

TELECOMMUNICATIONS DEVELOPMENT – LEGISLATION OVERVIEW

TELECOMMUNICATIONS MASTS- OVERVIEW

- Telecommunications providers have been tasked with updating infrastructure across Scotland in order to meet the aims of the Scottish Government's 5G Strategy for Scotland
- The specific technical infrastructure required for 5G means that mast sharing is not always possible.
- Some existing 3G/4G services are provided by existing towers or behind church louvres, the size and weight of 5G infrastructure means that it can often be impractical or impossible to accommodate such infrastructure alongside existing antennas needed for 3G/4G
- 5G internet is a new technology which does not transmit as far as previous mobile broadband and does not pass through physical barriers with the same efficiency. As a densely populated urban area, Edinburgh also faces the challenge of a substantial increase in demand which will require a significant increase in network capacity



LEGISLATIVE BACKGROUND

- Class 67 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) grants permitted development rights to electronic communications operators to undertake certain development without the need for a planning application.
- These permitted development rights are usually exercised through two different processes, Prior Approval and Prior Notification, depending on whether the proposed development involves the installation of a new mast or the replacement of an existing mast.
- Not all new electronic communications development can be undertaken through permitted development rights. Some development requires full planning permission

PROCESS FOR NEW GROUND BASED MASTS – PLANNING PERMISSION

- Planning permission automatically required for any mast greater than 30 metres in height
- Planning permission required for new masts located in:
 - conservation area,
 - world heritage site,
 - historic garden or designed landscape,
 - scheduled monument,
 - the setting of a category A listed building,
 - a site of special scientific interest; or
 - a historic battlefield.

PROCESS FOR NEW GROUND BASED MASTS – PRIOR APPROVAL

- For new masts that don't require planning permission, operators must apply to the planning authority to determine whether **PRIOR APPROVAL** is required in respect of the appearance and siting of the mast.
- The planning authority has 56 days from the date on which a valid application is received to give the developer their decision as to whether prior approval is approved or refused.
- If the planning authority does not notify the operator within 56 days, they can commence with the works
- On receipt of an application, all neighboring properties within 20 meters are notified. Residents have 14 days to comment
- If the planning authority determines that prior approval is not required, the mast is permitted development.
- If the planning authority refuses prior approval, operator can appeal to the DPEA
- Can be dealt with under delegated powers. Not dealt with in the same manner as planning application .
- Operator must get separate agreement of Roads Authority to place equipment on adopted roads .

NEW MASTS – HEALTH IMPACTS AND EMERGENCY POWERS

- Planning authority cannot take potential health impacts of a mast into account
- All applications are required to be accompanied by an ICNIRP Declaration
- ICNIRP declaration certifies that the site is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP)
- The INCRP is an independent non-profit international organisation which specializes in gathering evidence on limiting exposure to non-ionizing radiation
- Operators have permitted development rights to use land in an emergency for no longer than 18 months to station and operate moveable telecommunications apparatus which is needed to replace unserviceable apparatus.

REPLACING AN EXISTING MAST

- For works which involve altering or replacing an existing ground-based mast, operators must give written notice to the planning authority of their intention to carry out the development at least 28 days before it commence. Prior notification
- Operators will email or write the planning authority directly notifying that the mast alteration or replacement will be taking place
- No Neighbour Notification
- No requirement under the planning acts to keep a public register of prior notifications.
- If the planning authority determines that the works described in the prior notification do not constitute permitted development, it will endeavour to contact the operator and advise them that planning permission is required

QUESTIONS AND COMMENTS