is clear. Furthermore, as expressed in our response to specific proposals, many of the suggested changes would not lead to negative visual impact, hence removing the logic for retaining the need for prior approval.

In addition, the opportunity for mobile operators to work with planning authorities and other stakeholders in updating the Code of Best Practice offers the opportunity to ensure any concerns regarding siting and design of mobile infrastructure are raised and reflected in the code and in the execution of roll-out of this much needed infrastructure.

Additional proposals

The additional proposals we put forward are:

1. Prior approval for masts up to 20 metres in non-protected areas

We propose that permitted development with prior approval should be extended to 20 metres from the current 15 metres for new masts in non-designated areas. This would increase the percentage of masts going through this system, giving operators more certainty regarding investment in infrastructure and timescale for roll-out. However planning authorities would still retain control over design and siting. We thus believe this proposal delivers a proportionate outcome.

2. Prior approval for masts up to 15 metres in protected areas

This proposal is similar to that above thought with a reduction in size of mast, reflecting the different siting needs and concerns within protected areas. Again, planning authorities would retain control over siting and design whilst operators would have a more certain regulatory framework for investment, facilitating swifter roll-out to rural areas.

3. Emergency works

In the event that equipment becomes unserviceable, the current rules do not allow sufficient time for the installation of temporary equipment. As such we believe that the timescale for emergency works should increase from 6 to 12 months. This would likely impact approximately 500 sites per year which equates to around 1% of all sites, so would not have a significant consumer impact.

About the Broadband Stakeholder Group (BSG)

The Broadband Stakeholder Group is UK government's leading advisory group on broadband. It provides a neutral forum for organisations across the converging broadband value-chain to discuss and resolve key policy, regulatory and commercial issues, with the ultimate aim of helping to create a strong and competitive UK knowledge economy.