

NAAONB response -Proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage consultation

1 - Role of Industry

Question 1.1: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what impact would they have on meeting the Government's ambitions in relation to mobile coverage including addressing 'total not-spots' and 'partial not-spots'?

No response is being proposed by the National Association for Areas of Outstanding Natural Beauty (NAAONB) as this is for the operators to answer

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?

No response is being proposed by the NAAONB as this is a matter for the operators to answer.

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?

This response has been prepared with input from several AONB Partnerships/Conservation Boards on behalf of the National Association for Areas of Outstanding Natural Beauty (NAAONB).

The NAAONB is a charity with three primary objectives:

1. to promote the conservation and enhancement of natural beauty in and around AONBs and other similarly protected areas;
2. to advance the education, understanding and appreciation of the conservation and enhancement of the countryside; and
3. to promote the efficiency and effectiveness of organisations promoting or representing Areas of Outstanding Natural Beauty.

The NAAONB responses to this consultation relate purely to Article 2(3) land. The absence of mention of other designated areas does not indicate any suggestion they should be subject to less consideration, simply that we are representing the primary purpose of the designation of Areas of Outstanding Natural Beauty.

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The NAAONB welcomes and acknowledges the opportunity that 5G infrastructure roll out offers communities, businesses and visitors across the AONB network through better connectivity. This however needs to be considered against the legislative requirements on public bodies in terms of their Duty of Regard under Section 85 of the Countryside and Rights of Way Act 2000 to the statutory purpose of AONB designation which is to conserve and enhance natural beauty of AONBs. The consultation paper referenced the need to take recommendations from the recent Glover landscapes Review 2019 into account. The NAAONB considers that the following 2 issues need to be given further consideration.

a) 5G and mobile infrastructure roll out in the setting of AONBs

The Landscape Review (page 63) recognises the revisions that have already been made to the NPPF in relation to AONBs (and National Parks). It also identifies the need for strengthened guidance which makes it clear that developments proposed in areas buffering national landscapes must avoid detrimental impacts on them. The issue of impact on setting is not addressed in the current consultation.

b) Recommendations regarding Permitted Development Rights in nationally designated landscapes

The Landscape Review (page 64) identifies the need to review the current Permitted Development Rights (PDR) system. It recommends the potential addition of further PDRs to the list of those currently withdrawn within national landscapes to ensure that the full application process applies before determining planning approval. This conflicts with the proposals being consulted on in relation to the relaxation of PDR for 5G and mobile infrastructure schemes in nationally designated landscapes. Further discussion is needed on these issues.

The NAAONB has no specific comments to make regarding additional measures that Communication Operators could offer to reduce visual impacts of new electronic communications infrastructure or how any such measures could be delivered. This is for the Operators to comment on.

We do however have a number of concerns regarding the implementation of the current Code of Practice.

Firstly, AONB Partnerships/Conservation Boards are not statutory consultees. There is currently no requirement set out in either The Code in Schedule 3 of the Communications Act 2003) or The Electronic Communications Code Regulations 2003 for Communications Operators to consult with them. Under current arrangements, Prior Approval is the only route available to AONB Partnerships/Conservation Boards to influence where new communications infrastructure might go and what it might look like. The NAAONB considers that the Codes for Operators need to be amended to include the requirement to consult AONB Partnerships/Conservation Boards and this requirement should also be made mandatory. Without such changes the NAAONB consider that the requirement for prior approval should be retained as part of any permitted development rights linked to the roll out of 5G/mobile infrastructure.

There appears to be too much reliance on mobile network operators committing to their Code of Practice to ensure that new sites are sympathetically developed. For some AONBs, experience has shown that industry 'codes' have had little effect.

Existing codes seem to be biased towards the industry's view of things and less on the nationally important landscape perspective/requirements. There also appears to be minimal understanding or appreciation of the landscape issues so important to AONBs, AONB communities (and National Parks) within the Communications industry.

The experience of some AONB Partnerships/Conservation Boards suggests that statements in the consultation (paragraphs 35 & 46) and in the NPPF about equipment being 'sympathetically designed and camouflaged' have not always been carried through in practice.

The Code is also currently voluntary. We therefore have concerns that operators will not seek to minimise visual impacts in the ways suggested in the consultation document. In protected landscapes, because previous codes have been less than effective, it is important that the Codes of Practice are strengthened to address the issues that we have raised.

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?

No response is being proposed by the NAAONB as it is for the operators to answer.

Question 1.5: If these in principle proposals (set out in Questions 2 to 5) were taken forward, what further measures could industry offer to ensure that the use of existing sites and infrastructure were maximised before new sites are identified, for example through increased sharing?

No response is being proposed by the NAAONB as it is for the operators to answer.

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. The NAAONB is concerned that the approach proposed in the consultation, where Permitted Development Rights are further relaxed, sets a precedent for the expansion of planning related issues which do not need to come through the planning system but which have the potential to impact on Article 2 (3) land.

Nationally important landscapes should be nationally protected. Developments that have the potential to be visually intrusive should be properly assessed by AONB Partnerships/Conservation Boards. That cannot be achieved without AONB Partnerships/Conservation Boards being fully engaged in the decision-making process.

The requirement for prior approval within Article 2(3) land provides an opportunity for statutory and non-statutory consultees and other interested parties to consider any potential harmful effects on the designated landscape and to provide appropriate comment to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology the purposes of designation and the LPAs duty under S85 of the CRoW Act.

The NAAONB's therefore considers that the requirement for prior approval for proposals for radio equipment housing within Article 2(3) land should be retained.

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

The NAAONB considers that allowing cabinets that greatly exceed the current 2.5 m³ threshold, could be hugely damaging to protected landscapes in terms of landscape and visual impacts. Allowing permitted development without the retention of the requirement for prior approval and without setting an upper size limit rides roughshod over the landscape significance of the AONBs and has serious implications for landscape and scenic beauty.

The loss of control over matters such as siting and appearance within AONBs could result in significant adverse individual and cumulative landscape and visual impacts.

Removing the requirement for prior approval could lead to poorly located or designed infrastructure within the designated landscapes. The relaxation of PDR via the removal of the requirement for prior approval reduces the ability for AONB Partnerships/Conservation Boards to influence the planning decision making process. The retention of the requirement provides a useful mechanism for influencing and improving the siting, design and location of new 5G infrastructure and to influence any mitigation needed to conserve the enhance the AONBs. There are already examples of communications infrastructure being allowed at inappropriate locations within the Article 2(3) land and the roll out of new 5G infrastructure should not cumulatively add to this.

To ensure compliance with the CRoW Act, and to meet Duty of Regard obligations, the NAAONB considers that it is therefore appropriate to require prior approval for radio equipment housing proposals within AONBs, rather than just a requirement to notify, which may be more appropriate in non-protected landscapes.

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?

The NAAONB acknowledges the potential benefits for Operators to share existing equipment and understand to incentive sharing that equipment would have to be modified

to enable this happen. The NAAONB could only support this proposal provided if the Code was changed to include a mandatory require for Operators to consult with AONB Partnerships/Conservation Boards.

The NAAONB is concerned that the approach proposed in the consultation, where permitted development rights are further relaxed , sets a precedent for the expansion of planning related issues which do not need to come through the planning system but which have the potential to impact on Article 2 (3) land.

Nationally important landscapes should be nationally protected. Developments that have the potential to be visually intrusive should be properly assessed by AONB Partnerships/Conservation Boards. That cannot be achieved without AONB Partnerships/Conservation Boards and local communities, some of whom feel strongly about the imposition or modifications to masts without adequate consultation, being engaged in the decision-making process.

The NAAONB therefore considers that the existing requirement to obtain planning permission for proposals seeking to increase the width of existing ground-based masts by more than one third, within Article 2(3) land, should be retained.

This provides an opportunity for statutory and non-statutory consultees and other interested parties to consider any potential harmful effects on the designated landscape and to provide appropriate comment to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology the purposes of designation and the LPAs duty under S85 of the CRoW Act.

It also helps to ensure compliance with the CRoW Act, and to meet Duty of Regard obligations, the NAAONB considers that it is therefore appropriate to require prior approval for radio equipment housing proposals within AONBs, rather than just a requirement to notify, which may be more appropriate in non-protected landscapes. Relaxing permitted development rights for such schemes, rides roughshod over the landscape significance of the AONBs and potentially has serious implications for landscape and scenic beauty.

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?

It is not appropriate for the NAAONB to identify a suitable increase in width. Not all AONBs are uniform in terms of their natural beauty and special qualities. Furthermore, it must be acknowledged that open landscapes will potentially be more impacted than enclosed landscapes, by increasing the width of existing masts. For this reason, the NAAONB does not support the proposed amendment to Permitted Development Rights to increase the width of existing masts within Article 2(3) land.

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. The NAAONB considers that prior approval should still be required for proposals seeking an increase in the height of existing masts within Article 2(3) land. The NAAONB is concerned that the approach proposed in the consultation, where permitted development rights are further relaxed, sets a precedent for the expansion of planning related issues which do not need to come through the planning system but which have the potential to impact on Article 2 (3) land.

To ensure compliance with the CRoW Act, and to meet Duty of Regard obligations, the NAAONB considers that it is therefore appropriate to require prior approval for proposals seeking to increase the height of existing masts within AONBs, rather than just a requirement to notify, which may be more appropriate in non-protected landscapes.

Nationally important landscapes should be nationally protected. Allowing permitted development without a requirement for prior approval rides roughshod over the landscape significance of the AONBs and has serious implications for landscape and scenic beauty.

Communication developments that have the intrinsic potential to be visually intrusive should be properly assessed by AONB Partnerships/Conservation Boards. That cannot be achieved without AONB Partnerships/Conservation Boards and local communities, some of whom feel strongly about modifications to masts without adequate consultation, being engaged in the decision-making process.

The requirement for prior approval within Article 2(3) land provides an opportunity for statutory and non-statutory consultees and other interested parties to consider any potential harmful effects on the designated landscape and to provide appropriate comment to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology the purposes of designation and the LPAs duty under S85 of the CRoW Act. The NAAONB therefore considers that the requirement for prior approval for proposals within Article 2(3) land seeking to increase the height of existing masts to enable sharing of infrastructure above 20m should be retained.

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?

Yes. The NAAONB considers that there should be a requirement on operators to demonstrate within the Prior Approval process that the development sought provides the best (least worst) environmental outcome. This must include a transparent review of all viable technical alternatives considered and demonstrate the harm of each option to Article 2(3) land.

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?

The NAAONB agrees in principle with creating a permitted development right to grant permission for building based masts within 20 metres of a highway on buildings less than 15 metres in height, but not in all areas. Within Article 2 (3) the permitted development right should include the requirement for prior approval. This is necessary because communication developments have the potential to be visually intrusive and such proposals should be properly assessed by AONB Partnerships/Conservation Boards. That cannot be achieved without input with AONB Partnerships/Conservation Boards to allow adequate consultation in the decision-making process.

The requirement for prior approval within Article 2(3) land provides an opportunity for statutory and non-statutory consultees and other interested parties to consider any potential harmful effects on the designated landscape and to provide appropriate comment to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology the purposes of designation and the LPAs duty under S85 of the CROW Act.

The NAAONB therefore considers that the requirement for prior approval for proposals within Article 2(3) for the location of masts within 20 metres of a highway on buildings less than 15 metres in height should be retained.

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?

The NAAONB is not in a position to recommend restrictions in relation to highways. With regards managing landscape & visual impacts and impacts on local amenity we consider that the requirement for prior approval is an effective restriction to manage the above impacts. To manage visual and local amenity impacts there should be a requirement on operators to demonstrate within the Prior Approval process that the development sought provides the best (least worst) environmental outcome. This must include a transparent review of all viable technical alternatives considered and demonstrate the harm of each option to Article 2(3) land.

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?

As already stated, and for the reasons set out above to questions 2-5, the NAAONB strongly agrees that permitted development rights for proposals for the location of masts within 20

metres of a highway on buildings less than 15 metres in height for Article 2(3) land should be subject to Prior Approval.

The requirement for prior approval within Article 2(3) land provides an opportunity for interested parties and statutory and non-statutory consultees to consider any harmful effects on the designated landscape and provide appropriate comment to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology and the primary purpose of the designated landscapes and their duty under S85 of the CRoW Act.

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?

Without information about the increase in heights being considered for Article 2 (3), it is difficult for the NAAONB to support this even with a requirement for prior approval.

The consultation seems very light on the infrastructure requirements of 5G, and why the existing 4G masts / ground equipment are insufficient. Also, it is not clear if the new 5G equipment would be additional to, rather than a replacement for existing 4G equipment. More information should be provided on these matters.

While the NAAONB welcomes that any proposals for new taller masts would be subject to prior approval, it must be acknowledged that not all AONBs are uniform in terms of their natural beauty and special qualities. The landscape and visual impacts of taller masts in more open AONB landscapes are likely to be much greater than in enclosed landscapes.

The NAAONB therefore suggests that within Article 2(3) land that permitted development rights with regards mast heights remain unchanged.

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

It is not appropriate for the NAAONB to identify a suitable increase in height for new masts. The height of new masts will be determined on technical/safety and performance requirements as well as environmental considerations. The NAAONB does not have the technical expertise to advise on what the technical industry requirements might be.

Also, it must be acknowledged that not all AONBs are uniform in terms of their natural beauty and special qualities. Open landscapes could potentially be impacted more than enclosed landscapes. Location and the character of the receiving landscapes will be key considerations. For these reasons, the NAAONB does not consider that it is appropriate for it to recommend a permitted height increase for new masts that would be appropriate for all AONBs.

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?

As per our response to Q5.2, it is not appropriate for the NAAONB to identify a lower height limit for new masts on Article 2(3) land or on land close to the highway.

The height of new masts will be determined on technical/safety and performance requirements as well as environmental considerations. The NAAONB does not have the technical expertise to advise on what the technical industry requirements might be. Also it must be acknowledged that not all AONBs are uniform in terms of their natural beauty and special qualities. Open landscapes could potentially be impacted more than enclosed landscapes. Location and the character of the receiving landscapes will be key considerations. For these reasons, the NAAONB does not consider that it is appropriate for it to recommend a lower permitted height for new masts that would be appropriate for all AONBs.

Even if lowered permitted mast heights are set, the need for prior approval should be retained for proposals within Article 2(3) land. The requirement for prior approval within Article 2(3) land provides an opportunity for interested parties and statutory and non-statutory consultees to consider any harmful effects on the designated landscape and provide appropriate comment on such schemes to allow the determining authority to properly consider the planning balance of such development in the light of both the importance attached to the roll out of 5G technology and the primary purpose of the designated landscapes and their duty under S85 of the CRoW Act.

The NAAONB therefore suggests that within Article 2(3) land that permitted development rights remain unchanged.

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?

The NAAONB recommends a requirement on Operators to demonstrate through the Prior Approval process that the development sought provides the best (least worst) environmental outcome. This must include a review of all alternatives considered and an assessment of each in terms of harm to Article 2(3) land. This would potentially facilitate fewer taller structures which in theory could reduce cumulative impact within Article 2(3) land.

Question 6: Do you have any views on the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No response being proposed.

Submitted by Beverley McClean (01.11.19) on behalf NAAONB