Consultation on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage

Response from Mobile UK

November 2019

About Mobile UK

1. Mobile UK is the trade association for the UK's Mobile Network Operators (MNO) - EE, Telefonica UK (O2), Three and Vodafone. Our goal is to realise the power of mobile to improve the lives of our customers and the prosperity of the UK.
2. As mobile increasingly becomes the device of choice for running daily life both at home and at work, customers want improved coverage and greater capacity. Mobile UK's role is to identify the barriers to progress and work with all relevant parties to bring about change, be they Government, regulators, industry, consumers or citizens more generally.

Introduction

3. Mobile UK welcomes the opportunity to respond to the Ministry of Housing, Communities and Local Government's and the Department for Digital, Culture, Media and Sport's consultation on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage.
4. There is an urgent need to reform planning in England if the mobile operators are to fulfil their plans to build 5G to critical mass quickly; this will be key to ensuring that 5G is a success in the UK, and thereby realising the Government's ambition to be a world leader in 5G.
5. We welcome the Government's proposals for building stronger, higher masts that can host a range of new apparatus, such as 5G equipment, and thus enable the next generation of services and applications to be delivered.
6. It is critical that these reforms are implemented as quickly as possible. In recent years, reforms to the GPDO were made to assist the deployment of 4G, but these reforms came into force only when the vast majority of the network had already been deployed.
7. The objective now should be to implement meaningful planning reforms at an early stage of 5G deployment, so that they have real practical impact. Mobile UK would urge the Government that, following this initial consultation, the follow-on consultation on detailed measures is published in the first calendar quarter of 2020.
8. Reform of the regulations for small cells will also be necessary. Mobile UK understands that this will be considered as part of the implementation of the new EU communications code.
9. Also, planning reform will be essential to the deployment of the near £1 billion partnership that industry and Government are planning for a very significant increase in rural coverage (through the Shared Rural Network (SRN) programme).

Mobile UK Response Overview

10. Mobile UK's starting point is that it would be better for the development of connectivity in the UK and proportionate for all mobile development to fall within permitted development (PD) - albeit with prior approval retained for some aspects.

11. Nevertheless, our overview of these proposals is that the changes envisaged in the consultation would have a very positive impact on mobile operators' and others' ability to improve mobile connectivity. In our response, we have made some additional suggestions that would have a further positive impact, in terms of lower cost, speed and ease of deployment.

12. Speed and ease of deployment is of particular importance to the UK's ambitions to build a digitally inclusive society (by ensuring rural areas are not left behind and to be world leaders in 5G.)

13. In summary, the changes that we think would have the most significant impact are:

    - Removal of the restriction on increasing the width of a mast that is being replaced or upgraded (as discussed in Question 3.1);
    - Alignment with the fixed telecom operators as to what is permitted under PD (concerning street cabinets and vertical structures, explained in Question 2.1); and
    - Requiring that prior approval is required only for ground-based masts, not building/rooftop based apparatus (discussed in Question 4.1).

14. Also, Mobile UK believes that being able to build some higher masts under PD (with prior approval) would be beneficial, particularly to the programme proposed for the Total Not Spots element of the SRN, allowing mobile connectivity in the remote areas to at last catch up with those already receiving a mobile signal. (Discussed at Question 5.1).

Mobile Communications – Context

15. Mobile communication is now part of the UK's critical infrastructure and is integral to people's personal and working lives. In summary:

    - 95% of adults use a mobile phone, using 84m devices (i.e. 1.3 devices per head)[1];
    - Usage of mobile data across a broad range of applications is growing very rapidly (each customer consumes an average of 2.9Gb per month – up from 500Mb in 2013);
    - This is expected to grow a further seven-fold in the next five years;
    - Eight million 'things' are now connected to mobile networks. This number is also set to multiply with the roll-out of smart meters and other connected items (such as cars); and
    - Mobile operators are responding by investing £2 billion per annum in new capacity, coverage and capability.

16. The urgent need for planning reform in England is required to support the rollout of 5G services in urban areas, and to enable the deployment of the SRN in rural areas, to bring coverage from all four mobile operators of the UK's geographic landmass from 66% to over 90%.

[1] All data from Ofcom Communications Market Report

Mobile UK Response

Question 1: Role of the 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'?

17. By way of background to this question, the industry has proposed to Government that gaps in coverage in the UK should be addressed through a significant £1 billion partnership between industry and Government in a project known as the SRN.

18. The industry will invest over £530m with a view to virtually eliminating the partial not-spots (PNS), i.e. where there is coverage from at least one operator but not all. This will be achieved through a programme of enhanced mast sharing.

19. To address the total not-spots (TNS), the proposal is that Government: a) enhances the 292 sites in the Home Office's 'Extended Area Service' (EAS) to carry commercial traffic; and, b) builds approximately 450 new sites to cover places that have no current or planned coverage from any operator, including the emergency services.

20. There are [*redacted*] sites programmed for the PNS element of the project, the vast majority of which are ground-based masts. All will have to be upgraded in some way to accommodate all four operators. In many cases, this will involve adding capacity to the existing panel antennas (using 'combining' techniques). Mobile UK's estimate is of the [*redacted*] sites in the PNS programme, 25% would need full planning under the current regime, 25% could be upgraded under PD with prior approval and the balance under PD with no prior approval. An initial estimate, based on the proportion of the additional territory covered, is that approximately [*redacted*] of the PNS sites are in England. Mobile UK can give more precise numbers in due course.

21. Providing the modifications/clarifications to the proposals that Mobile UK is suggesting in this consultation response are implemented, we estimate that most of the PNS programme in England could be done under PD with no prior approval (i.e. a Regulation 5 notification).

22. Mobile UK estimates the direct financial saving of being able to upgrade under a notification at approximately £2,500 per site (e.g. pre-app fees, cost of submission, etc.) when compared to a formal application.

23. The average time to obtain planning permission is in the region of 75 days and PD with prior approval 56 days. The spread of outcomes for planning permission, though, is much higher (more uncertain) than for PD. The saving in time (and the added 'in-service' days) in England amounts to c.10,300 days for mobile operators. Savings will also occur within the planning departments of local authorities.

24. With respect to the TNS programme, the mobile operators have estimated that [*redacted*] new sites will be needed to cover a further 2% of the landmass of the UK – nearly 5,000 sq km.

25. An analysis has been undertaken within the TNS areas as to how many fewer sites would be needed if they were to be taller than what is currently permitted under PD (25m in unprotected areas and 20m in protected areas). The matrix as follows:

Table 1.	Delta from the baseline
	Mast height: 50m

England	-13
Northern Ireland	-1
Scotland	-83
Wales	-3
Total	-100

26. While the most significant impact of building higher structures would be in Scotland, the impact in England is not insignificant, taking account of the difficulties that often arise in getting both the backhaul and the power to remote sites. If it is permitted to build fewer, albeit taller, sites under PD, we believe that this is the solution that the public would in the vast majority of cases find preferable. (Please see our response to Question 5.1 for more detail).

27. **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?**

28. The impact of the proposals on 5G deployment will be even more significant than for the PNS and TNS programmes. It is estimated that there are currently around 36,000 mobile sites, of which about 30% are owned and operated by wholesale infrastructure providers.

29. In Table 2 below, we show how the proposals would impact on 5G deployment in Reading. Full details of the sites in question are provided in Annex A (confidential).

30. This represents a reasonably representative sample of a typical urban/suburban network build. Column A shows the likely permissions required to deploy under the current planning regulations. Column B shows the equivalent on the assumption that the regime is revised in the way that Mobile UK has proposed, specifically: change to 1/3 rule, alignment with fixed telecoms and requiring that prior approval applies only to ground-based masts of a certain height.

31. As is apparent from Table 2, the impact on 5G deployment in a town such as Reading would be very significant indeed.

32. Mobile UK is quite confident that this impact would be replicated in very locations across England (and other parts of the UK). 83% of England's population lives in urban/suburban areas[2].

Table 2: Analysis of 23 sites in Reading		
	A: Current regulations	B: Revised with MNO recommendations
Full Planning	14	0
Permitted Development (with Prior Approval)	6	0
Permitted Development (no Prior Approval)	3	23
Total	23	23

33. In **confidential annexes** prepared by Cornerstone and MBNL, we set out the proportions of sites that would be installed/upgraded under the existing regime and the proportions installed/upgraded given certain assumptions about the revised planning regulations if:

- The 1/3 restriction on mast upgrades is removed;
- Prior approval is required only for relevant ground-based masts being; and

[2] https://www.gov.uk/government/publications/rural-population-and-migration/rural-population-201415

- Street cabinets plus a monopole can be installed under a regulation 5 notice.

34. While the upgrading of all 36,000 sites across the UK and the building of any new sites will in all likelihood stretch beyond the three year period set out in the confidential annexes, it is clear to see the significant impact the reforms will have on rollout speed, costs, and 'in-service' days.

35. From a strategic point of view, it will make it materially more likely that the Government will be able to achieve its stated ambition of being a leader in 5G, with all the spin-off benefits that such leadership would deliver.

36. 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?

37. Mobile UK notes that there is already a specific condition in Part 16, which requires operators to minimise the visual impact of apparatus, and all operators put a great deal of effort into achieving this.

38. That said, we are willing to explore what additional measures could be employed for minimising the visual impact as far as is practicable and giving some more clarity, with perhaps examples, of how it is achieved in practice. The supplementary information industry template – which is annexed in the current Code of Best Practice (CoBP) - could include a section on how the proposal has been designed to minimise the visual impact in compliance with Part 16.

39. Mobile UK would be committed to reconvening the multi-stakeholder working group that produced the existing CoBP[3] and making these improvements. We feel there is also scope for making it shorter, clearer and more useable.

40. 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?

41. In addition to the requirement to minimise visual impact, development is only permitted on the condition that equipment is removed when it becomes redundant[4]. The mobile industry is not aware that this is currently an issue; removing redundant equipment is not only the environmentally correct thing to do, but there are also financial incentives (in terms of reducing rent, rates and other operating costs) for operators to remove equipment as soon as it is not required and to restore the ground in negotiation with the landowners. Mobile UK nevertheless will, as part of the refresh of the CoBP, consider what further measures could be taken to give appropriate assurances.

42. 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?

43. The mobile industry makes extensive use of 'site sharing'. About 30% of sites are provided by the wholesale providers, and the mobile operators share further through their respective joint ventures: MBNL (for EE and Three) and Cornerstone (for O2 and Vodafone). Furthermore, at the core of the proposals to eliminate partial and total not-spots, is a plan for all four operators to share nearly 3,000 sites for 4G coverage. In due course, this footprint will provide the

[3] https://www.mobileuk.org/codes-of-practice

[4] GPDO, Part 16 Conditions A.2(2):

underpinning for 5G rollout in the rural and remote areas.

44. The most important way to provide the right incentives for sharing and the use of existing buildings is to ensure that the PD rights are sufficiently flexible for sites to be adapted for sharing, particularly where an existing mast is not able to handle the apparatus of all four operators.

45. However, we recognise that sharing is desirable and will be happy to consider appropriate changes to the CoBP to reinforce this point.

46. As an aside, we also note that a further barrier to sharing is the continued opposition from landowners to the Electronic Communications Code one of the main aims of which is to enhance operators' rights for more infrastructure sharing. We wish to continue working closely with the Government to deliver effective outcomes from the reformed ECC.

Question 2: Enabling deployment of radio equipment housing on land without requiring prior approval, excluding on sites of special scientific interest, to support 5G deployment

47. 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?

48. The main thing that mobile operators hope to achieve within this section is to bring about regulations that are technology-neutral and give parity with the fixed operators, who can deploy street furniture under PD (without prior approval required). They are also able to deploy telegraph poles of various (undefined) sizes.

49. As a minimum, cabinets up to 2.5 cubic metres should be allowed under PD (no prior approval required) in both non-protected areas and protected areas.

50. The crucial further point is that there should be an ability for mobile operators to erect vertical structures too. Fixed-line operators can deploy telegraph poles (and the associated wiring) under PD, with no prior approval. While fixed operators are not subject to any restriction on height, design or materials, a practical and expedient equivalent for mobile operators would be to be allowed to build up to 25m in unprotected areas and 20m in protected areas.

51. Amending the PD rights to permit installation of just cabinets will have minimal impact in itself; this must be aligned with the ability to deploy poles also (a base station consists of an equipment cab, a pole and antennas). Parity with fixed, i.e. the ability to install a cabinet and pole supporting antennas will be a significant benefit to connectivity.

52. A further point is that PD rights should be amended to allow larger equipment cabinets without prior approval. It would be a great benefit to the roll-out of the SRN and to 5G, if equipment housing located exclusively within an existing compound or rooftop could be installed or upgraded with PD rights (no prior approval) in both protected and non-protected areas up to the specified 90 cubic metres (and 30 cubic metres on a roof).

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

54. Please refer to our response to Question 1.3 (and the commitment to review the CoBP).

Question 3: Strengthening existing ground-based masts to enable sites to be upgraded for 5G and for mast sharing without prior approval

55. 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?

56. Yes.

57. Mobile UK agrees with the reason given in the consultation document. It is an anomaly that a new mast can be built to any width (up to 20m or 25m as the case may be) but that an existing mast can only be upgraded to the limit of 1/3 of the width.

58. As the consultation correctly points out, the current regulations act as a barrier to maximising the use of existing sites and infrastructure. The removal of the 1/3 restriction will be very useful because we anticipate that a large number of sites will be enhanced to carry 5G and the weight of the extra antennas may require that any supporting mast is strengthened.

59. 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?

60. Mobile UK does not believe that there is any requirement to specify a width. Masts tend to be proportionate (concerning height and width) and will not be built any wider than they need to be to carry the expected equipment loading. Removal of 1/3 limit will be essential for both 5G deployment and the SRN.

61. Again, please refer to our answer to Question 1.3.

62. 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?

63. Yes. Mobile UK supports the principle that operators should be permitted to extend in height existing masts, without prior approval.

64. In that event, mobile operators remain content to notify the authorities if any such activity takes place within 3km of an aerodrome, and for mobile operators to take due account of comments made.

65. Note: In paragraph 49 of the consultation, it could read that prior approval would be needed to increase the height of a mast within 3k of an aerodrome. If this were to be introduced and thus go beyond current Part 16 requirements, it would have a significant impact on the ability to rollout, for example, near the City of London airport. In any event, regulation 8 of the revised Conditions and Restrictions Regulations 2003 cover requirements to notify the aerodrome operator where the proposal involves installation, alteration or replacement of a mast that results in the material increase in height to a mast that doesn't require Full planning or Prior Approval.

66. 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?

67. Yes.

68. A development within an existing compound (protected and non-protected areas) could be permitted development (no prior approval). This would give operators the flexibility to install and upgrade equipment as necessary with a simple Regulation 5 notification.

Question 4: Enabling deployment of building-based masts nearer to highways to support deployment of 5G and extend mobile coverage

69. 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?

70. Yes, subject to the comments below.

71. Creating a permitted development right (no prior approval) for masts to be located within 20m of a highway on buildings less than 15m in height, in all areas, would be very useful and proportionate. The regulations also need to address the current need for prior approval for masts on buildings over 15m in height.

72. It would thus be very helpful to require that only ground-based masts seek prior approval. On rooftops, Installations of and alterations to apparatus could take place under PD (with no prior approval) up to the existing limit of 6m/8m/10m, as applicable, depending on the height of the roofline. In this way, the regulations will much better incentivise sharing and the use of existing buildings and structures. We believe that the clearest way to effect this change is to clarify, in the revised regulations that the prior approval requirement applies only to ground-based masts, in both protected and non-protected areas.

73. 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?

74. Please refer to our answer in 1.3 concerning minimising the visual impact.

75. It should be noted that building based apparatus within 20m of a highway will not impact sightlines, which are typically taken at around 2m above ground level.

76. 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?

77. Mobile UK's position is that prior approval should only apply to ground-based masts, not apparatus installed on buildings (such as water towers) and rooftops.

Question 5: Enabling higher masts to deliver better mobile coverage and mast sharing

78. Question 5.1: Do you agree in principle with amending permitted development rights to increase the height of new masts, subject to prior approval?

79. Yes.

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

81. In the evidence provided in Table 1, and as a general point, the higher the masts, the fewer need to be deployed to cover a given area. As such, Mobile UK suggests that a new PD right (with prior approval) could extend to 35m or even to 50m. It is acknowledged that, in England, the impact of extending PD would be relatively modest but, as Mobile UK has consistently said, higher masts would only be built where they are needed and where there is some clear benefit – either for microwave hops to the backhaul or to ensure coverage can be delivered in a cost-effective and environmentally sustainable way by enabling a single mast to cover or provide backhaul in an area rather than two or more being built to do the same job.

82. On this basis, from Table 1, granting PD for higher masts in England may only result in a few being

built over 25m, but, even so, the status that PD gives is implicit recognition that mobile connectivity is essential for inclusive growth in the UK and, on a practical level, provides a set timescale for the planning process, allowing a higher degree of certainty over the construction timetable.

83. 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?

84. No.

85. Mobile UK argues that, for example, one 50m mast will have a lesser environmental impact than multiple masts being built to cover the same area. There is only one physical mast, one access track, one compound etc. This applies in both protected and non-protected areas.

86. 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?

87. The terms of the CoBP will apply in all events, as will obtaining prior approval from local planning authorities. The main locations where Mobile UK anticipates higher masts will be built is in the areas where there is currently no coverage (the TNS areas). With the TNS rollout, there will be a greater than usual visibility of the forward plans for mast development, and thus it will be possible to assess whether a taller mast is beneficial when compared to options (e.g. two or more smaller masts to cover a similar area) and to assess the optimal development as a whole (or at least within regional areas), rather than each mast in isolation. There may be a need to confer with more than one local planning authority to arrive at optimum solutions.

Question 6: Public Sector Equality Duty

88. 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?

89. No.

90. Mobile UK's only observation is that the SRN proposals seek to narrow the urban/rural divide. While 'rural dweller' is not a protected characteristic, it is nevertheless essential for inclusive growth that Government and mobile operators can efficiently bring about change in the rural areas.

Annex A (Redacted)