

Directorate for the Built Environment

Planning Legislation, Performance, Economy, Engagement and
Environmental Assessment Division

T: 0131-244 7065 F: 0131-244 7083
E: Alan.Cameron@scotland.gsi.gov.uk



Peter McDougall
Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH



(sent by e-mail to pete.mcdougall@culture.gsi.gov.uk)

Our ref: A2273590
21 February 2012

Dear Peter

**CONSULTATION ON RELAXING THE RESTRICTIONS ON THE DEPLOYMENT OF
OVERHEAD TELECOMMUNICATIONS LINES**

The following is the Scottish Government's response on the above consultation.

On 31 January 2012, the Scottish Government published *Scotland's Digital Future: Infrastructure Action Plan*¹. This document sets out the Scottish Government's commitment to and the steps it will take to deliver a step change in broadband speeds by 2015, paving the way for delivery of world-class, future proofed infrastructure across all of Scotland by 2020. A strong theme of the *Infrastructure Action Plan* is the partnership approach between the Scottish Government, Local Authorities, the telecoms industry and other stakeholders which will be required to enable delivery of the Scottish Government's targets. In the broadest sense, therefore, the Scottish Government supports the overarching principle of the proposed relaxation of restrictions on overhead telecommunications lines. This is because we believe that achievement of the proposed relaxation – which is in the public sector's gift – could potentially accelerate the deployment of next-generation broadband, and therefore fully aligns with the approach set out in the *Infrastructure Action Plan*.

The above notwithstanding, the Scottish Planning Policy recognises the need to support communications infrastructure development while having necessary protections on the environment and amenity. The consultation paper does not reflect the slightly different planning position in Scotland with regard to permitted development (PD) rights, namely the designated areas where restrictions apply (see below - extract from Class 67 of our PD order) and the absence of prior approval for poles and overhead lines.

The consultation paper indicates the difficulties in being able to predict the effect of the changes and it is likewise difficult for us to predict whether the slightly different planning position in Scotland may result in significant impacts in Scotland as a result of the proposed

¹ <http://www.scotland.gov.uk/Publications/2012/01/1487/0>



changes. If overhead lines are not deployed sensitively, then we may see calls for PD rights to be restricted.

Historic Scotland point out that it will be essential that system operators use the information which is downloadable from their website² in the first instance and factor time into their project planning to discuss proposals with Historic Scotland and/or the local authority archaeologist where sites such as Scheduled Monuments or Historic Battlefields are affected.

In answer to your specific questions:

Consultation Questions

1. Approximately how much of network will be built using this relaxation, and are the cost and benefit estimates in the impact assessment accurate? **No comment**
2. Do respondents agree that existing infrastructure should be used, if possible, before new overhead deployment can take place? Do respondents agree that communications providers should be required to demonstrate that sharing of existing infrastructure has been examined? **Agree**
3. Do respondents believe that notification and consultation of planned works in local newspapers and through a qualifying body such as a Parish Councils or Neighbourhood Forums, where one exists, to be sufficient? **In Scotland the requirements appear to apply to seeking views from community councils, where they exist (or local councils if they do not) and to advertising in these areas. It would be useful, in the absence of prior approval on the relevant PD rights in Scotland, if Scottish planning authorities could be notified in all such cases and allowed to comment on proposals.**

References to Scottish legislation. The only debatable one is the community council - section 51 of the Local Government (Scotland) Act 1973 does not clearly constitute them. Possibly for that reason, paragraph 1 of schedule 3 to the Local Government (Scotland) Act 1975 refers to a community council established under Part 4 of the 1973 Act. However, references using either style exist in subordinate legislation.

4. Do respondents believe this notification and consultation would place a significant and onerous burden on communications providers that may be planning these works? If so, what level of cost or burden is envisaged to the Communications Provider? **No, but has consideration been given to enable communications by electronic means where parties are agreeable or to the use of websites etc to widen coverage beyond newspapers?**
5. We are committed to amending the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 in order to relax the rules on new overhead deployment but would welcome feedback on any aspect of the proposals as to how this should be achieved outlined in the consultation. **See response to Q4.**

² <http://data.historic-scotland.gov.uk/pls/htmlldb/f?p=2000:10:1268738196885993>

Class 67 – PD (Scotland) for electronic code system operators (restrictions in designated areas)

(2) Development is not permitted by this Class if—

(a) it is to be located in a national scenic area, National Park, Natural Heritage Area, conservation area, historic garden or designed landscape, site of special scientific interest or European Site, or on a Category A listed building or a scheduled monument or within the setting of such building or, as the case may be, monument, unless the development—

(i) is carried out in an emergency;

(ii) would result in there being not more than two small antennas on the dwellinghouse, neither

(iii) involves the installation of new overhead lines supported by existing poles;

I hope this response is of assistance and happy to discuss.

Yours sincerely

Alan Cameron

ALAN CAMERON