



Department
for Culture
Media & Sport

Proposed changes to siting requirements for broadband cabinets and overhead lines to facilitate the deployment of superfast broadband networks

Summary of Responses

June 2013

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Section 1: Introduction

- 1.1 The Government has already overseen a step-change in the provision of broadband services to the UK's homes and businesses. By 2015 the UK will have achieved a transformation in broadband, with dramatically higher speeds, a major programme of fibre roll-out to deliver superfast broadband largely complete, and more use than ever before of the internet. This will reinforce the UK's position as a leading digital economy and will be a major driver of local jobs and national growth.
- 1.2 This availability and access to superfast broadband is vital when considering the central role electronic communications plays in our lives. Improving the UK's communications infrastructure is integral to our ability to grow our economy and compete on a global scale. Improved connectivity changes the way we do business, use and deliver public services, and consume entertainment. The UK has the most competitive broadband market in the EU (among the lowest costs for broadband, the lowest reliance on the incumbent for broadband, and the lowest market share for the leading mobile operator).
- 1.3 We have the best internet economy in the world and the UK internet economy is worth £82 billion each year and contributes 8.3% to the UK economy as a whole (the highest proportion for any G8 country). 71% of the UK population bought goods and services online in 2011 (more than any other country). Already, the Government's strategy is seeing 100,000 more homes and businesses getting access each week and 50,000 new superfast connections taken up per week.
- 1.4 The challenge is to take this to the next stage. Firstly, by ensuring the policy and regulatory environment is as supportive as possible of investment in broadband infrastructure. The market is already delivering superfast broadband apace, with BT's

£2.5m investment programme reaching approximately 15m homes across the UK, and will reach two-thirds of UK households by the end of 2014 – a year earlier than planned. Virgin Media’s superfast broadband services are available to nearly half of UK households already, with demand for these services growing every month.

- 1.5 Secondly, through a direct subsidy scheme to stimulate investment in the areas of the country that the market will not deliver alone. The Government is investing £530m in these more commercially challenging parts of the UK, typically the more rural and remote areas to ensure that 90% of the population has access to superfast broadband, with the rest having access to at least 2Mbps service.
- 1.6 As up to 80% of the cost of deploying broadband infrastructure is in civil works, reducing these costs is essential to enable commercial broadband deployment to go as far as it can, and ensure that public funds are invested efficiently. One means of doing this is to relax the current restriction on the deployment of overhead telecoms lines. We also believe that short term investment would be boosted and deployment would be accelerated by temporarily removing the current requirement for communications providers to seek prior approval from local planning authorities (which applies to protected areas), before permitted development can go ahead.
- 1.7 These measures were announced by the Secretary of State on 7 September 2012, as part of a wider broadband support package. The package included a proposal, subject to consultation, that for five years, broadband street cabinets and new poles can be installed under permitted development rights in any location other than a Site of Special Scientific Interest (SSSI) without the need for prior approval from local planning authorities. In view of their exceptional status combined with the low numbers of commercial premises and householders in these areas, none of these proposals shall apply to SSSIs.
- 1.8 In January 2013, the government published a consultation that fleshed out these proposals further. The consultation related to proposed changes to the latter and seeks views on two things:-

- removal of the requirement to underground telecommunications apparatus everywhere except in SSSIs
- removal of prior approval requirements for broadband cabinets in all protected areas except for SSSIs

- 1.9 The proposals involve changes to both primary and secondary legislation. The necessary primary legislation has been received through Royal Assent of the Growth & Infrastructure Act. The changes to secondary legislation are to Part 24 of the Town and Country Planning (General Permitted Development) (England) Order 1995 and to the Electronic Communications Code (Conditions & Restrictions) Regulations 2003.
- 1.10 The changes to secondary legislation are complementary and both are needed in order to achieve the policy goal. The Department for Communities and Local Government undertook a consultation on Part 24 of the Town and Country Planning (General Permitted Development) (England) Order 1995, which closed on 24 December¹. A government response to this consultation was published on 9 May 2013.²

¹ <https://www.gov.uk/government/consultations/extending-permitted-development-rights-for-homeowners-and-businesses-technical-consultation>

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197715/Extending_permitted_development_rights_for_homeowners_and_businesses_-_summary_of_responses.pdf

Section 2: Summary of Responses

2.1 The proposals, as set out in the consultation document were:

- The removal of the requirement to underground telecommunications apparatus in all areas except SSSIs for five years
- The removal of prior approval requirements for broadband cabinets in all protected areas except for SSSIs for five years.

2.2 A total of 95 responses to the consultation were received from a range of organisations, including local authorities, communications providers, civic amenity societies, heritage and environmental bodies and members of the public.

2.3 The consultation sought views on the following questions:

- Do respondents agree with the proposal to extend the relaxation of the restriction on the deployment of overhead infrastructure to protected areas, and to remove the prior approval requirement for protected areas?
- Approximately how much new network will be built using the overhead line change, in terms of new poles and kilometres of lines? Do you agree with the assumptions and cost savings set out in the consultation stage impact assessment (annex A)? Are there any other costs or benefits that you think should be included in this assessment? Do respondents agree with the proposed consultation arrangements for the deployment of apparatus in protected areas?

- Do you agree that the duration of the proposed changes being limited to 5 years?
- We would welcome feedback on how any aspect of the proposals outlined in this consultation should be achieved.

Do respondents agree with the proposal to extend the relaxation of the restriction on the deployment of overhead infrastructure to protected areas, and to remove the prior approval requirement for protected areas?

- 2.4 Practically all of the responses agreed with the overall policy objective to achieve full broadband connectivity in the UK, recognising the needs of individuals and business and the link to economic growth.
- 2.5 71% of respondents however disagreed with the method of achieving this through this proposal comprising mainly local planning authorities, civic societies and bodies with an interest in preserving the environment.
- 2.6 All of those who disagreed had concerns about the risks that the proposal may have in terms of an adverse effect on the visual amenity, particularly in terms of a possible proliferation of new poles across the country. Sheffield City Council for example noted that: “Allowing overhead cables would be particularly damaging to Conservation Areas, Heritage Assets, Listed Buildings and National Parks. However it is also considered that it would be harmful to non-designated areas and in combination with other infrastructure would lead to over proliferation of service paraphernalia”.
- 2.7 Representatives of the National Parks thought that in their view the proposal was unnecessary because as planning authorities they already had constructive relationships with communications providers. Along with others they also highlighted the lack of evidence that prior approval is responsible for delays in infrastructure

deployment and that losing prior approval would mean losing an important planning safeguard resulting in a significantly increased risk of damage to the visual amenity.

- 2.8 The 29% in support comprised of communications providers, business representatives and the majority of county councils. They agreed that the proposals would be a valuable support in speeding up and reducing costs associated with planning in rolling out superfast broadband, particularly in difficult to reach areas.
- 2.9 The Broadband Stakeholders Group also felt that the proposals provided the necessary balance between the interests of communications providers and planning law: “Given that consultation arrangements will still be undertaken, that operators will have a statutory duty to consider changes if they are reasonable and proportionate and that these proposals state that operators must involve all the parties required to be consulted under the previous arrangement of prior approval in pre-notification, then we believe that this achieves a win-win”.
- 2.10 Some respondents were concerned about the potential loss of tourism revenue through a possible diminution of heritage values, but the impact on tourism revenue was precisely why VisitEngland supported the proposal. While recognising the need for sensitive siting of communications infrastructure, VisitEngland highlighted the economic importance of access to broadband, particularly in remote areas: “In many respects, rural tourism businesses, by the nature of their location, depend more on e-marketing and access to broadband to help develop their product and they do not have the advantage of passing footfall experienced in more popular urban locations”.

Government Response

- 2.11 The Government is pleased that virtually all respondents agreed with the policy goal of reducing the cost of deployment of superfast broadband, and that better coverage of superfast broadband is essential, even if there was some disagreement about the

instrument proposed. We recognise the concerns put forward regarding the impact on the potential impact on visual amenity and how CPs would ensure the siting and appearance of apparatus was handled sensitively.

- 2.12 This is why we agreed with communications providers and local planning authorities that they should develop and commit to a Code of Practice on the siting and appearance of apparatus. The agreed Code is attached as an Annex to this response, and contains an agreed set of overall principles on sensitive siting that communications providers will adhere to when installing broadband apparatus, together with the necessary arrangements for engagement with local communities about new overhead line deployment
- 2.13 We are grateful to the working group for their enthusiasm and commitment in agreeing this Code, and to Mark Dalziel from the Office of the Telecommunications Adjudicator (OTA2), who chaired the group. We recognise that this is just the start of the process, and that the Code needs to be effective. Therefore, the working Group have agreed to discuss the operation and effectiveness of the initially after 12 months, and will report back to Government. Separately, Government will continue to liaise with key stakeholders in order to gauge its effectiveness. As Ministers made clear during the path of the Growth and Infrastructure Act through Parliament – if we consider this Code does not prove effective on a voluntary basis, we will consider placing its principles on a statutory basis.
- 2.14 Despite the concerns raised, we believe that action is needed to support the deployment of superfast broadband. By implementing the proposals as set out in the consultation, we will create certainty for communications providers for a five year period, ensuring they can make adequate investment decisions and deploy resources effectively. Standardising the approach across all areas will speed up the pace of deployment and ensure public funds, through the BDUK rural project, are used efficiently.

- 2.15 The Code of Practice will serve as an essential tool to ensure deployments are handled sensitively, and will provide the right framework for engagement with all necessary parties, including community engagement on new overhead poles.
- 2.16 Therefore, the Government will be proceeding with the proposals as outlined in the consultation document and will be bringing forward amendments to regulations that relax the restrictions on the deployment of overhead telecoms infrastructure and allowing broadband cabinets can be deployed in protected areas except SSSIs without prior approval from local planning authorities for a period of five years.
- 2.17 In drafting the regulations, the Government noted that the position of national nature reserves and marine nature reserves were not addressed in terms in the consultation document. Given approximately 95% of national nature reserves by number and 98% by area are in SSSIs, and that telecommunications equipment is unlikely to need to be deployed in marine nature reserves, we have decided to exclude these from the revised arrangements and prior approval will still be required.

Approximately how much new network will be built using the overhead line change, in terms of new poles and kilometres of lines? Do you agree with the assumptions and cost savings set out in the consultation stage impact assessment? Are there any other costs or benefits that you think should be included in this assessment?

- 2.18 There were only two responses to the first part of the question:
- (i) The communications provider, Kcom, anticipated that 10km of poles and fibre will be installed as a direct result of the proposal.

- (ii) Friends of the Lake District have taken the estimated figure in the consultation of 10% of applications for protected areas and estimated that this means 32,500 new poles and 150 broadband cabinets in National Parks and AONBs over 5 years.

- 2.19 On the second part of the question related to the Impact Assessment, 17 respondents commented directly and just a few of which agreed with the assumptions made in it. The main comments were critical on the basis that the Impact Assessment lacked detailed evidence of the expected extent of new poles and cabinets in protected areas on which to judge their impact and evidence that the planning laws themselves were acting as a barrier to superfast broadband rollout.
- 2.20 The Planning Officers Society also highlighted the economic impact of the proposals on planning authorities: “the proposal will result in a loss of income for local planning authorities but will still generate work as planning staff will still be required to provide advice to telecommunications operators on the siting of equipment. The proposal will, therefore, place an increased burden on local planning authorities at a time when budgets are squeezed and staff numbers are being reduced”.
- 2.21 On the other hand, it was suggested by two of the communications providers that more evidence could have been given in the Impact Assessment to demonstrate the quantitative benefits on GDP as a result of the proposals.

Government Response

- 2.22 The responses to the first part of the consultation indicate that new overhead pole deployment will be relatively limited. Given the available existing infrastructure, such as BT’s network of poles and ducts, it is likely that new overhead infrastructure will only be used in specific circumstances, most likely when providers need to connect new developments in more rural areas where ducting or overhead infrastructure doesn’t exist. This should reassure those respondents who are concerned at the impact this may have on the visual amenity.

- 2.23 However, despite this, the Government believes it is still appropriate to provide this option to operators and to local authorities. The community engagement arrangements outlined in the Code of Practice will ensure that residents are able to engage with operators on the siting of any new poles, and local authorities will still be able to influence siting due to the early engagement process outlined in the Code of Practice, and through any deployments they procure themselves as part of the BDUK process. This is important, as local authorities will be able to make an informed choice as to whether to use new overhead infrastructure to maximise coverage or to demand apparatus is undergrounded as part of the contract conditions.
- 2.24 The Government recognises the concerns raised regarding evidence in the impact assessment as part of the second question. It is difficult to predict and assess the costs and benefits, and to a certain extent, rely on responses to consultations to firm these up. A Validation Impact Assessment has been agreed by the Regulatory Policy Committee.

Do respondents agree with the proposed consultation arrangements for the deployment of apparatus in protected areas?

- 2.25 Responses to this question were more mixed, with 36% agreeing, 38% disagreeing and 25% who offered no comment.
- 2.26 Some of those who did not support the main proposals were nevertheless reassured by the proposal to extend the list of consultees in protected areas and while communications providers did not object, there were some slight concerns that the consultation requirements should not undermine the benefits of removing prior approval by delaying the process through additional administrative burden.

2.27 Those against also opposed the main proposals and made three main points about the proposed consultation arrangements:

- (i) they could not adequately replace or compensate for the loss of prior approval;
- (ii) they felt that communications providers would be under no obligation to seriously consider feedback from consultees and
- (iii) they asked for the list of consultees to be extended to include civic and heritage bodies.

2.28 A point made by local authorities and one of the communications providers as the need for clarification and guidance on how to interpret what a “reasonable and proportionate” request meant in the context of the duty on communications providers to consider changes on siting of communications infrastructure being suggested by local authorities.

Government Response

2.29 The Government believes that the list of statutory consultees, as set out in the amended Regulation 8 of the Electronic Communications (Conditions and Restrictions) Regulations, is appropriate in protected areas.

2.30 Additionally, the Code of Practice sets out who else operators should engage with when considering to deploy apparatus, including highways authorities, other infrastructure providers and local planning authorities. This early engagement process will ensure that opportunities for sharing of infrastructure are maximised and that local authorities are able to influence the siting and appearance of apparatus prior to any formal notification requirements.

2.31 As already set out, the Code of Practice will remain under review and if these arrangements aren't working, the Government will consider action to place the principles of the Code of Practice on a statutory basis.

Do you agree that the duration of the proposed changes being limited to 5 years?

2.32 25% of respondents agreed with this question and 56% disagreed and 19% offered no comment.

2.33 The great majority of those who disagreed were mostly local authorities with responsibility for planning and heritage groups. A commonly raised point was that any damage to the visual amenity would be made within the 5 years and it would be difficult to reverse afterwards and some thought the damage would to all intents and purposes be permanent.

2.34 There was also a concern that as a consequence of imposing a 5 year limit, communications providers would rush to deploy infrastructure as soon as possible, thus increasing the risk of poor siting decisions and damage to the visual amenity. Many called for the 5 year window to be reduced to 2 or 3 years and for regular reviews within that time to assess the impact of the policy on the environment.

2.35 Those in support of the 5 year limit were mainly communications providers and county councils. Some communications providers and others however, also suggested a review but towards the end of the 5 years with a view to extending the time period of planning relaxations, if it was considered necessary in order to complete full roll out of superfast broadband infrastructure. Kcom for example did not have confidence that connectivity in all rural areas would be achieved easily within 5 years. The Scottish Government also suggested that it would have proposed a 7 year limit in order to facilitate reaching its broadband target set at 2020.

Government Response

2.36 The Government believes that 5 years provides the right balance of incentivising deployment of superfast broadband to act as an enabler for growth and, along with the Code of Practice, ensure that deployment is still handled sensitively and is not rushed. It also ensures the Government's rural programme can make full use of the provisions; ensuring public funds are invested efficiently. The Code of Practice will remain under review by the group itself to ensure it remains effective.

We would welcome feedback on how any aspect of the proposals outlined in this consultation should be achieved.

2.37 For those against the fundamental premise of the consultation this was a somewhat redundant question and those in support were happy with the proposals so this was not answered at all by the great majority. However, along the way some notable points were made as follows:

2.38 Two local authorities suggested that an independent appeals tribunal should be set up to deal with disputes between the CP and local authority which would give some control or avenue of redress to the latter. It would obviously undermine the point of the policy to streamline and speed up the planning process.

2.39 Six respondents highlighted the importance of communications providers sharing their communications infrastructure in order to minimise new development and therefore its impact on the visual amenity. The respondents included Ofgem, who suggested that this should be strongly encouraged and Civic Voice, who wanted infrastructure sharing to be made compulsory.

2.40 Two civic societies and one local authority suggested reducing the period for prior approval to be granted from 56 days as it is currently, to, for example, 28 days on the basis that this would encourage local authorities to make faster decisions.

Retaining prior approval would nevertheless allow local authorities to block deployment.

- 2.41 Two local authorities and one member of the public were concerned about obsolete infrastructure such as cabinets being left in situ and called for communications providers to be required to remove all type of infrastructure once they are no longer utilised.

Government Response

- 2.42 The Government does not believe that an independent tribunal would be appropriate in this instance. This would be costly and would negate the policy goal of streamlining the planning processes. Similarly, reducing the prior approval period to 28 days will not provide the necessary certainty across the board that we are looking to provide. It is this certainty that the Government believes will speed up the pace of deployment.
- 2.43 The Government agrees with the suggestion that infrastructure sharing will help reduce the impact on the visual amenity. Infrastructure sharing already happens in practice, such as access to BT's network of ducts and poles and there are no regulatory barriers to sharing between utility companies where practical or safe. We expect all operators who are looking to deploy infrastructure to look at sharing, purely because of the cost savings. This is also actively encouraged as part of the Code of Practice.
- 2.44 However, we do not believe infrastructure sharing should be mandated. Mandating access would be difficult, as sharing is not always technically or commercially viable. It could also act as a disincentive to investment in infrastructure more generally, as utility companies may be unwilling to invest if they are forced to open their networks to competitors, reducing their ability to recoup a return on their investment.
- 2.45 We welcome the suggestion regarding obsolete infrastructure. There are already provisions in both the Electronic Communications Code and the Town and Country

Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country (General Permitted Development) Order 1995 (GPDO) to ensure any redundant infrastructure can and is removed.

Code of Practice relating to Electronic Communications Code and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 and the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

**Cabinet Siting
and
Pole siting
Code of Practice**

**Issue 1
June 2013**

Fixed Line Code Operators

Agreed by: Planning Officer's Society, National Parks England, BT, Virgin Media, UK Competitive Telecoms Association, English Heritage, JAG (UK), KCOM

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This Code of Practice has been developed to complement the changes being made to the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 and the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country (General Permitted Development) Order 1995 (GPDO).

Its intent is to:

- increase the pace of roll out of superfast broadband by providing an engagement framework for Code Operators and local authorities, and providing certainty and clarity for the deployment of electronic communications apparatus;

- seek to avoid and then minimise adverse impacts associated with the provision of new electronic communications apparatus, particularly in Protected Areas; and
- support the dissemination of good practice

1.0 Scope

- 1.1. The purpose of this Code of Practice is to provide guidance to Code Operators, agents, contractors, planning and highway authorities and other persons entitled to be notified of the proposed deployment of electronic communications apparatus on the siting, keeping, maintenance and use of above the ground electronic communications apparatus, specifically cabinets and poles utilised by fixed line Code Operators, not including masts utilised by mobile Code Operators (which falls under a separate code of practice). This Code of Practice is given in the context of such electronic communications apparatus being 'street furniture'. It is not given as guidance as to how such electronic communications apparatus should be used as part of an electronic communications network or service and what legal consents are required for that use.
- 1.2. It is expected that in any network rollout of Next Generation Access (NGA) apparatus that the Code Operators will engage in dialogue between themselves and other infrastructure providers to ensure any opportunities for sharing infrastructure are explored and utilised where possible.

2.0 Legislation

- 2.1 The principal enabling legislation that controls the installation of cabinets and poles is listed below. This Code of Practice has been written pursuant to the relevant primary and secondary legislation and accepted codes of practice and any amendments thereto.
- 2.2 In this respect this Code of Practice is subordinate to relevant primary and secondary legislation (as amended) from time to time which must be followed by Code Operators, agents, contractors, planning and highway authorities and other persons, including but not limited to:

The Electronic Communications Code, Schedule 2 to the Telecommunications Act 1984 as amended by the Schedule 3 to the Communications Act 2003, ("the Telecoms Code")

The Electronic Communications Code (Conditions and Restrictions) Regulations 2003 ("the Code Regulations") Statutory Instrument 2003 No. 2553. [as amended by the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2009 and the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013

The New Roads and Streets Work Act 1991.

The Highways Act 1980.

The Town and Country Planning Act 1990.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The Ancient Monuments and Archaeological Areas Act 1979.

Planning (Listed Buildings and Conservation Areas) Act 1990.

Wildlife and Countryside Act 1981.

National Parks and Access to the Countryside Act 1949.

Environment Act 1995.

Traffic Management Act 2004.

- 2.3 Unless stated otherwise the definitions of words and expressions used in the relevant primary and secondary legislation and accepted codes of practice have the same meaning in this Code of Practice. In particular for definitions see, 'Interpretation', Regulation 2 of the Code Regulations.
- 2.4 Cabinets and poles are defined as electronic communication apparatus in accordance with the definition of electronic communications apparatus stated in paragraph 1 of the Telecoms Code, which states the conditions (amongst other things) by which electronic communications apparatus may be installed, kept and maintained in private land and publicly maintainable highway by a person to whom the Telecoms Code is applied.
- 2.5 The Code Regulations as an instrument made by the Secretary of State provide for additional conditions to those stated in the Telecoms Code for the installation, retention and use of electronic communications apparatus in private land and publicly maintainable highway by a person to whom the Code is applied.
- 2.6 The guidance given in this Code of Practice codifies principles and protocols agreed between fixed line Code Operators and various approving authorities, referred to in Regulation 2 of the Code Regulations, in relation to the seeking and granting of approvals for the siting and design of relevant electronic communications apparatus to be installed within the publicly maintainable highway or private land.
- 2.7 Besides the notifications/approvals/consents stated below, written agreement will be required from the owner and / or occupier as appropriate of the land where a cabinet or new pole is installed in any land which does not form part of a publicly maintained highway.
- 2.8 Whilst it is intended that the general principles of the Code of Practice are adopted across the UK, the specific changes brought forward by the Government in the revised Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013 can only be acted on in Wales, Scotland and Northern Ireland after corresponding changes to planning legislation in these territories. The amended General Permitted Development Order in respect of fixed broadband infrastructure applies only to England.

3.0 General comment in relation to authorities and consultees

- 3.1 Appropriate authorities to be consulted or notified will vary depending on the location of the proposed infrastructure deployment. This will involve the local planning authority and the highway authority but in protected areas consultees will extend to include the following where relevant: Natural England, Scottish Natural Heritage, Natural Resources Wales, the relevant National Trust regional office etc. It is important to establish with the local planning authority at the outset whether the infrastructure deployment is proposed in a protected or non-protected area and which bodies require consultation or notification.
- 3.2 Code Operators should initially offer to discuss the application of this Code of Practice with relevant planning authorities (eg local authority, National Park authority etc) in relation to their proposed network deployment programme with a view to identifying opportunities to avoid and minimise adverse landscape impact of proposals for new poles and cabinets. Once detailed proposals are prepared, and in addition to the required documentation, some authorities may then request site visits to discuss apparatus location, others may additionally request a drawing showing proposed apparatus locations. Any such additional dialogue should be in line with the existing one month noticing period as stated in the Electronic Communications Code (Conditions and Restrictions) Regulations.
- 3.3 The boundary of the publicly maintained highway should be, in so far as reasonably practical, established at all proposed siting locations to ensure that apparatus are not installed in private land that does not form part of the publicly maintained highway without first obtaining the owners and or occupiers written agreement.

4.0 Code of Practice Principles and Protocols for Cabinets

4.1 General

- 4.1.1 The requirements of the Town and Country Planning (General Permitted Development) Order, Part 24 of Schedule 2 to the Town and Country (General Permitted Development) Order 1995 (GPDO) as amended from time to time must be adhered to in the design and sizing of cabinet enclosures. If the permitted dimensions are exceeded then planning approval is required to install a cabinet whether installed in publicly maintained highway or private land.
- 4.1.2 Cabinets should be sited with regard to the Department for Transport “Design Manual for Roads and Bridges”.
- 4.1.3 Where possible cabinets should be installed on the publicly maintained highway.

4.2 Planning and visual considerations

- 4.2.1 Cabinets should be green (BS 14 C 40) or black (not matt black), or such colours as otherwise agreed with relevant authorities. In areas identified by the local planning authority as vulnerable (i.e. prone to fly posting or graffiti) where requested by the local planning authority consideration should be given to cabinets being coated with anti-graffiti paint.

- 4.2.2 If the cabinet is to be sited in front of more than one property, the preferred location is at the ground level vertical boundary of the two properties perpendicular to the cabinet.
- 4.2.3 The siting of cabinets adjacent to any listed building and/or Scheduled Monument should be avoided. Scheduled Monument Consent will be required to site any cabinet (and associated underground ductwork) within a Scheduled Monument.
- 4.2.4 To minimise the visual impact, the cabinet should not be sited in a prominent position at a junction or on a bend of the public maintainable highway. Other prominent locations on grass verges or grassed amenity areas should be avoided unless there is a technical justification not to do so. Cabinets must not obstruct any existing means of entering or leaving land. Additional care is to be taken when siting cabinets in Conservation Areas and/or World Heritage Sites. For particularly sensitive parts of Conservation Areas and World Heritage Sites, identified in dialogue with the local planning authority, and where there is no alternative to siting a cabinet in a location deemed unacceptable by the local planning authority, then consideration should be given to using underground watertight cabinets.
- 4.2.5 While cabinets will generally be installed on the publicly maintained highway, where the siting of a cabinet on private land would be both commercially and technically feasible and result in less visual harm, then the Code Operator should investigate that option and give due consideration to its implementation.
- 4.2.6 All cabinets should include a label or plate (maximum size 50mm x 200mm) stating the [name and contact details] of the Code Operator responsible for that cabinet.
- 4.2.7 Where possible, the cabinet should be sited where the back of the footway / highway is defined by a solid means of enclosure (fence, wall, hedge or a combination of these) at least as high as the cabinet allowing access to the cabinet from the footway.

4.3 Health and Safety considerations

- 4.3.1 All abandoned above ground electronic communications apparatus owned by the Code Operator should be removed prior to and / or on or after the siting of new cabinets, Code Operators will take account of any of their existing electronic communications apparatus, in order to avoid overcrowding of apparatus on footways. .
- 4.3.2 Cabinets should be located at the back of the footway unless a security risk is deemed overriding. Where the siting of a cabinet to the rear of the footway is likely to create a 'secure by design' issue (for example, providing *solely by itself* access onto flat roofs / gardens / secure private property), then a kerbside location should be chosen. The nature of the security risk, and whether it is justified as an overriding factor, should be drawn to the attention of the local planning authority. If positioned at the front of the footway where reasonably practicable there should be a minimum clearance of 450mm from the kerb face. Additionally the cabinet should not be placed immediately in front of any ground level window.
- 4.3.3 Where cabinets are sited directly next to a property they should not impede ventilation through air bricks.

- 4.3.4 Cabinets sited by highway junctions must comply with visibility and line of site requirements and must not obscure highway nameplates, as specified in the Department for Transport's document, 'Traffic Signs Manual Chapter 8 – Part 2 Operations'. Sites known to be accident black spots are to be avoided (known to the local highway authority and notified to the Code Operator during the consultation process).
- 4.3.5 The cabinet should not interfere with the designed flow of any footway drainage system.
- 4.3.6 Cabinets should not be located immediately adjacent to any existing manhole or access chamber belonging to any other apparatus owner.
- 4.3.7 Cabinets should be sited parallel to the footway/carriageway in order to minimise any obstruction to the flow of pedestrian or other traffic including designated cycleways.
- 4.3.8 Cabinets should be sited to avoid obstruction of existing vehicular or pedestrian access to properties and public or private rights of way
- 4.3.9 Cabinets should be located so that they avoid creating safety hazards to the physically and visually disabled.
- 4.3.10 Exposed cabinet plinths should not project more than 25mm beyond the edges of the cabinet sides. On sloping ground cabinets should be set level.
- 4.3.11 Cabinets installed near a tree should conform to the guidelines in the current National Joint Utilities Group Ltd (NJUG) publication volume 4 - 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees'.
- 4.3.12 It is recognised that in order to avoid overheating of equipment cabinets should be sited in locations that will provide acceptable air circulation and preferably be out of direct sunlight. Additionally, for operational reasons, certain cabinets have to be located within specific distance parameters from other cabinets.

4.4 General Guidance over Consultation

- 4.4.1 In a situation where it is not possible to follow the above guidance, early discussion should take place with the relevant authorities to establish the most suitable location for cabinets before the relevant notification is made.

5.0 Code of Practice and Protocols for New Poles

- 5.1 The sharing of pole structures should be considered at the design stage in order to reduce unnecessary duplication and visual impact.
- 5.2 Where there is a requirement for the siting of new poles they should be sited (where relevant and practical) in accordance with the guidance stated in sections 1, 2 and 3 above. In addition, the following will apply:

- 5.3 Where new poles are to be installed the Code Operator should place a site notice (coinciding with notification to the relevant authorities) in as close proximity as possible to the proposed apparatus indicating to nearby residents the intention to install a pole, and the proposed location. The location of such notices should be discussed with the relevant authorities at the initial engagement meeting. Notices should state the name and contact details of the Code Operator. In National Parks and Areas of Outstanding Natural beauty, the Code Operator should discuss new pole locations with the relevant National Park Authority or AONB Partnership at an early stage to identify opportunities to minimise any adverse landscape impact
- 5.4 The preferred position for poles is on the publicly maintainable highway and where possible in the footway adjacent to the property boundary rather than at the kerb edge. (other than where Health & Safety considerations such as spiked railings etc may occur)
- 5.5 If the pole is to be sited in front of more than one property, the preferred location is at the vertical boundary of the two properties perpendicular to the location of the pole.
- 5.6 Wherever possible, on footways or grass verges the pole position should be a minimum of 500mm from the kerb stones or other carriageway edges.
- 5.7 The siting of poles adjacent to any listed building and/or Scheduled Monument should be avoided. Scheduled Monument Consent will be required to site any pole (and associated underground ductwork) within a Scheduled Monument.
- 5.8 All new poles should be sited, so far as is practicable, so as to minimise their impact on their setting, including the landscape and any buildings. To minimise the visual impact, poles should not be sited in a prominent position at a junction or on a bend in the road. Other prominent locations on grass verges or grassed amenity areas should be avoided unless there is a technical justification. Poles must not obstruct any existing means of entering or leaving land. Additional care is to be taken when siting poles in Conservation Areas and/or World Heritage Sites. For particularly sensitive parts of Conservation Areas and World Heritage Sites, identified in dialogue with the local planning authority, and where there is no alternative to siting a pole in a location deemed unacceptable by the local planning authority, then consideration should be given to using underground service feeds.
- 5.9 While poles will generally be installed on the publicly maintained highway, where the siting of a pole on private land would be both commercially and technically feasible and result in less visual harm, then the operator should investigate that option and give due consideration to its implementation.
- 5.10 Poles sited by highway junctions must comply with visibility and line of site requirements and must not obscure highway nameplates, as specified in the Department for Transport's document, 'Traffic Signs Manual Chapter 8 – Part 2 Operations'. Sites known to be accident black spots are to be avoided (known to the local highway authority and notified to the Code Operator during the consultation process).
- 5.11 The pole should not interfere with the designed flow of any footway drainage system.

- 5.12 Poles should not be located immediately adjacent to any existing manhole or access chamber belonging to any other apparatus owner.
- 5.13 Poles should be located in accordance with DoT guidelines so that they avoid creating safety hazards to the physically and visually disabled.
- 5.14 Consideration should also be given to the following aspects which may impact on the installation and maintenance of the pole :
- Safe access including Ladder positioning
 - Pole testing
 - Access by Elevating Platform
 - Surface reinstatement requirements following pole testing
 - Pole replacement
 - Adherence to minimum cable heights

6.0 Dispute Management

6.1 Complaints

To ensure that all infrastructure deployments are compliant with this Code of Practice a Code Operator as a matter of good practice should have a complaints procedure to handle complaints from members of the public and other stakeholders that refer to infrastructure deployment. It is expected that such a complaints procedure :

- Will deal with complaints in a professional manner.
- Will provide for the complaints to be escalated to a higher level within the Code Operator's organisation
- Should be transparent with a formal written response to the complainant detailing the reasons for accepting or rejecting the complaint
- Should provide for complaints to be dealt with in a diligent and timely manner
- Will keep records of the numbers of formal complaints, time to action and the outcome

7.0 Monitoring and review

- 7.1 To ensure the effectiveness of the Code of Practice is kept under review: Code Operators and local authority representatives should meet to review the effectiveness of the Code of Practice initially after 12 months following publication, and then every 18 months after that to share learning and to resolve any issues. The meetings shall be convened by the Department for Culture, Media and Sport, and chaired independently. A summary of these meetings shall be provided to the Department of Culture, Media and Sport who will consider it, together with any other representations received, in relation to the effectiveness of the Code of Practice.

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