



Mobile Infrastructure Project – planning applications and masts



Introduction

The government is committed to encouraging economic growth. A key part of which is promoting a modern, high quality, telecommunications (telecoms) system for communities across all parts of the UK. Good mobile coverage helps businesses to grow and people to stay in touch. This is essential for social inclusion, and of particular importance for people who are vulnerable or isolated. People are increasingly using mobile connectivity to access the internet, as more and more people own Smartphones and tablet devices. There are some rural locations without coverage, known as 'not-spots', where it is impossible to make or maintain a mobile connection. Many of these areas are of high environmental quality. In October 2011, the Chancellor announced that the government would invest up to £150m in the Mobile Infrastructure Project (MIP) as part of the [National Infrastructure Plan](#) to help stimulate economic growth. Mobile phone coverage to many homes and businesses in 'not-spots' will be extended by building new mobile telecom base stations.

The government has awarded a contract to Arqiva to design, build and manage the new infrastructure. The government will fund the cost of erecting the masts with the costs of using the new infrastructure shared between the four mobile network operators - Vodafone, O2, EE and Three - for the 20-year lifespan of the project. The project is now in the implementation phase. Following extensive planning work being carried out to confirm sites which can be linked back to the existing networks and provide coverage, Arqiva is expecting to make rapid progress in acquiring more sites and planning permission over the coming months. Appropriate sites will continue to be identified and more planning applications are expected to be submitted in the autumn of 2014. The government are following an accelerated programme to deliver a high number of schemes by spring 2015. It is quite possible that your local planning authority (LPA) has already been contacted to discuss roll-out in your area.

Mobile phone masts and the planning system

Not all telecoms development requires a planning application. The government has given licensed telecoms operators permitted development rights to carry out certain types of smaller scale telecoms development¹.

Telecoms development will normally fall within one of three categories, as below:

1. Small Developments

The smallest scale telecoms development, those that are likely to have the least impact, have permitted development rights. Masts do not fall into this category.

LPAs are notified of these works and are able to make comment on them. Typically, however, LPAs are only given 14 days to comment and the operators do not have to take these comments on board.

¹ Part 24 of The Town and Country Planning (General Permitted Development) Order 1995 (as amended) relaxes planning controls on certain types of telecoms equipment. **The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001**

2. Development requiring 'prior approval'

Some smaller scale masts, which are likely to have greater impact than above, may come under 'permitted development' but require the 'prior approval' of the LPA. In such cases, an application will be submitted to the LPA for approval of the siting and appearance proposed. Prior approval applications have to be determined within 56 days or they are automatically allowed.

3. Development Requiring Planning Permission

Larger scale masts that are likely to have a greater impact require an application for planning permission. These include, for example, any masts located in sensitive areas such as conservation areas, the Broads, National Parks or Areas of Outstanding Natural Beauty (AONBs). There are also separate requirements for Listed Building Consent and Scheduled Ancient Monument Consent.

Applications for masts that require planning permission are dealt with under the normal planning procedures and will be assessed against a range of planning criteria as well as policies set out in an adopted development plan, such as a Local Plan and Neighbourhood Plan.

The importance of early engagement with applicants

Due to the tight timescales involved in the project there may not be adequate time for extensive engagement at the pre-application stage but Arqiva have already been in contact with the vast majority of planning authorities with MIP sites in their areas. Where authorities are contacted, it might be helpful if LPAs responded in a timely way to requests for discussions, and provide a clear point of contact for that consultation, bearing in mind the tight timescales. Early discussions can help to outline any concerns with the proposal to enable them to be resolved in good time before a decision.

Arqiva has, however, committed to carry out consultations with relevant stakeholders in accordance with the industry's [Code of Best Practice](#). This would include engagement with the LPA and, where appropriate, the local community.

There is, in addition, a [Joint Accord](#) which already exists between the Association of National Park Authorities, The National Association of Areas of Outstanding Natural Beauty (AONB) and main mobile network operators (MNOs), whose purpose is 'to protect the special qualities of our finest landscapes while making the best possible provision for telecommunication services'.

How should planning applications be determined?

Planning law requires that the starting point for considering a planning application is the policies contained in the Development Plan. Decisions must be made in line with policies in the Development Plan unless there are valid and overriding reasons for not doing so, based on the merits of the case². Account can be taken of all other relevant matters, usually

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

referred to as the 'material considerations'. There are many such matters, including: national policy as set out in the [National Planning Policy Framework](#) (NPPF), other LPA strategies, the context and merits of the particular application, technical considerations and the views of those that have been consulted. LPAs will need to balance the merits of all these issues and come to a view as to whether it should grant or refuse permission.

Many LPAs will have policies in their Development Plans providing specific guidance on how mast proposals will be dealt with. LPAs may also have adopted Supplementary Planning Documents (SPDs) or Supplementary Planning Guidance (SPGs) or other adopted guidance, which relate specifically to either telecoms development or provide guidance on how development in rural areas will be considered. These, if they are up to date, will be material considerations. Some LPAs will have no specific policies in their Development Plan. In some cases, existing policies will be out of date and not compliant with the NPPF. Where there is no clear guidance in the Development Plan, LPAs will be reliant on weighing the national policies set out in the NPPF. Therefore, it is important to consider what the NPPF says on this subject.

The NPPF's approach to telecoms development in rural areas

At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 14). Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development (paragraph 28). Advanced, high quality communications infrastructure is essential for sustainable economic growth (paragraph 48). The aim should be to keep the numbers of radio and telecoms masts and the sites to a minimum consistent with the efficient operation of the network.

Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate (paragraph 43). LPAs should not impose a ban on new masts in specific areas (paragraph 44). LPAs must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecoms system, or determine health safeguards if the proposal meets [International Commission Non-Ionising Radiation Protection](#) guidelines for public exposure (paragraph 46).

How should prior approval applications be determined?

In considering prior approval applications, LPAs must restrict themselves to considering the acceptability of the proposal in relation to appearance and siting. Appearance of a mast includes its materials, colour and design. Consideration of siting may involve its impact on the ecological value of the site, the wider landscape and its proximity to buildings and housing.

Key considerations for planning applications

There is no doubt that the provision of new telecoms development in rural areas will create many challenges for LPAs. These are typically areas where there is a general approach of restraint on new development which might potentially have an adverse impact on the intrinsic qualities of the countryside.

LPA's will need to balance the social and economic benefits of any particular telecoms development against its potential environmental impact. The principal issues that are likely to arise are landscape and visual considerations. However, other issues that may also arise relate to the potential impact on:

- areas of ecological importance, such as Sites of Special Scientific Interest, Special Protection Areas and other habitat designations;
- sites of known or suspected Archaeological Importance and Scheduled Monuments;
- heritage assets such as World Heritage Sites, Listed Buildings, Conservation Areas, Designed Landscapes and Historic Gardens;
- important landscapes such as National Parks, Area of Outstanding Natural Beauty, National Scenic Areas, and those within the Green Belt;
- important landscape features such as protected woodland and trees.



In National Parks, the Broads and AONBs, which have the highest status of protection, great weight should be given to conserving landscape and scenic beauty. This does not preclude the provision of telephone masts but requires a landscape led approach to decision making.

Dealing with publicity and handling representations

There are no nationally prescribed requirements relating to publicity for prior approval applications. There are, however, national requirements for publicising planning applications; each LPA will have its own guidelines on the extent of publicity, at or above the national minimum.

It is important that appropriate weight is given to representations made by the local community and other interested parties. After all, they offer an important insight into the potential effects of a development. However, weight can only be given to those views where there are relevant planning considerations backed up by robust evidence.

Decisions cannot be made solely on the basis of the number or vociferousness of representations for or against a proposal. The Secretary of State said, in relation to the Localism act:

"...local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons."

Eric Pickles 28 June 2012

Key Tips

Ultimately good mobile coverage is important as it helps businesses to grow and people to stay in touch.

Some key advice to LPAs to assist them in dealing with planning applications for mobile masts proposed as part of the MIP roll-out, are set out below:

- These economic and social benefits need to be weighed against any environmental harm - but remember the presumption in favour of sustainable development.
- Decisions should be made in line with the Development Plan unless there are valid and overriding reasons for not doing so, based on the merits of the case.
- In the absence of up to date Development Plan policies, a decision should be made by consideration of the policies of the NPPF, taken as a whole.
- Decisions cannot be made solely on the basis of representations for or against a proposal; they must be based on valid planning grounds, weighing all the evidence and on the merits of the case.