

Are You Ready for 5G Rollout?

Department for
Digital, Culture,
Media & Sport

FUTURE TELECOMS INFRASTRUCTURE REVIEW

- **Is there a mandate from your Executive in support of the recommendations in the FTIR?**
- **Has any mandate been disseminated to your organisation, and an assessment made of actions needed?**
- **Have you a digital infrastructure strategy?**
- **Have you a Digital Champion, and a Digital Co-ordinator?**
- **Are all your assets mapped and available to operators?**
- **Are you aware of the Electronic Communications Code, and the progress of any ongoing property negotiations.**
- **Are you aware of NPPF 2019? Are your town planners and planning committee conversant and adherent?**
- **Are you aware of the proposed changes to Permitted Development Rights?**
- **Are you aware of the DCMS portal?**



Are you ready for 5G Rollout?

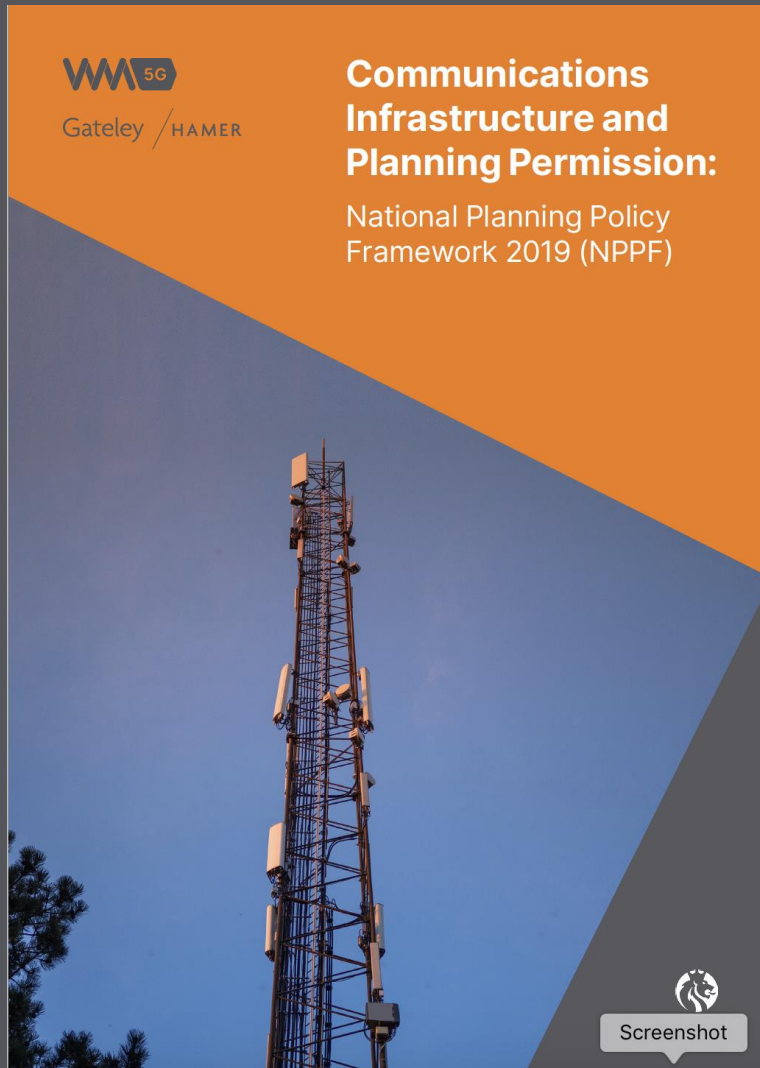
Do you have a Digital Infrastructure Strategy?

Your Plan:

- The importance of digital, full fibre broadband and wireless connectivity, including 5G, to delivering the plan
- Measures to support the rollout of full fibre broadband
- Measures to support the rollout of wireless connectivity and the acceleration of 5G
- Identifying IOT and other digital opportunities
- Upgrading to smart infrastructure
- Barrier busting (i.e. simpler, quicker, cheaper)
- Taking opportunities to use your assets
- The digital economy, digital skills and digital inclusion



Town & Country planning Ready for 5G Rollout?



- Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)
- In all cases, improved communications are a benefit to be weighed against any visual impacts
- Changes to permitted development Reg 5 will be introduced in 2022 which will change the decision making criteria for Town & Country planners



Code



The Electronic Communications Code 2017 (“the New Code”) came into effect on 28 December 2017 with the aim of making it easier for Operators to obtain and secure certain rights.

This was motivated by the Government’s wish to speed up the roll out of broadband and mobile network coverage throughout the UK, accepting that digital access is no longer considered a luxury but a necessity in line with other utilities.

It underpins agreements to install and maintain communications infrastructure and equipment on land and property.



Electronic Communications Code 2017

The Electronic Communications Code gives statutory rights to telecommunications operators to install and keep equipment on third party land and governs the limitations on landowners to remove such equipment.

Code rights can be acquired by agreement between the parties or, in default of agreement, by order of the court - An operator that has been unable to secure agreement can apply to court to impose an agreement.

Upon contractual termination or expiry, a Code agreement statutorily continues unless and until determined in accordance with the new Code. The termination period is now 18 months & must satisfy one of four statutory grounds for termination (proven redevelopment most commonly used).



The Code introduces a range of measures to “*make it easier, quicker and cheaper for network operators to rollout infrastructure on public and private land*”. Unfettered upgrade and sharing rights are assumed.

The Code has also implemented fundamental changes to the basis on which telecommunication sites are valued.

The below are the main criteria of the changes to consideration & compensation:

Consideration is now payable to reflect the market value of the site in a ‘no network’ world. Red book valuation is to be followed.

Compensation to reflect any auditable cost, loss or damage sustained as a result of the exercise by a network operator of their Code Right.

Local authorities can no longer profit from telecommunication installations. Section 123 of the Local Government Act 1972 states that “best value” needs to be attained.

DCMS issued guidance in 2020 making explicit reference to local authorities needing to take into account other aspects of best value – e.g. the public benefit of mobile networks

<https://www.gov.uk/guidance/guidance-on-access-agreements>



Electronic Communications Code 2017

The Electronic Communications Code (the Code) was first challenged in the UK's Upper Tribunal in 2018. The determination gave guidance on the issue of interim rights (*EE and Hutchison 3G v London Borough of Islington* [2018] UKUT). Since then, the tribunal has endeavoured to clarify a number of areas of contention between operators and landowners.

Cornerstone v The University of London [2018] UKUT determined the rights of the MNO's to enter onto a prospective site in order to undertake preliminary surveying works and assess its suitability to host telecoms. If a landowner refuses to voluntarily grant access for such purposes, an operator can apply to the tribunal for an order imposing access rights.

Cornerstone v University of the Arts London [2020] UKUT). The tribunal confirmed that the level of prejudice to the individual landowner must be very high in order to outweigh the public demand for and dependence upon telecoms networks.

Cornerstone v London & Quadrant Housing Trust [2020] UKUT, the tribunal determined that it anticipates consideration levels for residential roof-top sites, regardless of the geographical location, to be in the region of £5,000 per annum. This is being tested by both MNOs and landowners.

This determination also clarified paragraph 17 in that operators who have Code agreements may upgrade their apparatus and/or share it with other operators, but only if this (i) results in a no more than minimal adverse impact on its appearance; and (ii) imposes no additional burden on the landowner.



**The Code – what didn't go to
plan?**



1. The number of new lease agreements and lease renewals have declined dramatically since 2018, as a direct result of the ECC '17.
2. Instead of the Code helping the provision of sites with private landlords, it has had the opposite affect.
3. Local Authorities are now front and central to the first option for new sites – streetworks!
4. Lease agreements are taking up to 24 – 36 months to agree.
5. Landlord agents are being squeezed out of business and resisting Code notices.
6. The MNO's are referring cases to the Upper Tribunals in unprecedented numbers.
7. The Government's insistence on removing Huawei (second vendor).
8. The consolidation of the MNO market and buy-outs.
9. MNO's CoP to share sites and use rooftops is being ignored.
10. Unilateral rollout of MNO streetworks programmes.
11. Covid
12. NTQs – Notice to quit



1. The Government have recognised that there is a problem and launched a consultation in March 2021
- The area of valuation was not consulted upon.
2. WM5G are working with BCC and have created a template agreement which has seen over 50 leases being completed (highest in any LA area in the UK) for both rooftops and greenfields.
3. BCC & WM5G undertaking a legal trial to take the burden away from BCC's legal team.
4. A large number of sites that could have been street works are now going onto LA land or property.
5. Connected Map launched which has contributed to a high number of alternative sites identified.
6. A Digital Connectivity Infrastructure Acceleration (DCIA) pilot has been awarded which included Warwickshire with potential for click and acquire facilities
7. The MNO rollout is slowing down.
8. The MNO's are more willing to negotiate with local authorities as a valued partner.



Standardisation

The adoption of a standard approach using an evidence-based process to negotiate an annual 'service charge' figure as well as the adoption of a family of standard template agreements which has been developed by the Greater London Authority with the operators.

These measures will cut administration significantly and reduce the draw on legal resources.

This approach has been adopted through discussions between the operators and a number of councils who all want a standardised process across all operators that is simple, low on cost and simplified administration.



The Product Security and Telecommunications Infrastructure (PSTI) Bill



PSTI

The Telecommunications Infrastructure measures (Part 2 of the Bill)

will:

1. Amend the Electronic Communications Code to support the quick and efficient rollout of gigabit-capable broadband and 5G networks in a way that balances the interests of landowners, telecoms operators, and the public.
2. Align the process and framework for renewal agreements with those for new agreements and encourage more collaborative negotiations.
3. introduce measures that will help optimise the use of existing infrastructure.

The changes come following extensive consultation in 2021 with the telecoms industry, landowners and their representatives, professional bodies and members of the public



How the Bill addresses these problems

The Telecommunications Infrastructure measures (Part 2 of the Bill) will:

1. Make changes to the Electronic Communications Code by providing the necessary legal reforms.
2. Encourage collaborative negotiations for agreeing new - and renewing expired - agreements by introducing a requirement for telecoms operators to consider the use of Alternative Dispute Resolution ('ADR').
 - Operators will also be required to explain the availability of ADR as an option in their notices to landowners.
3. Introduce limited rights for operators to upgrade and share apparatus installed prior to the 2017 Code reforms in specific circumstances where there will be no impact on private land.
4. Introduce provisions ensuring expired agreements are renewed consistently, and on similar terms to those for new agreements, throughout the whole UK, and allowing operators who already have apparatus installed under an expired agreement to either renew that agreement, or request a new one.
5. Introduce new provisions to enable operators to obtain Code rights over certain types of land quickly in circumstances where a landowner does not respond to repeated requests for Code rights.



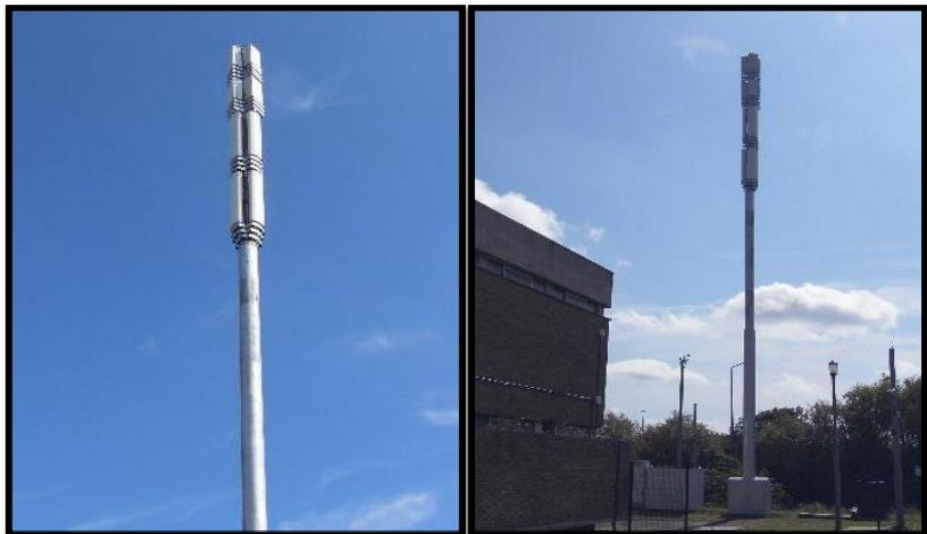
Planning



Examples of streetworks and rooftop masts



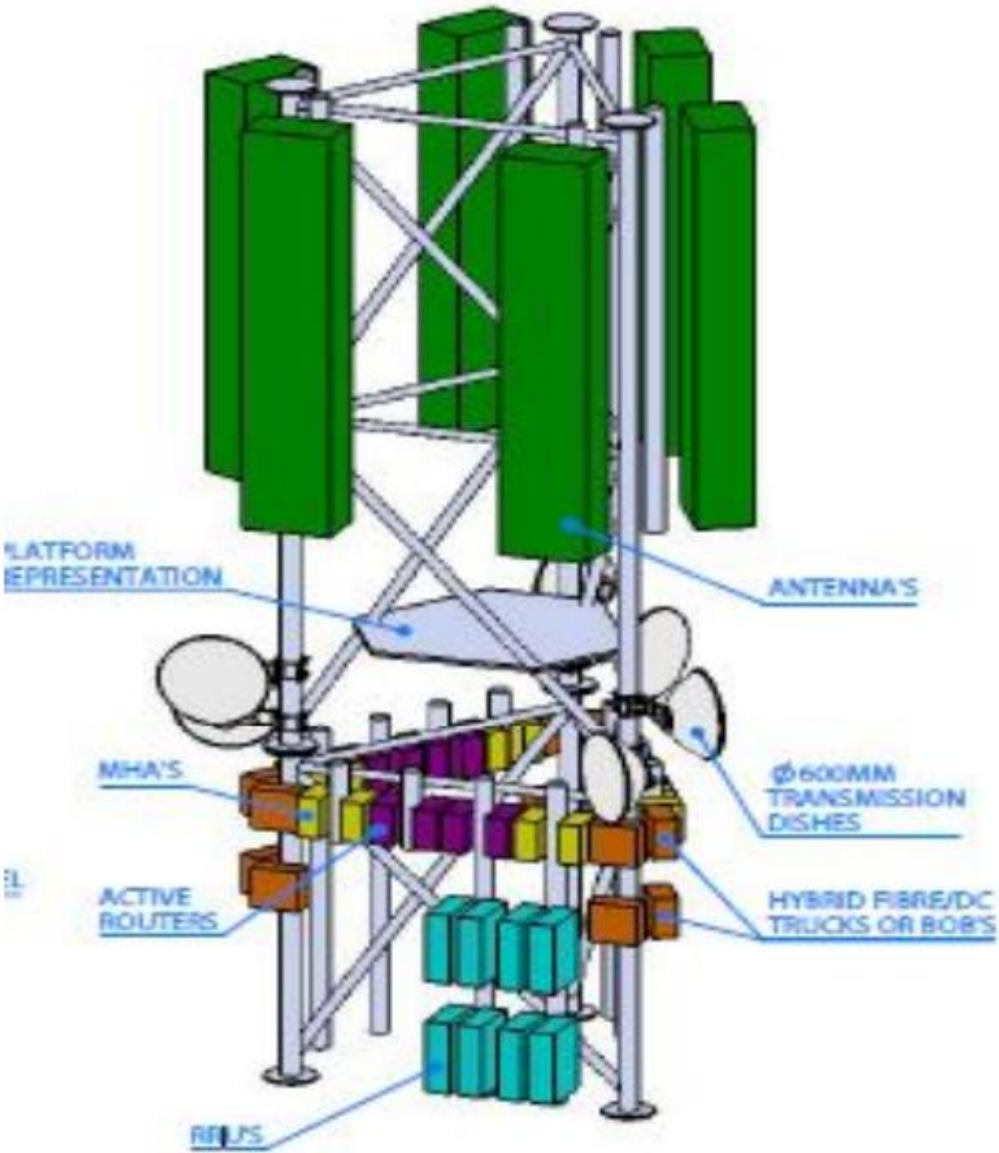
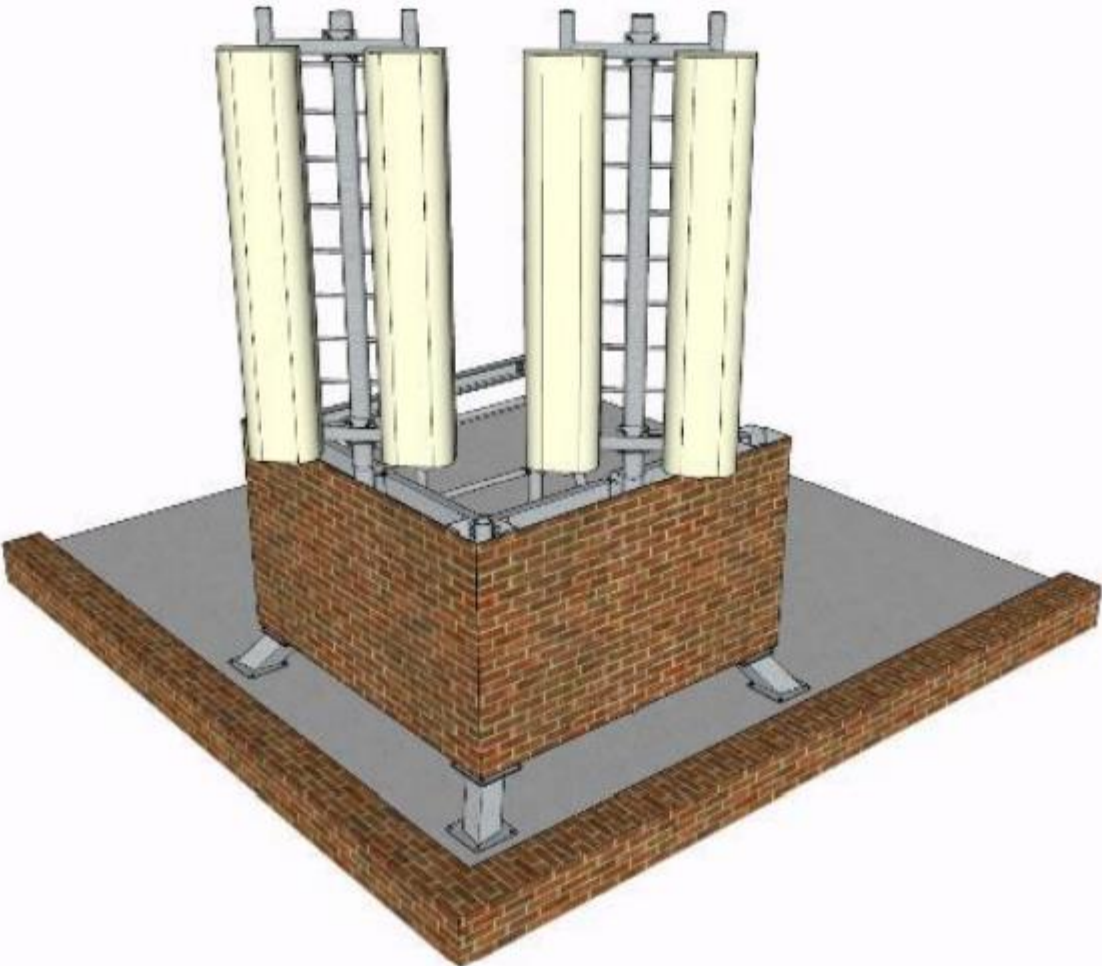
MBNL EE/Three Streetworks Monopole



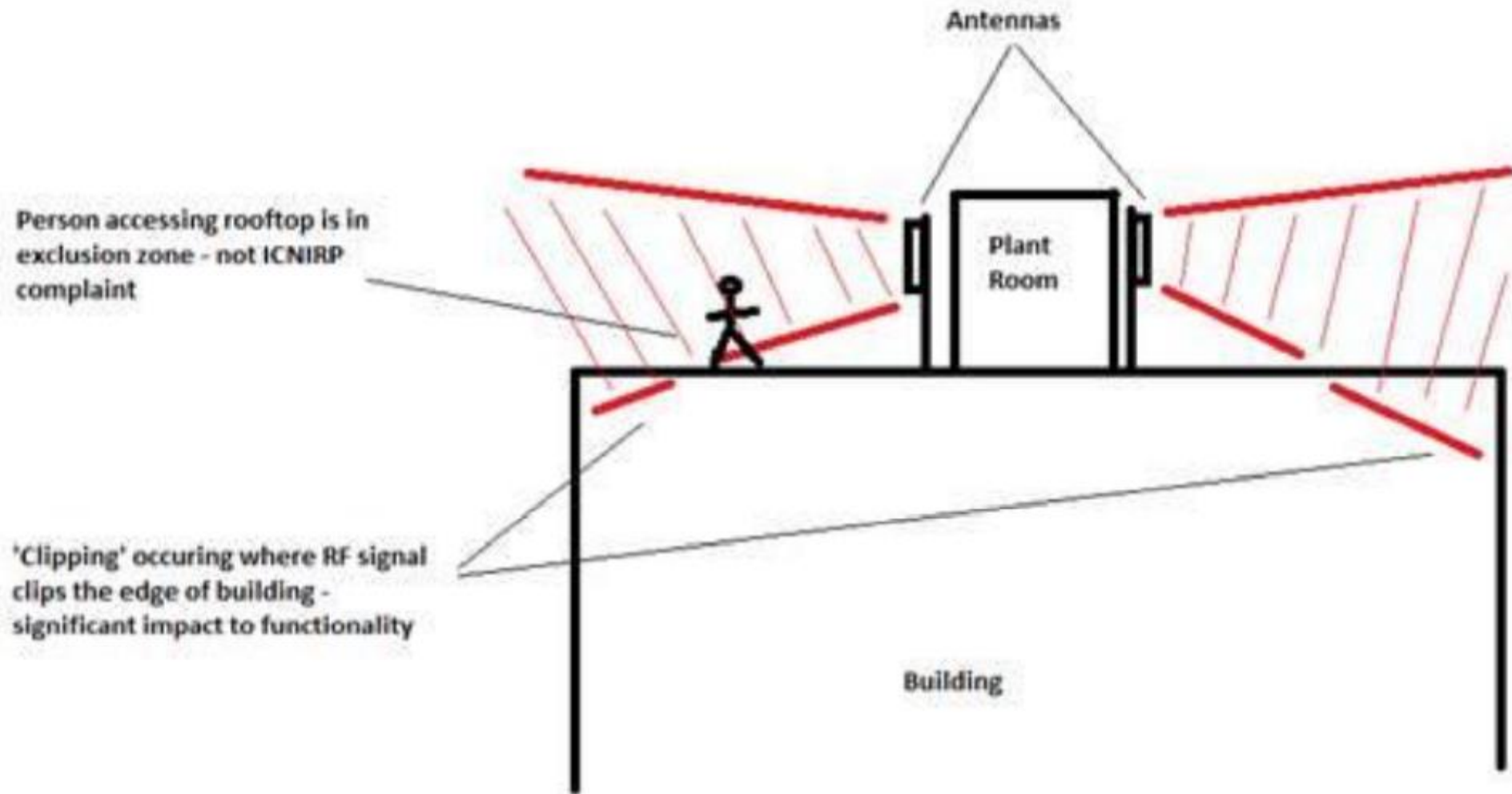
Cornerstone Streetworks Monopole Installation



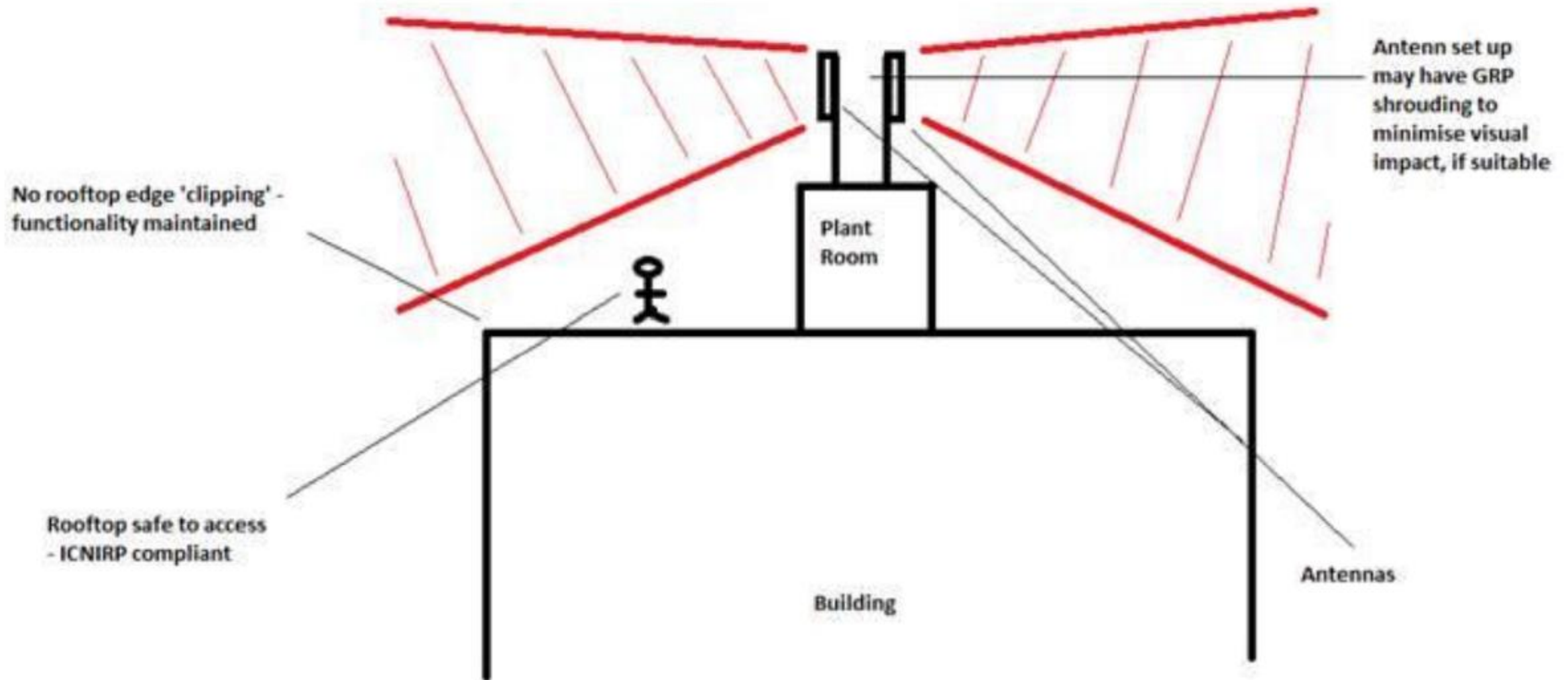
Various Rooftop Solutions



Design considerations



Design considerations



Rooftop Installations

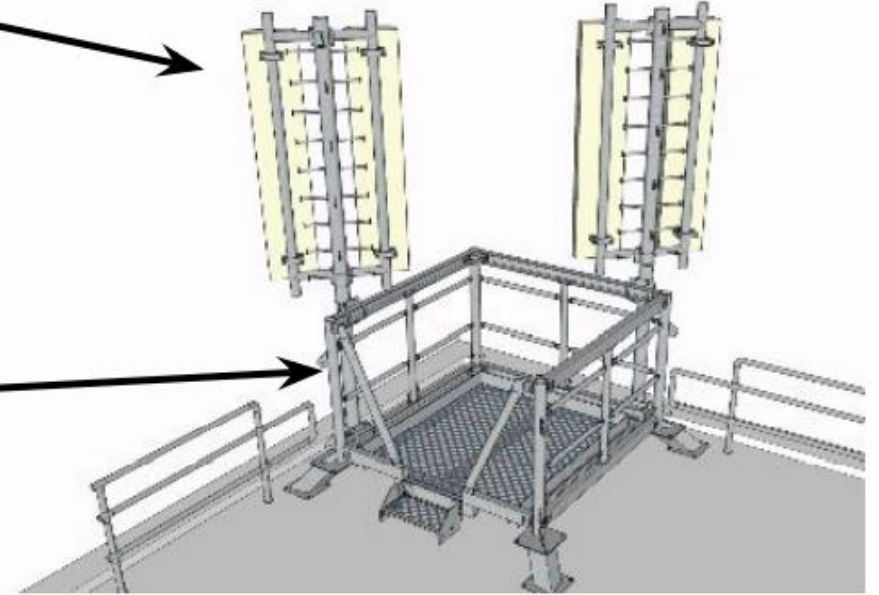


Antennas

Radios

Radio dish link

Rooftop Barriers



Cabinets and Cabins, contains radios,
power and comms supplies



Town & Country Planning reforms (Reg 5 – permitted development)



Permitted development rights for electronic communications infrastructure are set out in Part 16 of Schedule 2 to the General Permitted Development Order 2015 (as amended). Proposals include:

- enabling the deployment of radio equipment housing (on Article 2(3)) land such as national parks, conservation areas ONB) up to specified limits and allowing greater flexibility for installing equipment cabinets in existing compounds
- strengthening existing masts by permitting alteration or replacement and increases in width and height up to specified limits to enable sites to be upgraded for 5G and for mast sharing. limited increases to the height of existing ground-based masts without the need for prior approval outside of Article 2(3) land, with greater increases on all land, up to specified limits, subject to prior approval;
- enabling the deployment of building-based masts up to specified limits, including masts located nearer to highways, to support deployment of 5G and extend mobile coverage, subject to prior approval and specified limits. Greater permitted heights on land outside of Article 2(3) land. **Also, whether to permit monopole masts of up to 15 metres to be deployed without the need for prior approval on land outside of Article 2(3) land.**
- enabling higher new masts to deliver better mobile coverage and mast sharing, subject to specified limits.

None of the proposals above would apply on land on or within sites of special scientific interest. Changes to the safeguarding procedure and technical changes to the definition of ‘small cell system’ are also proposed.



Summary of some changes:

Proposals include:

Existing ground-based masts (width) – (less than 1m designation has been added)

Masts less than 1m in width can be increased by up to two-thirds without prior approval on all land. Greater increases will require prior approval.

Masts greater than 1m in width can be increased by up to one half or 2m (whichever is greater) without prior approval on all land; or

A lesser permitted increase of one-third or 1m should apply to Article 2(3) land

Greater increases require prior approval.

Building-based masts. This defines the definition of the mast, following the Forsythia agreement.

On unprotected land, remove restrictions for masts within 20m of the highway on buildings less than 15m tall

Other existing limits to the location and heights of masts and the number of antennae that can be deployed would remain

On unprotected land introduction of a permitted development right for the deployment of short-building masts and apparatus without prior-approval. Conditions to limit the height of masts that can be deployed without prior approval to no more than 6m above the highest part of the building



Summary of recommendations:

Proposals include:

New sites

Up to 30m unprotected and 25m in protected areas prior approval.
Up to 15m for monopoles as Reg 5 without prior approval

Additional proposed changes

Safeguarding procedure

Prior notification for development in safeguarded areas. Prior approval required for development on land designated as a defence asset.

Small cells

DCMS is planning technical changes to the definition of 'small cells system' in the GDPO.

Timescales (ambitious)

TBC



Questions?



Links

<https://bills.parliament.uk/bills/3069>

