

TELECOMMUNICATIONS INFRASTRUCTURE INSTALLATIONS

INFORMATION FOR WIGAN BOROUGH RESIDENTS

March 2024

Introduction

Wigan Borough residents may notice telecommunications operators installing new infrastructure or apparatus in their local areas. This information note provides guidance to assist residents in understanding common telecommunications projects.

This document provides background information on the legislative framework for new telecommunications development, including common projects that may take place on residential streets.

Answers to frequently asked questions about telecommunications development can be found at the end of this guidance note.

Background

Over several years central governments have passed legislation which makes it easier for telecommunications operators to install apparatus to extend or improve their networks, in order to support digital connectivity for residents and businesses.

Whilst Local Planning Authorities generally have the power to scrutinise development proposals through the submission of planning applications, certain types of development are granted automatic 'permitted development rights' under national legislation, exempting those development types from the requirement for planning permission.

Most telecommunications development now benefits from permitted development rights under Schedule 2, Part 16 of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (commonly referred to as the 'General Permitted Development Order').

Class A of Part 16 of the General Permitted Development Order allows a broad range of developments by or on behalf of an "electronic communications code operator", meaning a nationally registered digital infrastructure provider such as BT/OpenReach and CityFibre. For this reason, the Council's involvement in telecommunications development as Local Planning Authority and Local Highway Authority is extremely limited.

Common telecommunications developments

Poles

Telecommunications poles are similar to the common telegraph poles that carry telephone wires, and generally support a fixed line broadband cable above the highway. They are generally wooden poles of between 8 and 11 metres in height, although they can sometimes be made of steel. They carry cables, and the poles themselves do not transmit or receive radio signals.

Poles do not require planning permission unless they exceed 15 metres in height, as they are permitted development under Class A(a) of Part 16 of the General Permitted Development Order. Electronic communications operators can legally install poles without any form of permission from the Council.

Under the *Electronic Communications Code (Conditions and Restrictions) Regulations 2003*, operators are required to give Local Planning Authorities 28 days' notice of their intention to install a pole, and to advertise their intention to install infrastructure within the vicinity of the site, usually via a site notice. However, there are no real means for a Council or a resident to object to the development.

The Council has no powers to prevent the installation of poles, despite the requirement for operators to notify the Council and residents. A highway licence is not required. The Local Highway Authority would only intervene if a pole caused an obstruction (although this would be unlikely if the operator follows national guidance for installation).

The Council has no powers to seek the removal of a pole due to its visual impact or appearance.

Masts

Unlike poles, masts generally receive or transmit radio signals. The form of development sometimes referred to by operators as a "monopole" is actually a form of mast, not a pole. It supports broadcast antennae rather than cabling. These antennae broadcast and receive mobile phone signals and mobile broadband (e.g. 4G and 5G signals) and are essential for the operation of the mobile phone network.

Masts are typically of metal construction and are 15 to 20 metres high, but they can be even taller. Like poles, they also benefit from permitted development rights under Class A of Part 16 of the General Permitted Development Order.

However, in the case of a new mast, permitted development rights are conditional upon the developer submitting a "prior approval" application to the Council. This is a bit like a light-touch planning application process, where the Council is offered the opportunity to assess the "siting" and "appearance" of the mast. It is possible for the Council to refuse a prior approval application on grounds of siting or appearance if these are deemed inappropriate.

The Council has 56 days to make a decision on prior approval applications, or to agree a longer timeframe with the developer if necessary. If the Council fails to issue a decision within that timeframe, the mast benefits from automatic consent.

A site notice will usually be displayed at the location of the proposed mast for not less than 21 days, and residents have the opportunity to submit representations to the Council. Please note that comments will only be taken into account if they relate to the siting or appearance of the mast – concerns about aspects such as the health effects of radiation from mast signals are not relevant, as operators already have to comply with international guidelines.

Masts which can be assessed through the light-touch prior approval process include all new masts under 30 metres in height, or 25 metres within a Conservation Area. Masts above these heights require full planning permission.

Replacement masts are permitted development without the need for prior approval or planning permission, unless they would be over than 25 metres tall and they would be taller than the original mast, or they would be significantly wider.

Modern 5G masts can often be unsightly due to operational requirements, and applications will be refused where visual harm is considered to be unacceptable (such as where a heritage asset may be affected).

However, the National Planning Policy Framework (2021) states that planning decisions “should support the expansion of electronic communications networks” as these are “essential for economic growth and social well-being” (paragraph 114). As such, planning officers have to make a balanced decision in every case, and the benefits of improved digital infrastructure will often outweigh minor visual harm.

Masts are often sited within the footway, although they can also be on private land. Should prior approval or planning permission be granted for a mast within the footway, a permit from the Local Highway Authority is only required for the method of installation, not the principle of the development. Operators are expected to comply with an adopted Code of Practice in terms of road safety, visibility and retention of acceptable pavement widths.

Cabinets

Cabinets are typically metal boxes placed on the footway, containing infrastructure required for mobile or fixed broadband networks. These can be freestanding or connected to a larger structure such as a mast. Cabinets do not usually require planning permission, as they benefit from permitted development rights, unless their cumulative volume would exceed 90 cubic metres (which is very rare). However, where a prior approval proposal for the installation of a mast also includes cabinets, their appearance and impact on local character can form part of the assessment.

Other telecommunications developments

Some other common above-ground developments carried out by operators include new or replacement antennae on existing masts, or the installation of apparatus on buildings. These developments do not usually require planning permission or prior approval, unless they are particularly large or affect a heritage asset.

Frequently asked questions

Why has a new pole or mast been installed on my street?

Telecommunications companies are rolling out infrastructure across the area to deliver faster mobile and fixed-line broadband to residents and businesses.

Do companies need planning permission to install a pole?

No, poles of up to 15 metres in height benefit from national permitted development rights and so planning permission is not required.

Why were residents not consulted about new telegraph poles?

As there is no requirement for planning permission, there is no legal requirement for consultation with local residents or businesses. Telecommunications operators should advertise development proposals within the vicinity of the site, usually via a site notice, but there is no real opportunity for residents to object to the installation.

What powers does the Council have to prevent or remove new poles?

The Council does not have planning powers to prevent the installation of new poles of up to 15 metres in height, or to insist upon their removal. Enforcement action can only be taken by the Local Highway Authority if a pole blocks a highway or driveway.

Why are companies using poles instead of underground cables?

This is a choice for the telecommunications operator to make, but attaching broadband cables to poles can avoid the need to dig up roads, driveways or front gardens.

Do advertisements on masts and poles require consent?

Any informative signage relating to a proposal for telecommunications would be unlikely to fall within the definition of an "advertisement," but if it did, it would benefit from deemed consent under Class 2A of Part 1 of Schedule 3 of the *Town and Country Planning (Control of Advertisements) (England) Regulations 2007*: "miscellaneous adverts relating to the premises on which they are displayed". Express consent from the Council is not required.

Can the Council's Highways Department refuse the telecommunications operator a permit to work on a Council highways or footway?

Only if the installation will cause a physical obstruction or creates a safety issue i.e. impacts on sightlines.

Can I seek an injunction against an operator?

This is not a viable option, as it goes against the Government's intentions to improve and expand telecommunications infrastructure. It is highly unlikely that an injunction would be granted.

What standards do telecommunications companies have to meet?

Operators are subject to several conditions and restrictions, and outside of planning

controls there are other legislative requirements set out in the *Digital Economy Act 2017* and the *Electronic Communications Code (Conditions and Restrictions) Regulations 2003*. There are also guidance documents for telecommunications companies, such as the *Cabinet and Pole Siting Code of Practice* (revised 2016).

Can the Council apply for an Article 4 Direction under the Town and Country Planning Act (General Permitted Development) (England) Order 2015

An Article 4 Direction removes certain permitted development rights for a specific property or area, meaning a planning permission from the council will be needed should someone wish to carry out the prescribed development. The advice the council has received confirms that it is extremely unlikely that the Secretary of State will approve any application made by the council to pursue an Article 4 Directive to revoke all permitted developments across the Woodedge and Mucklow estates