

Telecommunications Masts (Planning Control) Bill

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B I L L

TO

Amend the law relating to planning in connection with telecommunications masts and associated apparatus; to amend the electronic communications code in connection with telecommunications masts and associated apparatus and make further provision about that code; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Planning

1 Amendment of the Town and Country Planning Act 1990

- (1) The Town and Country Planning Act 1990 (c. 8) is amended as follows.
- (2) After section 71A insert—

“71B Telecommunications masts: precautionary principle statement

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- (1) Every application for planning permission for telecommunications masts and associated apparatus shall be accompanied by a precautionary principle statement (‘the statement’).

- (2) A local planning authority on receipt of an application for planning permission for telecommunications masts and associated apparatus, and on the receipt of a notice of appeal, shall—

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- (a) make copies of the statement available for inspection, and
- (b) indicate how representations can be made in respect of the statement,

in such manner as may be prescribed by regulations.

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- (3) A local planning authority in considering an application for planning permission for telecommunications masts and associated apparatus, or the Secretary of State on an appeal against a determination or non-determination, shall not make a decision until it, or he, has first taken into account the information contained within the statement and any representations received in respect of that information.

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- (4) Where the statement indicates that there is a threat of damage to health or the environment, it shall not be a ground for granting planning permission that there is a lack of full scientific certainty about the extent of the threat of damage to health or the environment.

71C Telecommunications masts: beam of greatest intensity certificate 5

- (1) Every application for planning permission for telecommunications masts and associated apparatus shall be accompanied by a certificate ('the certificate') which sets out –
- (a) the area and maximum range of the beam of greatest intensity,
 - (b) the minimum and maximum distances at ground level of the beam of greatest intensity, 10
 - (c) an explanation of the way in which the intensity of radiation falls off with distance from an antenna and of the level of the intensity of radiofrequency radiation,
 - (d) an indication of where the beam of greatest intensity falls and the nearest and farthest distance from the antenna to these points. 15
- (2) A local planning authority on receipt of an application for planning permission for telecommunications masts and associated apparatus, and on the receipt of a notice of appeal, shall 20
- (a) make copies of the certificate available for inspection, and
 - (b) indicate how representations can be made
- in such manner as may be prescribed by regulations.
- (3) Where a beam of greatest intensity falls on any part of any premises or land occupied by or consisting of an educational or medical facility, or of residential property, planning permission shall not be granted before first taking into account the information contained within the certificate, and any representations received in respect of that information. 25
- (4) For the purposes of section 71B and this section – 30
- 'beam of greatest intensity' means where the greatest exposure to the radiofrequency radiation signal occurs;
 - 'educational facility' means any premises used for the education of children and young adults, whether such education is full or part time, and includes a nursery school; 35
 - 'electronic communications code' means the code set out in Schedule 2 to the Telecommunications Act 1984;
 - 'exempted apparatus' means –
- (a) a public call box, or
 - (b) an antenna which cannot be used for receiving a signal transmitted from a telecommunications mast, and 40
 - (c) radio equipment which cannot be used in connection with a telecommunications mast;
- 'medical facility' means any premises used for medical treatment or care; 45
- 'precautionary principle statement' means a statement accompanying an application for planning permission for telecommunications masts and associated apparatus which describes the effect upon the environment or human health

which might arise from the installation or use of the telecommunications masts and associated apparatus;
 ‘telecommunications masts and associated apparatus’ has the same meaning as the term ‘electronic communications apparatus’ in the electronic communications code, except that the definition of that term does not include exempted apparatus.”

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2 Amendment of the Town and Country Planning (General Permitted Development) Order 1995, etc.

- (1) The Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) is amended in accordance with subsections (2) to (6). 10
- (2) In Article 1(2) (interpretation), at the appropriate place in alphabetical order, insert –
- “‘electronic communications code’ means the code set out in Schedule 2 to the Telecommunications Act 1984; 15
- ‘exempted apparatus’ means –
- (a) a public call box, or
 - (b) an antenna which cannot be used for receiving a signal transmitted from a telecommunications mast, and
 - (c) radio equipment which cannot be used in connection with a telecommunications mast; 20
- ‘telecommunications masts and associated apparatus’ has the same meaning as the term ‘electronic communications apparatus’ in the electronic communications code except that the definition of that term does not include exempted apparatus.” 25
- (3) In Part 2 of Schedule 2 (minor operations), at end, insert –

“Class D

Permitted development

- D Development which consists of – 30
- (a) the use of land by or on behalf of an electronic communications code operator for a period not exceeding 3 months to provide access for and station temporary moveable telecommunications masts and associated apparatus, which is required for the sole purpose of temporarily replacing unserviceable telecommunications masts and associated apparatus; or 35
 - (b) the replacement of telecommunications masts and associated apparatus, including associated equipment and structures and the provision of means of access, which is required for the operation of an Electronic Communications Code Operator’s system where such existing telecommunications masts and associated apparatus has become unserviceable. 40

Development not permitted

- D1 Development is not permitted by Class D if the telecommunications masts and associated apparatus are not of the same type and capacity 45

as the unserviceable masts and associated apparatus they are to replace.

Interpretation of Class D

- D2 For the purposes of Class D ‘moveable telecommunications masts and associated apparatus’ means masts and apparatus attached to a vehicle, trailer or moveable structure.” 5
- (4) In Part 17 of Schedule 2 (development by statutory undertakers), in paragraph A1 (development not permitted), after sub-paragraph (c), insert “or
(d) telecommunications masts and associated apparatus.”
- (5) Part 24 of Schedule 2 (development by electronic communications code operators) is revoked. 10
- (6) Part 25 of Schedule 2 (other telecommunications development) is revoked.
- (7) The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 (S.I. 2001/2718) is revoked.
- (8) The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2002 (S.I. 2002/1878) is revoked. 15

The electronic communications code

3 Amendment of the Telecommunications Act 1984

- (1) Schedule 2 to the Telecommunications Act 1984 (c. 12) is amended as follows.
- (2) After paragraph 5(3), insert – 20
- “(3A) No order under this paragraph shall be made in respect of any land or premises consisting of an educational, nursery or medical facility.”
- (3) After paragraph 5, there is inserted –
- “5A (1) A notice may be served by a properly constituted body on the operator of an electronic communications network which may require that – 25
- (a) all telecommunications masts and associated apparatus be removed from premises or land used for –
- (i) medical or health related purposes, or 30
- (ii) education, including use as a nursery; and
- (b) any land or premises, which has been the subject of a compulsory purchase made under the powers granted by section 118 of the Communications Act 2003 shall revert to the original owner. 35
- (2) On an application made by the properly constituted body, at the end of a period of no fewer than 28 days starting with the date of the serving of the notice under sub-paragraph (1), the County Court shall make an order for –
- (a) the discontinuance of use and the removal of all telecommunications masts and associated apparatus and equipment, and 40

- (b) the reversion of any land or premises,
set out in the notice.
- (3) On the granting of an order under this paragraph, the County Court shall order that—
 - (a) all transmissions from telecommunications masts and associated apparatus which is the subject of the order shall cease at the end of a period not to exceed 28 days, and
 - (b) all equipment shall be removed within a period not to exceed 3 months,
from the date of the order.
- (4) No compensation shall be payable to the operator of the telecommunications masts and associated apparatus as a result of any order made by a Court under this paragraph.
- (5) For the purposes of this paragraph—
 - ‘exempted apparatus’ means—
 - (a) a public call box, or
 - (b) an antenna which cannot be used for receiving a signal transmitted from a telecommunications mast, and
 - (c) radio equipment which cannot be used in connection with a telecommunications mast;
 - ‘a properly constituted body’ means—
 - (a) in relation to a medical facility, its management committee or proprietor,
 - (b) in relation to an educational establishment other than a nursery or private education establishment, its governing body, and
 - (c) in relation to a nursery or private education establishment, its governing body, management committee, or proprietor;
 - ‘telecommunications masts and associated apparatus’ has the same meaning as the term ‘electronic communications apparatus’ except that the definition of that term does not include exempted apparatus.”
- 4 Amendment of the Communications Act 2003**
 - (1) The Communications Act 2003 (c. 21) is amended as follows.
 - (2) In section 119(2) (power of OFCOM to give assistance in relation to certain proceedings), at the end, insert “or
 - (c) any application under paragraphs 5A, 17 and 21 of that code.”
 - (3) In paragraph 1 of Schedule 4 (interpretation), at the appropriate place in alphabetical order, insert—
 - “‘educational establishment’ means any premises used solely or partly for the education of children or young adults, and includes schools, colleges and nurseries and all buildings and grounds of such establishments;

“‘medical facility’ means a facility used for medical purposes, whether such use is for residential or short-duration treatment or examination;”.

- (4) In paragraph 3(1) of Schedule 4 (compulsory purchase of land: England), after the words “in England and Wales”, insert the words “other than land that is owned or used by a medical facility or educational establishment”. 5
- (5) In paragraph 4(1) of Schedule 4 (compulsory purchase of land: Scotland), after the words “in Scotland”, insert the words “other than land that is owned or used by a medical facility or educational establishment”.
- (6) In paragraph 5(1) of Schedule 4 (compulsory purchase of land: Northern Ireland), after the words “in Northern Ireland”, insert the words “other than land that is owned or used by a medical facility or educational establishment”. 10

Miscellaneous and final provisions

5 Expenses

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment. 15

6 Short title and extent

- (1) This Act may be cited as the Telecommunications Masts (Planning Control) Act 2005.
- (2) Sections 1 and 2 extend to England and Wales only. 20

Telecommunications Masts (Planning Control) Bill

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To amend the law relating to planning in connection with telecommunications masts and associated apparatus; to amend the electronic communications code in connection with telecommunications masts and associated apparatus and make further provision about that code; and for connected purposes.

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