



TO WHOM IT MAY CONCERN

17 March 2016

Mobile planning changes - technical consultation on proposed changes to the Electronic Communications Code (Conditions & Restrictions) Regulations 2003

I am writing to inform you that today the Government announced a significant package of planning relaxations to support the deployment of mobile infrastructure in England, and to seek your views on the complementary changes needed to the Electronic Communications Code (Conditions & Restrictions) Regulations 2003 ("the Code regulations"). This letter constitutes the consultation required under section 109 of the Communications Act 2003 on any proposed changes to the Code regulations.

Attached is a copy of the Written Ministerial Statement laid before the House today reporting the outcome of the Government's mobile planning review, and outlining the proposed planning changes, including those to the Code regulations, which are due to come into effect this summer.

The package includes a number of measures where the Government intends to remove the existing prior approval (siting and external appearance) for certain types of development e.g. in non-protected areas for antennae on buildings and other structures, and increasing the height of existing masts. The removal of the prior approval requirement does not negate the need for consultation with planning authorities over the siting of communications apparatus which is considered permitted development. The general obligation under regulation 3(1)(b) of the Code regulations to consult local planning authorities will continue to apply.

The notification requirements in the Code regulations will also continue to apply but amendments will be made so that the notification requirements under regulation 5 will apply to development that will not be subject to the prior approval procedure such as increases in the height of existing masts to 25 metres in non-protected and 20 metres on land listed under article 2(3) of the Town and Country Planning (General Permitted Development) Order 2015 ("the Permitted Development Order"). Communication providers will still therefore be required to give the relevant authorities 28 days' notice about the deployment of any apparatus and to take notice of their objections if reasonable.

To enable continued consideration of aircraft safety (as currently captured by planning legislation requirements), the Government intends, as part of removing the prior approval for extending existing masts, to amend the Code regulations to mirror the current notification requirement in [A.3\(2\) of Part 16, Schedule 2, of the Permitted Development Order](#). [This will in effect continue to require code operators to notify either the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator as appropriate where an extension to an existing ground-based mast is within 3km of an aerodrome and to take notice of objections if reasonable.](#)

For the purposes of the proposed relaxation of prior approval requirements in protected areas, we are proposing to extend the range of consultees under regulation 5 to include those that currently exist for protected areas, as set out in Regulation 8 of the Code regulations. These changes are consistent with existing requirements for all other communications apparatus which is subject to permitted development.

Regulation 8 will also need to be amended. Currently it applies to the installation of any electronic communications apparatus in a protected area and requires operators to give 56 days' notice about the deployment of any apparatus. The amendment will require the 56 day notification period for development subject to the prior approval procedure under Part 16 of the Permitted Development Order.

I would welcome your views on the following:

- i) whether the notice period for apparatus previously subject to the prior approval process under Part 16 should be replaced by a 28-day notice period under regulation 5 to ensure consistency with how operators consult planning and other authorities where there is no prior approval?
- ii) whether, for the deployment of apparatus in protected areas which no longer requires prior approval, the list of consultees under regulation 5 should be extended to include those listed under regulation 8?
- iii) whether any further changes are needed to the Code regulations, which are intended to cover the operational aspects of the way in which telecoms operators exercise their permitted development rights?
- iv) whether, for extending an existing mobile phone mast within 3km of an aerodrome there should be a requirement for code operators to notify either the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator as appropriate and to take notice of objections if reasonable.

If you have any comments on these points or any other aspects of the proposed changes relating to the Code regulations they should be sent to Michael Parsons in the DCMS Mobile Coverage Team Michael.parsons@culture.gov.uk by 28 April 2016, 6 weeks from the date of this letter. Responses received after this date will not be considered.

We will continue to working with you on the review of the code of best practice on mobile network deployment in England. As in 2013, no changes will be implemented until the review and any changes to the code of practice have been made.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, 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 will process the information you have provided in accordance with the Data Protection Act, and in the majority of cases, this will mean that your personal information will not be disclosed to third parties.

Mobile Coverage Team

Digital Economy Unit

For and on behalf of the Department for Culture, Media and Sport