

## Changes to Permitted Development Rights for Electronic Communication Infrastructure; Technical Consultation

### Enabling deployment of radio equipment housing

The Government has committed to make it easier to deploy radio equipment housing without the need for prior approval. This is to support the deployment of 5G and incentivise the use of existing sites for site sharing.

**Q1A) To implement this, the consultation is proposing:**

**On Article 2(3) land to:**

- Permit single developments up to 2.5m<sup>3</sup> without the need for prior approval;
- permit single developments exceeding 2.5m<sup>3</sup> subject to prior approval.

### NAAONB response to Q1A

As stated in our response to the previous consultation the NAAONB is generally in favour of retaining existing Permitted Development Rights that are already in place for Article 2(3) land.

In relation to Radio Equipment housing the NAAONB agree that proposals for single developments for radio equipment exceeding 2.5m<sup>3</sup> should be subject to prior approval.

AONB teams, Partnerships or Boards are not currently statutory consultees and may not be consulted as part of Prior Approval consultations. Not all AONBs have protocols in place with their Local Planning Authorities and not all Local Planning Authorities consult their local AONB teams, AONB Partnerships or Boards on prior approval applications. This lack of consultation also removes the opportunity and ability for AONB teams, AONB Partnerships or Boards to influence decisions on the siting, design and colour of electronic communications infrastructure within the nationally designated landscapes.

Furthermore, AONB teams and AONB Partnerships or Boards are not currently recognised as consultees by Communication Operators. The NAAONB therefore welcomes the proposal to include AONB representatives on Communication Operators Working Group in the future. This has the potential to help enable more effective consultation to take place between AONBs networks, Mobile Operators and Local Planning Authorities for any future electronic communication development plans.

Including AONB representatives on the Code of Operators Group will also help ensure that the range of issues to be considered when electronic communication infrastructure is being proposed on Article 2(3) land or within its setting are fully identified.

In relation to masts and associated equipment houses in compounds, paragraph 26 of the consultation includes the proposal to disapply limits to the cumulative and singular volume of equipment housing, on all land, where it is

### **The National Association for Areas of Outstanding Natural Beauty**

Belmont House, Shrewsbury Business Park  
Shrewsbury, Shropshire, SY2 6LG  
office@landscapesforlife.org.uk  
Twitter @NAAONB

A company limited by guarantee no: 4729800  
Charity Number: 1158871  
Registered office as above

deployed in a permitted compound of up to 100 square metres in area. It is proposed that such proposals would be subject to certain conditions, however no detailed information has been included in the consultation document about the conditions that would need to be met.

Compounds up to 100 square metres on or close to Article 2(3) land could be potentially damaging to the protected landscapes, both in isolation and cumulatively. Further information about the conditions under consideration is needed.

The aims of providing better and more reliable telecommunications can in some circumstances be facilitated in sensitive landscapes through the use of mitigating colours and finishes. Often, shiny gloss paints have been used which reflect sunlight and draw attention to masts and their associated antennae. Colour pallets need to be specifically tailored to local site conditions and aspect - dark blues and greens are often applied to ancillary telecommunication structures and components when often softer yellows and brown-green hues of natural vegetation would be more appropriate in more rural locations.

Fencing of compounds, because of the materials and colours proposed, often stand out more than the equipment within them and can fundamentally impact upon the natural beauty of the protected landscape, typically by introducing a more industrial presence through high security fencing, security cameras and lighting. These issues will need careful consideration and objective appraisal in all future schemes to mitigate the impacts.

#### **Strengthening existing ground-based masts**

**To enable the upgrading of sites to support both 4G and 5G infrastructure and to extend network coverage, existing ground-based masts will need to be strengthened and increased in height. This is necessary to enable masts to accommodate additional equipment and enable greater sharing of infrastructure between operators**

**The Government has committed to make it easier to strengthen existing masts without the need for prior approval to be given by the local planning authority. This is to encourage use and sharing of existing masts and so limit the need for new ones.**

**To facilitate this the consultation is seeking views on the removal or the need for prior approval from Local Planning Authorities for proposals seeking to increase the width of existing ground - based masts up to specified limits.**

**Q 2A) To implement this, the consultation is proposing:**

**To permit the alteration or replacement of existing masts with wider masts, subject to the following limits:**

**on all land, for existing masts less than one metre wide, permit increasing the width by up to two-thirds without the need for prior approval;**

**where an existing mast is greater than one metre wide, permit increases in width without the need for prior approval.**

**Subject to consultation responses this would be by either:**

**(a) up to one half or two metres (whichever is greater) on all land (including Article 2(3) land and land on a highway); or**

**(b) up to one third or one metre (whichever is greater) on Article 2(3) land and land on a highway, and one half or two metres on all other land.**

**on all land permit greater increases in width than proposed above subject to prior approval that any change in width is calculated by comparing the widest part of an existing mast with the widest part of the new altered or replacement mast.**

**The above proposals would not apply on land on or within sites of special scientific interest.**

**Q2B) For existing masts greater than one metre wide we have proposed two alternative options:**

**Permit the alteration or replacement of existing masts with wider masts, subject to the following limits:**

**Option A) - up to one half or two metres (whichever is greater) on all land (including Article 2(3) land and land on a highway), or**

**Option B) - up to one third or one metre (whichever is greater) on Article 2(3) land and land on a highway, and one half or two metres on all other land.**

**Greater increases in width than proposed above would be subject to prior approval. The above proposal would also not apply on land on or within sites of special scientific interest. response**

#### NAAONB response Q2A & 2B

The NAAONB supports the aspiration in the Technical Consultation to encourage operators to use and sharing existing masts and to limit the need for new ones. It is acknowledged that existing ground bases masts will need to be strengthened (in terms of width) to accommodate additional equipment and enable greater sharing of infrastructure between operators.

Options (a) and (b) set out in Section 2A and 2B for increasing the width of existing ground-based masts that are either less than 1m and greater than 1m wide seem unnecessarily complex.

The NAAONB question this approach.

Areas of Outstanding Natural Beauty and National Parks have the highest level of protection in relation to conserving and enhancing landscape and scenic beauty.

Areas of Outstanding Natural Beauty and National Parks are classed as Protected Landscapes and are defined within the definition of Article 2 (3) land in the General Permitted Development Order.

National Landscapes are, generally speaking, highly sensitive to change and not all National Landscapes have the same capacity to accept change. A one size fits all approach, from the National Landscape perspective, is not considered appropriate

The setting of National Landscapes, and views to and from them, are important aspects of sustaining the character and quality of National Landscapes. This is recognised in the National Planning Practice Guidance.

The NAAONB has already highlighted the shortfall of the Prior Approval process in our response to Q1 in relation to AONB teams and AONB Partnerships or Boards.

The removal of the need to obtain prior approval for all the options proposed in 2A fails to acknowledge the sensitivities and differences between National Landscapes, their sensitivity to accommodate change or the contribution that the land within the setting makes towards the character and quality of the National Landscapes.

Even if the need to obtain prior approval is removed, Statutory Undertakers must meet their obligations under Section 85 of the Countryside and Rights of Way Act 2000. Section 85 obligations are separate to Planning requirements.

Section 85 (1) which applies to Statutory Undertakers states 'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.'

It would be much harder for Electronic Communications Operators to demonstrate compliance with this duty if the need for prior approval is removed.

The prior approval / prior notification processes require a planning authority case officer to undertake an assessment that is remarkably similar to an assessment for a planning application.

From a National Landscapes perspective, the NAAONB's preferred position is that it would be simpler to retain permitted development rights for very small masts and ground equipment packages, with the rest needing a full planning application, for proposals within National Landscapes rather than the graduated approach with varied steps and sizes for different types of land set out in the consultation proposals.

While the NAAONB's preferred position is the simpler approach set out in our response to Q3 below, from the 2 options proposed in Q2B, if the need for prior approval is to be removed then the NAAONB's preferred option would be option B.

This is conditional on the NAAONB having representation on the Operators Working group and the Code of Practice being amended to reflect all the issues that operators will need to consider when proposing mast proposals within National Landscapes or within their setting.

The NAAONB welcome the proposal to retain the need for prior approval for applications to increase the width of existing ground-based masts which exceed the limits laid out in 2B in the consultation.

**Q3. The Government has committed to make it easier to strengthen existing masts without the need for prior approval to be given by the local planning authority. This is to encourage use and sharing of existing masts and so limit the need for new ones.**

**To implement this, the consultation is proposing**

**To permit the alteration or replacement of existing masts up to a new height of 25 metres, without the need for prior approval, outside of Article 2(3) land.**

**The Government is also proposing to align permitted development height limits for alterations to existing masts with those proposed for new masts. This would permit the alteration or replacement of existing masts subject to the following limits:**

- on Article 2(3) land and land on a highway, up to a new height of 25 metres subject to prior approval;
- on all other land, 25m and up to a new height of 30 metres, subject to prior approval;

The above proposals would not apply on land on or within sites of special scientific interest.

#### NAAONB response to Q3

The NAAONB support the aspiration in the Technical consultation to encourage operators to use and sharing existing masts and to limit the need for new ones. It is acknowledged that existing ground-based masts will need to be strengthened (in terms of height) to accommodate additional equipment and enable greater sharing of infrastructure between operators.

The NAAONB has concerns about the proposed amendments to height limits being proposed in the consultation that would permit the alteration or replacement of existing masts on land outside of Article 2(3) land up to a new height of 25 metres, without the need for prior approval. This is because that amendment would apply to land within the setting of Protected Landscapes. The setting of National Landscapes, including views to and from them, are important aspects of sustaining the character and quality of National Landscapes. This is recognised in the National Planning Practice Guidance.

Without the retention for the need for prior approval for proposals for altered or replacement masts up to 25m tall outside Article 2(3), it is not clear how the contribution that land in the setting makes towards the character and quality of the National Landscapes will be considered.

The removal of the need for Prior Approval also removes all opportunities for AONB teams, Partnership or Boards to independently review and influence the siting and design of such schemes.

The NAAONB also has concerns about the proposals to align permitted development height limits for alterations to existing masts with those proposed for new masts. This would permit the

- (1) alteration or replacement of existing masts on Article 2(3) land and land on a highway, up to a new height of 25 metres and
- (2) on all other land, 25m and up to a new height of 30 metres; both would be subject to prior approval

Areas of Outstanding Natural Beauty and National Parks have the highest level of protection in relation to conserving and enhancing landscape and scenic beauty. Areas of Outstanding Natural Beauty and National Parks are classed as Protected Landscapes and are defined within the definition of Article 2 (3) land in the General Permitted Development Order.

With regards proposal (1) it must be recognised that National Landscapes are highly sensitive to change and not all National Landscapes have the same capacity to absorb change. A one size fits all approach does not take account of the character and sensitivities of different landscapes and so, from the National Landscape perspective, is not considered appropriate. The capacity and subsequent thresholds for any given AONB to safely accommodate further telecommunication infrastructure without causing detrimental harm may vary considerably from landscape to landscape and from site to site – often depending upon an area's special qualities and its distinctive sense of place.

Permitting extensions to existing masts of up to 25m, even if the need for prior approval is retained, will be unlikely to accord with the primary purpose of designation i.e. to conserve and enhance landscape and scenic beauty in Protected Landscapes, including Areas of Outstanding Natural Beauty, as required by paragraph 172 of the NPPF.

The NAAONB's concern about the 2<sup>nd</sup> proposal to permit a height increase to 30m [from 25m] outside Article 2(3) land is that the proposal misses the important function that land within the setting of AONBs plays in defining the character and quality of the Protected Landscape. The often expansive outward views from an AONB are often listed within an area's special qualities and a component of its natural beauty. The proposal is potentially in conflict with the requirements of Paragraph 041 of the National Planning Practice Guidance.

While the intention is to encourage site sharing, the proposals are generally silent on the cumulative impacts of proposals for altered or replacement masts and new masts on Protected Landscapes or their setting.

The prior approval / prior notification processes require a planning authority case officer to undertake an assessment that is remarkably similar to an assessment for a planning application. The NAAONB has already highlighted the shortfalls of the Prior Approval process in our response to Q1 in relation to AONB teams and AONB Partnerships or Boards.

The lack of a formal consultation requirement removes the opportunity for AONB teams and AONB Partnerships or Boards to influence decisions on the siting, design, colour and any additional landscaping recommendations for enhancing electronic communications schemes within the nationally designated landscapes.

From a National Landscapes perspective, the NAAONB's position is that it would be simpler to keep Permitted Development Rights and limit height increases for altered and replacement masts on Article 2(3) land to 15m maximum with all other proposals requiring a full planning application, rather than the graduated approach with varied steps and sizes for different types of land as proposed in the consultation.

If this approach is not considered appropriate, the NAAONB recommend that current Permitted Development Rights for altered and replacement masts on Article 2(3) land remain unchanged. This is conditional on AONB representatives being included on this Electronic Communications Operators Working Group.

It is essential that the Code of Practice is strengthened if existing Permitted Development Rights are to be relaxed as suggested. Although the consultation is not seeking views on the Code of Practice, the NAAONB welcome the intention to increase the focus on the siting and design of new communications infrastructure within any forthcoming amended Operators Code.

### **New ground-based masts**

**Q 6. While mobile network operators have committed to share sites wherever possible and work together through joint ventures to reduce the visual impact of networks, new masts will also be necessary to provide greater mobile coverage and support the deployment of 5G. The use of taller masts enables a greater coverage footprint from fewer mast sites and allow multiple operators' equipment to be accommodated on a single mast.**

**The Government has committed to enable higher masts, subject to prior approval. This is to support deployment of 5G, extend mobile coverage and to support the sharing of masts.**

**To implement this, the consultation is proposing:**

**On Article 2(3) land, and land which is on a highway, to permit new ground-based mast up to 25 metres in height, subject to prior approval**

**On all other land, to permit new ground-based mast up to 30 metres in height, subject to prior approval**

**The above proposals would not apply on land on or within SSSIs**

#### NAAONB response to Q6

The NAAONB support the aspiration in the Technical Consultation to encourage operators to use and share existing masts. We recognise that new masts will be needed to provide greater mobile coverage and to support the deployment of 5G and that the delivery of taller masts can reduce the overall number of new masts needed.

In sensitive landscapes, a larger number of smaller masts may be less harmful than fewer larger masts; that is a reason why the National Landscapes should be engaged at the early stages of network and mast planning.

The NAAONB has concerns about the proposals for new masts which would permit

(1) new masts on Article 2(3) land and land on a highway, up to a new height of 25 metres and  
(2) on all other land, 25m and up to a new height of 30 metres; both would be subject to prior approval

With regards proposal (1) it must be recognised that National Landscapes are highly sensitive to change and not all National Landscapes have the same capacity to absorb change. As stated in our response to Q2 & Q3, a one size fits all approach from the National Landscape perspective, is not considered appropriate.

Areas of Outstanding Natural Beauty and National Parks have the highest level of protection in relation to conserving and enhancing landscape and scenic beauty. Areas of Outstanding Natural Beauty and National Parks are classed as Protected Landscapes and are defined within the definition of Article 2 (3) land in the General Permitted Development Order.

Permitting the installation of new masts of up to 25m high, even if the need for prior approval is retained, will be unlikely to accord with the primary purpose of designation i.e. to conserve and enhance landscape and scenic beauty in Protected Landscapes, including Areas of Outstanding Natural Beauty, as required by paragraph 172 of the NPPF.

The NAAONB's concern about the 2<sup>nd</sup> proposal to permit a height increase to 30m [from 25m] outside Article 2(3) land misses the important function that land within the setting to AONBs plays in defining the character and quality of the Protected Landscape. This is potentially in conflict with the requirements of the Paragraph 041 of the National Planning Practice Guidance.

While the intention is to encourage site sharing, none of the proposals consider the cumulative impacts of new masts and altered or replacement masts proposals on Protected Landscapes or their setting.

The prior approval / prior notification processes require a planning authority case officer to undertake an assessment that is remarkably similar to an assessment for a planning application. As already highlighted not all AONBs have protocols in place with the Local Planning Authorities and not all Local Planning Authorities consult their local AONB teams, AONB Partnerships or Boards on prior approval applications. This removes the opportunity for AONB teams and AONB Partnerships or Boards to influence decisions on the siting, design and colour of electronic communications infrastructure within the nationally designated landscapes.

From a National Landscapes perspective, the NAAONB's preferred position is that it would be simpler to keep permitted development rights and limit the height of new masts on Article 2(3) land to 15m maximum with proposals exceeding 15m requiring a full planning application, rather than the graduated approach with varied steps and sizes for different types of land as proposed in the consultation.

If this is not considered appropriate the NAAONB recommend that current Permitted Development Rights for new masts on Article 2(3) land remain unchanged. This is conditional on AONB representatives being included on the Electronic Communications Operators Working Group.

It is essential that the Code of Practice is strengthened alongside any relaxation to Permitted Development Rights and we welcome that the revised Code of Practice will have a greater focus on the siting and design of new communications infrastructure.

The NAAONB has no concerns to raise in relation to proposals for monopoles provided careful consideration is given to the choice of colour for the poles, the equipment, and the surrounding fencing.

(Beverley McClean, Richard Burden and Stephen Jack - 11 June 2021)