

# **Consultation on the Relaxation of Planning Controls for Digital Communications Infrastructure**

## **Analysis of Responses**

**May 2017**

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# CONSULTATION ON THE RELAXATION OF PLANNING CONTROLS FOR DIGITAL COMMUNICATIONS INFRASTRUCTURE – ANALYSIS OF RESPONSES

## INTRODUCTION

1. This consultation related to proposals to extend permitted development (PD) rights for electronic communications code operators (ECCO) to install their infrastructure. PD rights grant a Scotland wide planning permission for specified developments and remove the need to apply to the planning authority for an area for planning permission. The legislation applies various restrictions and conditions to that permission. In this case, particular types of development are subject to restrictions on dimensions or location, and tighter restrictions often apply to the PD rights in various designated areas<sup>1</sup>.

2. ECCOs are firms who have successfully applied to Ofcom to use the Electronic Communications Code, which is set out in communications legislation, in the rollout of their electronic communications infrastructure. The Code gives ECCO certain rights and obligations. Town and Country Planning legislation then specifies that ECCOs are entitled to specified PD rights in relation to their infrastructure<sup>2</sup>.

3. This consultation ran from 10 August to 4 November 2016 and had thirty-eight respondents, who have been split into categories for the purposes of this analysis (See Annex for details). The categories are as follows:

- Government and agencies
- Heritage bodies
- Individuals
- Industry
- Planning Authorities, and
- Others

4. There are some key threads and concerns raised by respondents in all categories that follow through in the responses. While these naturally reflect the interests of the sectors represented in these categories, generally, there is an understanding of the importance of digital connectivity.

5. Each section's summary details the specific questions asked and highlights the key points made across the categories. The statistics relate to the closed

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<sup>1</sup> The 'designated areas' in relation to which these particular PD rights are more restricted are currently: conservation areas; historic battlefields; category A listed buildings and scheduled monuments and the settings of such buildings and monuments; historic gardens and designed landscapes; national scenic areas; national parks; sites of special scientific interest and European sites.

<sup>2</sup> Communications is a reserved matter for the UK Parliament and Government, while Town and Country Planning is devolved to the Scottish Parliament and Government.

questions on whether or not respondents agree or disagree with a proposal are presented in the question boxes. In some cases, respondents did not answer the closed question, but still gave qualitative answers.

## **PROPOSED AMENDMENTS TO THE GENERAL PERMITTED DEVELOPMENT ORDER**

### **ELECTRONIC COMMUNICATION CODE OPERATORS**

<b>Q1 – Do you agree Class 67 PD rights should continue to apply only to Electronic Communication Code Operators (ECCOs)? (Yes - 25 , No - 2 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	9		1		10
Govt & Agencies	1			3	4
Heritage Bodies	5			2	7
Individuals	3	2			5
Other	2			4	6
<b>Total</b>	<b>25</b>	<b>2</b>	<b>1</b>	<b>10</b>	<b>38</b>

6. Most respondents agreed that Class 67 PD rights should apply only to ECCOs. Themes underpinning this related to appropriate provision of safeguards and accountability and the level of control that this achieves, particularly around matters of design and potential cumulative impacts.

7. A couple of respondents in the 'Individuals' category did not agree and cited points concerning community groups who could be empowered to provide connectivity if PD rights were opened up to non-ECCOs. They felt that there are too many restrictions currently having an impact on digital communication. It was suggested that if PD rights were to be widened to other developers, then non-ECCOs would have to have the same duties as ECCOs.

8. Those who favoured maintaining PD rights solely for ECCOs explain that ECCOs are authorised by Ofcom and are subject to their regulations and powers of intervention. Companies can apply to become an ECCO and they are assessed by Ofcom on the grounds of their intent to provide a network. 'Industry' respondents referred to this mechanism regulating activities, underpinning commercial negotiations, as well as providing a quality standard for stakeholder engagement. ECCOs were considered to have wider ranging knowledge in the provision of suitable infrastructure. By opening up the PD rights respondents cited the potential issues this could create, such as, a confused network development and further challenges to the co-ordination of works.

## CLASS 67 GENERAL CONDITIONS

<b>Q2 - Do you agree with the proposed update to the general conditions for Class 67 PD rights? (Yes - 24 , No - 4 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	9		1		10
Govt & Agencies	2			2	4
Heritage Bodies	4		1	2	7
Individuals	3	2			5
Other	2			4	6
<b>Total</b>	<b>25</b>	<b>2</b>	<b>2</b>	<b>9</b>	<b>38</b>

9. Most respondents, across the groups, agreed with the update to the general conditions. It was felt that they are in line with current practice and not controversial, and that they provided clarity and safeguards. The removal of the prior approval requirement in emergencies, removal of redundant equipment, restoration of land, and clarification on conditions and timescales were all welcomed. This latter point was raised by 'Heritage Bodies' both for and against the update to the general conditions – it was mentioned that there should be more clarity.

10. Those who disagreed cited issues with the prior approval process and the related workload, indicating the burden on the planning system would not be removed. While the restoration of land and buildings was welcomed by 'Heritage Bodies', there was some argument that the approach could raise issues, and, instead of restoring to these to their previous condition, land and buildings should be restored to a plan or statement agreed by the planning authority (the consultation proposed that it had to be one or the other).

## DESIGNATED AREAS

<b>Q3a - In view of the controls in place out with the planning system, should Category A listed buildings and scheduled monuments be removed from the general area based restrictions on Class 67 PD rights?(Yes - 10 , No - 18)</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	1	8		1	10
Govt & Agencies		1		3	4
Heritage Bodies		6		1	7
Individuals	3	2			5
Other	1	1		4	6
<b>Total</b>	<b>10</b>	<b>18</b>			<b>38</b>

<b>Q3b – Are there any other Class 67 designated areas which can be removed from the general area based restrictions? (Yes - 7, No - 16 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	4		1	1	6
Planning Authority		6	4		10
Govt & Agencies		1	1	2	4
Heritage Bodies		6	1		7
Individuals	2	2		1	5
Other	1	1		4	6
<b>Total</b>	<b>7</b>	<b>16</b>	<b>7</b>	<b>8</b>	<b>38</b>

<b>Q4 – Do you have any other comments on the Class 67 designated areas in light of the proposals set out in this paper?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	4	2	6
Planning Authority	7	3	10
Govt & Agencies	2	2	4
Heritage Bodies	3	4	7
Individuals		5	5
Other	2	4	6
<b>Total</b>	<b>18</b>	<b>20</b>	<b>38</b>

12. Across the whole issue of reducing the list of designated areas in which additional restrictions on PD rights apply, 'Industry' was in favour while 'Planning Authorities' and 'Heritage Bodies' were generally against, with other groups more split.

13. 'Industry' cited: the existence of other control regimes in relation to category A listed buildings and scheduled monuments, sites of special scientific interest and European sites; the potential use of prior approval procedures and related guidance; as well as the requirements of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 – though a number in this respondent group also wanted the latter controls reduced alongside extending PD rights.

14. The main concern regarding removing category A listed buildings and scheduled monuments from the list of designated areas was that the requirements for consent to changes to these do not apply to the settings of such buildings and monuments, which are also of importance and sensitive to development. Historic Environment Scotland (HES) indicated they were content for these designations to be removed from the list, provided the settings of such buildings and monuments remained on it.

15. A concern was that, in designated areas, the case by case consideration of planning applications, or, for very minor development, prior approval was needed. Even minor developments in the wrong place could have significant consequences.

16. Some were critical of other control regimes' ability to adequately protect sensitive areas. Others were concerned, despite the potential for duplication of controls, that an absence of planning control could be misinterpreted as meaning there was no control on development. Beyond 'Industry', there were a few further suggestions for removing certain areas, such as national parks, but no significant numbers or consistency.

17. There were a number of suggestions for designations to be added to the list of those where additional restrictions on PD rights apply. For example, NATS and the Ministry of Defence were concerned about PD rights for new or changes to masts in safeguarded areas around aerodromes and technical sites, such as radar installations. Suggestions included:

- Civil aerodromes and technical sites
- World Heritage Sites
- B and C listed buildings
- Greenbelt and coastal zones
- Forest parks
- Regional and Country parks
- Local environment sites
- Sites of Archaeological Interest
- Wild land areas
- Drinking water protected areas
- Ramsar sites

## EXTENSION OF EXISTING PD RIGHTS – EMERGENCY WORKS

<b>Q5 – Do you agree with proposals to extend the time period for emergency works from 12 to 18 months? (Yes - 21, No - 4 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	9	1			10
Govt & Agencies	1		1	2	4
Heritage Bodies	2	2		3	7
Individuals	4	1			5
Other			2	4	6
<b>Total</b>	<b>21</b>	<b>4</b>	<b>3</b>	<b>10</b>	<b>38</b>

18. Most of those responding to this question, and this was across the different categories, were in agreement with the time period extension for emergency works.

19. Those with concerns felt that the existing timescales should be long enough, or that further conditions and controls should apply to extended timescales, or that case by case consideration should apply as to any emergency period as works

become less than temporary. There were suggestions of time limits for restoration as well as the emergency itself and requirements to notify the planning authority when emergency works cease to be required. A lack of a statutory definition in planning of ‘emergency’ was mentioned by some.

20. ‘Industry’ highlighted the importance of network integrity and the sometimes complex issues around acquisition and planning issues regarding a replacement site and works for installing replacement equipment in remoter areas.

21. Some ‘Industry’ respondents sought removal of the word ‘moveable’ as regards certain emergency apparatus, which they felt was confusing, and there were suggestions from some ‘Industry’ respondents and a ‘Planning Authority’ for agreed extensions to the set periods to prevent a planning application being required where emergency works run slightly over the time limit.

## **EXTENSION OF EXISTING PD RIGHTS – SMALL ANTENNA ON BUILDINGS**

<b>Q6 – Do you agree with the proposed extension of Class 67 PD rights for small antenna on buildings, including dwelling houses?(Yes - 18, No - 7 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Answer/</b>	<b>Total</b>
Industry	3	1	1	1	6
Planning Authority	9			1	10
Govt & Agencies	1		1	2	4
Heritage Bodies	2	3	1	1	7
Individuals	2	3			5
Other	1		1	4	6
<b>Total</b>	<b>18</b>	<b>7</b>	<b>4</b>	<b>9</b>	<b>38</b>

22. While ‘Industry’ generally welcomed the additional PD rights for small antennas, one indicated that these changes would not go far enough in ensuring the necessary equipment for 4G and 5G rollout, and improvements in capacity and coverage necessary with increase in demand for services. They cited the approach in England to ‘small cell systems’ which allow for ancillary equipment supporting the small antennas to be installed on buildings and structures.

23. Most others accepted the changes proposed would have limited impacts.

24. Those with concerns mentioned that ‘small antennas’ were not necessarily that small in certain contexts. There were suggestions around retaining rather than removing some of the existing restrictions on the location of small antennas on buildings and some suggestions for further controls of this kind. Scottish Natural Heritage (SNH) was concerned about impacts on European protected species, despite other legal requirements in this regard, and cited training and guidance as ways to avoid problems. Some among ‘Heritage Bodies’ and ‘Individual’ categories



did not agree with extending PD rights in this area, being concerned about intrusion on sensitive buildings and visual clutter in particular.

### **EXTENSION OF EXISTING PD RIGHTS – ALTERATIONS AND REPLACEMENTS OF EXISTING GROUND BASED MASTS**

<b>Q7 –Do you agree with the proposed increase in height allowed for altered or replaced ground based masts under Class 67 PD rights? (Yes - 18, No - 6 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No Comment/ Answer</b>	<b>Total</b>
Industry	3		2	1	6
Planning Authority	6	3	1		10
Govt & Agencies	1		1	2	4
Heritage Bodies	3	1	2	1	7
Individuals	3	2			5
Other	2			4	6
<b>Total</b>	<b>18</b>	<b>6</b>	<b>6</b>	<b>8</b>	<b>38</b>

<b>Q8 - Do you agree with the proposed increase in maximum distance allowed between the original and replacement ground based masts under Class 67? (Yes - 16, No - 11 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	3	2		1	6
Planning Authority	7	2	1		10
Govt & Agencies		1	1	2	4
Heritage Bodies	2	4		1	7
Individuals	3	2			5
Other	1		1	4	6
<b>Total</b>	<b>16</b>	<b>11</b>	<b>3</b>	<b>8</b>	<b>38</b>

<b>Q9a – Should the current width restriction of one third the original or one metre (whichever is larger) for alterations to ground based masts be increased? (Yes - 11 , No - 15 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	2	6	2		10
Govt & Agencies		1		3	4
Heritage Bodies	1	4	1	1	7
Individuals	2	3			5
Other	1	1		4	6
<b>Total</b>	<b>11</b>	<b>15</b>	<b>3</b>	<b>9</b>	<b>38</b>

<b>Q9b – What should the new restriction be?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/Comment</b>	<b>Total</b>
Industry	5	1	6
Planning Authority	8	2	10
Govt & Agencies	2	2	4
Heritage Bodies	4	3	7
Individuals	3	2	5
Other	1	5	6
<b>Total</b>	<b>23</b>	<b>15</b>	<b>38</b>

25. Overall some respondents felt changes were marginal and therefore would not result in adverse impacts, whereas others had the opposite opinion. Concerns related to adverse impacts in relation to design and cumulative impacts related to landscapes, the setting of listed buildings, conservation areas, and urban areas more generally. Alternatives and mitigation methods were suggested by respondents

26. 'Industry' was generally welcoming of changes that allow for greater flexibility to increase the size of masts or install replacement masts, highlighting the benefits for increases in coverage and in the capacity for mast sharing. They were concerned a percentage limit on height increases would be complex and lead to odd results and suggested a seven metre rather than five metres plus 10% limit. One firm was concerned that PD rights might set a 'glass ceiling' for mast heights, i.e. concerned that the larger masts required for their networks, and for which they apply for planning permission, might be refused or treated unfavourably.

27. Another firm had detailed concerns about measurements regarding: the non-inclusion of antennas but including supporting rods for antennas; inclusion of plinths; the use of the 'original mast' as the starting point measuring increases; and limits on the distance over which replacement masts can be installed under PD rights (citing the lack of a specified distance in other UK administrations' PD rights).

28. Other firms shared the latter point, and there were also 'Industry' suggestions around extending or removing the restriction on increases in the width of ground based masts, again to allow flexibility in the use of existing sites and potential for sharing.

29. A slight majority of 'Planning Authority' respondents agreed the changes in height and distance for replacement masts. Those against or concerned focussed mainly on the potential impact in designated areas and suggested exemptions from PD rights in such areas. Some agreed with 'Industry' respondents on the concept of a flat rate of 7 metres. The benefit of taller masts for better coverage was recognised, it was mentioned that the public have come to understand this too.

30. On width restrictions, again a slight majority were in favour of existing restrictions, with two wanting increases in PD rights and two wanting more restrictions in designated areas in this regard.

31. 'Government and Agencies' were split, with the Ministry of Defence (MOD) concerned about the potential impacts, as with new masts, of existing masts getting taller, moving position or both in safeguarded areas and potentially affecting the apparatus at aerodromes and other technical sites. HES were accepting of increase in height and the existing width limits, but had concerns about the impact of replacement masts changing position and affecting visual amenity in sensitive areas and disturbing the ground and archaeology, whether designated or not. SNH had concerns about the impact of the original siting and design solutions, particularly the potential for significant effects with an increase in the distance which replacement masts can be from the original; they said guidance should highlight the potential issues.

32. 'Heritage Bodies' were concerned about repeated incremental increases in height. They suggested colour treatment for equipment, landscape mitigation, inclusion of antenna in the overall specification of height, and cumulative impacts on listed buildings and conservation areas. Further, they sought clarity over retaining and replacing masts and adequate safeguards for the settings of historic assets.

33. 'Heritage Bodies' were split over retaining existing width constraints, some wanting tighter requirements. They were split over replacement masts, with half concerned about the potential for unacceptable impacts on the visual amenity of built heritage and ground disturbance affecting archaeology. Some mentioned guidance and prior approval as potential approaches to addressing such concerns.

34. 'Individual' respondents were split, with some seeing a need for flexibility and others concerned about increases in height being overbearing, that technological advancements should mean smaller masts, and concerns about sprawling masts.

35. Responses in the 'Others' category were generally accepting of the proposed changes with some concern about potential visual impact.

36. Extending the distance was mentioned by 'Planning Authority' respondents to allow more flexibility, as the 4 metres is often too restrictive. Concern was raised over sensitive areas, stating that it is not possible to generalise what would be acceptable under PD rights. It was felt that the prior approval procedures may not pick up on certain impacts related to the historic environment – such as, archaeology.

## NEW PD RIGHTS – NEW GROUND BASED MASTS

<b>Q10 - Do you agree with the proposals to introduce PD rights for new ground based masts outside the Class 67 designated areas? (Yes - 13 , No - 13)</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	2	1		3	6
Planning Authority	4	5	1		10
Govt & Agencies	1	2		1	4
Heritage Bodies	2	2		3	7
Individuals	2	3			5
Other	2			4	6
<b>Total</b>	<b>13</b>	<b>13</b>	<b>1</b>	<b>11</b>	<b>38</b>

<b>Q10a – Do you agree with the proposed height restriction of 25m? (Yes - 16, No - 9 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	3		2	1	6
Planning Authority	4	4	2		10
Govt & Agencies	2	1		1	4
Heritage Bodies	2	2		3	7
Individuals	3	2			5
Other	2			4	6
<b>Total</b>	<b>16</b>	<b>9</b>	<b>4</b>	<b>9</b>	<b>38</b>

<b>Q10b – Do you agree Prior Approval should be required on siting and appearance? (Yes - 21, No - 3 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer</b>	<b>Total</b>
Industry	3			3	6
Planning Authority	4	3	3		10
Govt & Agencies	3			1	4
Heritage Bodies	4			3	7
Individuals	5				5
Other	2			4	6
<b>Total</b>	<b>21</b>	<b>3</b>	<b>3</b>	<b>11</b>	<b>38</b>

<b>Q11a – Is there scope to introduce Class 67 PD rights for new for new ground based masts within any, or all of the Class 67 designated areas? (Yes - 7 , No - 21 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	3	2		1	6
Planning Authority	1	9			10
Govt & Agencies		2		2	4
Heritage Bodies	1	4	1	1	7
Individuals	2	3			5
Other		1	1	4	6
<b>Total</b>	<b>7</b>	<b>21</b>	<b>2</b>	<b>8</b>	<b>38</b>

<b>Q11b – If yes, within which of the Class 67 designations should such PD rights apply? Please give reasons for your answer.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	4	2	6
Planning Authority	5	5	10
Govt & Agencies	1	3	4
Heritage Bodies	4	3	7
Individuals	2	3	5
Other		6	6
Total			38

<b>Q11c – Should any conditions (e.g. Prior Approval) and/or restrictions (e.g. on height) apply?</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	3		1	2	6
Planning Authority	2	2	2	4	10
Govt & Agencies			1	3	4
Heritage Bodies	2	1	1	3	7
Individuals	3			2	5
Other			2	4	6
Total	10	3	7	18	38

37. The level of agreement with the proposals covered by the above questions varied. Some respondents felt that in order for a full assessment of impact of new ground based masts the only way to handle this would be through full planning permission. Others agreed with the replacement of a full planning application process with a prior approval procedure, which they felt would appear to strike a more appropriate balance between the wishes of the ECCO for a quicker and more permissive planning regime, and the need to minimise impact on amenity in sensitive locations.

38. There were fairly even splits in opinion across all respondent groups when it came to PD rights for new ground based masts outside designated areas. When it comes to issues around prior approval and PD rights for such masts in designated areas, clearer majorities of opinion emerge in some groups.

39. In the Industry group there is a split between those firms who are mobile network operators (MNO) and those who operate other networks but who provide space on their infrastructure for MNO. The MNO are keen to have PD rights with no prior approval procedure for new ground based masts under 15m in height and then prior approval for those from 15m up to 25m in height. They recommend the approach to designated areas taken in England, with PD rights for masts up to 20m high subject to prior approval procedures.

40. However, the MNO consider the proposed approach to prior approval in the consultation paper as little better than an application for planning permission. They

recommend the approach in England, whereby if the planning authority requires prior approval be obtained, if no decision is issued within a specified period, the developer can proceed in accordance with the plans submitted. They also suggest some of the other features of the approach that applies in England – e.g. for developer and planning authority to agree changes to proposals and extensions to the period for determining prior approval.

41. Two firms in the 'Industry' group, who are not MNO, are against PD rights for new ground based masts in designated areas and are either indifferent or against them outside designated areas. They see prior approval, in terms of effort and process, as really no better than an application for planning permission as regard new masts. They see the approach of bigger masts that they use as the best way to rollout infrastructure (as regards coverage and sharing) and that they consider the planning application process for new masts to be appropriate and effective in developing new sites.

42. 'Planning Authority' respondents were split as regards the proposals outside designated areas, some feeling an application for planning permission was appropriate. On the issue of prior approval, a majority did not support this – with references to its being confusing, including for the public, an inadequate form of control and unlikely to remove processing burdens from the planning authority. They pointed to some of the prior approval requirements similar to an application for planning permission, but referred to insufficient time to process applications and inadequate consultation requirements. Even those who agreed were concerned about clarity, especially around validation of applications, the level of processing required and costs.

43. Almost all 'Planning Authorities' felt PD rights for such development should not apply in designated areas, where they believe issues require consideration and control through an application for planning permission.

44. In terms of 'Government and Agencies' responses, while HES were happy with PD rights and prior approval outside designated areas; they felt new ground based masts in designated areas required the full consideration under an application for planning permission. NATS and MOD believed that there should be a requirement to consult relevant bodies in safeguarded areas regarding aircraft navigation and communications and other potential interference with technical sites. SNH were concerned with the potential impact of such large structure and additional ancillary equipment, and so prior approval would need sufficient assessments and information to address the potential impacts. They were still concerned about cumulative impacts, which they consider prior approval may struggle to deal with.

45. Of the 'Heritage Bodies' who responded, two were supportive and two not as regards PD rights outside designated areas – with some concerns about

undesigned or unidentified archaeology. Only one was supportive of PD rights in certain designated areas, while others who responded were against either in all or in those designated areas within their area of concern. There were mixed views as regards prior approval – concerns about permission in effect already being granted under PD rights, adequacy of information requirements and consultation requirements.

46. ‘Individuals’ were split, with some for and some against PD rights, whether in or outside designated areas. Some highlighted the sensitivity of the issue for the public. One respondent requested that within residential areas there should be a 100m buffer for all residential properties. There was the feeling that the proposal could result in masts appearing in all sorts of places, that councils should have the power to act, and that community consultation was an important factor in decision-making. It was mentioned that the height of the masts in the proposals should be reduced, this was a view shared by some ‘Planning Authority’ respondents.

47. Those in the ‘Others’ group were supportive of the changes in this area of PD rights, though one of them seemed to think the prior approval procedure proposed was the same as that applying in England.

#### **NEW PD RIGHTS – PRIOR APPROVAL FOR NEW GROUND BASED MASTS**

<b>Q12a – Do you agree with the proposed mechanism for Prior Approval of new ground based masts? (Yes - 16, No - 14)</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer</b>	<b>Total</b>
Industry	1	4		1	6
Planning Authority	2	7		1	10
Govt & Agencies	2	1		2	4
Heritage Bodies	4	2		1	7
Individuals	5				5
Other	2			4	6
<b>Total</b>	<b>16</b>	<b>14</b>		<b>8</b>	<b>38</b>

<b>Q12b – In particular, do you agree with the proposed publicity requirements, including neighbour notification and on-line publication?(Yes - 18, No - 10 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer</b>	<b>Total</b>
Industry	3		1	2	6
Planning Authority	2	7		1	10
Govt & Agencies	2			2	4
Heritage Bodies	5	1		1	7
Individuals	4	1			5
Other	2			4	6
<b>Total</b>	<b>18</b>	<b>9</b>	<b>1</b>	<b>10</b>	<b>38</b>

<b>Q12c – Do you agree with the proposed list of statutory consultees for the purposes of Class 67 Prior Approval?(Yes - 20 , No - 10 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	4	5		1	10
Govt & Agencies	1	2		1	4
Heritage Bodies	3	3		1	7
Individuals	5				5
Other	2			4	6
<b>Total</b>	<b>20</b>	<b>10</b>		<b>8</b>	<b>38</b>

<b>Q13 – Please explain your answers and any suggestions for alternative requirements. Do you have any further comments on the proposed Prior Approval process for new ground based masts?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	4	2	6
Planning Authority	10		10
Govt & Agencies	3	1	4
Heritage Bodies	6	1	7
Individuals	2	3	5
Other	2	4	6
<b>Total</b>	<b>27</b>	<b>11</b>	<b>38</b>

48. The previous section indicated that, outside the MNO, there were differences of opinion over the use of prior approval in principle. There was an indication among some of those who do not like prior approval that, if PD rights for ground based masts or certain other developments in more sensitive locations were to be put in place, it would be needed. The responses to the questions in this section included various requests from across respondent groups for changes to the proposals for prior approval contained in the consultation paper. In particular:

- Concerns over indefinite timescales – the proposed 40 day period not being stipulated in the draft legislation in the consultation paper.
- There is a need to stipulate when start date begins and clarify validation of prior approval application requirements.
- 40 days is inadequate for processing – e.g. given publicity and consultation requirements.
- Appeal for non-determination creates a lengthy process (compared to the procedure in England where non-determination within the specified timescale means the developer can proceed).
- Provision to allow extensions to periods for determination should be considered.
- Appeals should go to Scottish Ministers not local review bodies. Concern was raised regarding installing a mast under PD rights and prior approval and then extending its height immediately through PD rights.
- Revise existing good practice planning guidance for these developments.
- Extend the list of triggers for statutory consultation and increase the consultation period to 21 days.



- All designated areas should be have relevant consultation requirements - HES, SNH, relevant authorities in safeguarded areas and the Forestry Commission were cited as necessary statutory consultees.
- Wild Land mapping should be taken into consideration.
- Mast base-area restrictions are unnecessary.
- Neighbour Notification and advertising costs planning authorities money, and this version of prior approval is similar to full planning permission in terms of processing but with shorter timescales and a lesser fee – with resource implications.
- Concern over public perception through confusion between prior approval and planning permission.
- Clearer guidance on grounds for refusal is required.

### **NEW PD RIGHTS – PRIOR APPROVAL FOR GROUND BASED MASTS (FEE)**

<b>Q14 – Do you agree with the proposed fee of £150 for Prior Approval?(Yes - 6 , No - 13 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	4		1	1	6
Planning Authority		8	1	1	10
Govt & Agencies				4	4
Heritage Bodies	1	2		4	7
Individuals	1	3	1		5
Other			2	4	6
<b>Total</b>	<b>6</b>	<b>13</b>	<b>5</b>	<b>14</b>	<b>38</b>

49. Most who responded to this question did not agree with the suggested fee. Although some felt, across the groups, that the fees were reasonable, acceptable, and affordable, there were many respondents who felt that it did not cover the amount of work involved in assessing and processing the prior approval. This key point links back to previous answers which stated that there is not much difference between the work required for assessing prior approval to that of full planning permission, and therefore that the changes would not remove burdens from the planning authority.

50. There were requests for clarity as to how this figure has been derived. Some felt that before making a decision on the fee level for this type of development it would be prudent to conclude the separate Scottish Government consultation on planning fees.

51. There were queries about the costs of advertising prior approval applications, though the proposals did not include requirements to advertise prior approval applications.

## NEW PD RIGHTS – GROUND BASED EQUIPMENT HOUSING IN DESIGNATED AREAS

**Q15a – What should the Class 67 PD rights be for ground based for ground based equipment housing (and development ancillary to such equipment housing) within the various Class 67 designated areas?**

Respondent Group	Comments	No Answer/ Comment	Total
Industry	4	2	6
Planning Authority	9	1	10
Govt & Agencies	2	2	4
Heritage Bodies	7		7
Individuals	2	3	5
Other	2	4	6
Total	26	12	38

**Q15b – Please explain your answer, including any proposed conditions and restrictions on such PD rights.**

Respondent Group	Comments	No Answer/ Comment	Total
Industry	3	3	6
Planning Authority	7	3	10
Govt & Agencies	2	2	4
Heritage Bodies	7		7
Individuals	2	3	5
Other	1	5	6
Total	22	16	38

52. 'Industry' respondents had fairly consistent views about what equipment housing, such as street cabinets, and ancillary development, such as bollards, fences, hand rails and mountings, should have PD rights in designated areas. Across, and even within, other respondent groups there was no obvious consensus about what might have PD rights and what controls should apply in this regard.

53. 'Industry' felt that equipment housing and ancillary development should have PD rights in all areas, and that in designated areas PD rights should not necessarily be tied to an existing mast or pole or changes to same. There were suggestions for adding to definitions of ancillary development – e.g. generators and their casings and coverings, and brackets and fixings – and one of having prior approval procedures for equipment housing above a certain size in designated areas.

54. Of the 'Planning Authorities', five felt there should be no such PD rights. Another agreed with that, but felt that if it were introduced then a simplified form of prior approval should apply. Other respondents in this respondent group thought there might be scope for some PD rights in some of the designated areas, but with siting and design controls or subject to prior approval.

55. Amongst ‘Government and Agency’ responses, HES suggest perhaps a modest amount of PD in conservation areas, historic battlefields and historic gardens and designed landscapes, but were concerned about proliferation and cumulative impacts. They felt prior approval and other restrictions would need to apply to address these concerns. SNH were concerned about PD rights for equipment housing on a comparable scale to that applying outside designated areas. They suggested prior approval, but referred to some of their concerns about the considerations and information requirements that would be needed in such a process.

56. ‘Heritage Bodies’ were split, with some content to see PD rights, others specifying a need for prior approval, others unable to generalise as to what might apply in specific designations. Four respondents indicated that no PD rights should apply in this regard, one of whom thought perhaps some might apply in larger designated areas, but not in conservation areas or word heritage sites.

57. Only one in the ‘Individual’ category responded, indicating schemes of ancillary development should be specified and then a combined consent regime put in place for that and equipment housing.

58. Respondents in the ‘Others’ group were generally supportive of whatever was needed for rollout in this particular regard being PD, subject to adequate control being in place where necessary, including a suggestion of an advanced notification procedure allowing comments to be made to the developer.

## **NEW PD RIGHTS – APPARATUS ON BUILDINGS IN DESIGNATED AREAS**

<b>Q16 – Do you agree with the proposed increase in Class 67 PD rights to allow up to 5 antenna systems on a building outside Class 67 designated areas? (Yes - 21, No - 4 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	5			1	6
Planning Authority	8		1	1	10
Govt & Agencies	1		1	2	4
Heritage Bodies	3	2		2	7
Individuals	2	2		1	5
Other	2			4	6
<b>Total</b>	<b>21</b>	<b>4</b>	<b>2</b>	<b>11</b>	<b>38</b>

59. ‘Industry’ respondents felt that the proposed increase in antenna systems was acceptable, given the differences that exist in current technology and the need to future proof for new technology. They were supportive of further relaxation as this gives more flexibility to deploy additional capacity. Clarity was requested about the 6m height calculation for PD rights for apparatus on buildings – for example,

distinguishing between the height of the apparatus and the height to which it exceeds the highest point of the building.

60. Most 'Planning Authority' respondents agreed with this change, albeit with various qualifications. It was felt that the increase is marginal in planning terms, but that this could be important for rural connectivity, and that providing flexibility in this regard could reduce the need for new ground based masts, as buildings outside designated areas that have already been deemed suitable for siting antennas could accommodate more. The qualifications mentioned included: clarification of what constitutes an antenna system; continued conditions on minimising visual impact; restrictions on proliferation on the fronts of blocks of flats; sensitive siting of common infrastructure, a notification system to allow planning authorities a chance to comment to developers; definition of 'setting' and that no PD rights should apply within the setting of various scenic, National Park and designed landscapes.

61. The 'Government and Agencies' category saw agreement from HES, but concerns from SNH about the potential impact on European protected species.

62. Of those 'Heritage Bodies' who commented, three were in favour of these PD rights, with one qualifying this to the effect that the appearance of historical assets is safeguarded. Another of these respondents was concerned about clutter and cumulative impacts, and another found the distinctions between antennas and small antennas confusing and did not want anything on the fronts of buildings.

63. 'Individual' respondents were split, with two supporting the increase and two not - one of whom suggested reducing the PD rights to two antenna systems. Respondents in the 'Other' category agreed with the change.

<b>Q17 - What additional PD rights should apply to apparatus on buildings in Class 67 designated areas? Please explain your answer – including any different restrictions and conditions that might apply.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	5	1	6
Planning Authority	10		10
Govt & Agencies	2	2	4
Heritage Bodies	7		7
Individuals	2	3	5
Other	1	5	6
<b>TOTAL</b>	<b>27</b>	<b>11</b>	<b>38</b>

64. 'Industry' respondents called for simplification of the PD rights for apparatus on buildings. They considered that PD rights should be extended to include at least replacement apparatus on buildings in designated areas, but also scope to allow new apparatus at existing operational sites within designated areas and/ or PD rights

for new apparatus with appropriate conditions and restrictions on what was allowed, with some suggesting prior approval for larger amounts of apparatus. For example, parameters could include antenna numbers, height, distance from rooftop edge and this could also vary depending on building height.

65. It was suggested by 'Industry' respondents that small cell antenna could be classed as *de minimis*<sup>3</sup> and/ or should be PD without requiring prior approval, as they will be needed to roll out 5G and satisfy data demands over the next decade.

66. There was a degree of qualified support from 'Planning Authority' respondents for this sort of PD in designated areas, with only one disagreeing to any change outright. However, different planning authorities offered various suggestions, including:

- PD rights for antenna on buildings could potentially be extended to those designated areas where visual appearance and impact on heritage assets is not impacted. Controls should remain in respect of conservation areas and the setting of category A listed buildings.
- PD rights which exist for apparatus in non-designated areas could potentially be applied to SSSI and European sites, where the buildings are not integral to the visual amenity or designation of the area.
- Like for like replacement could benefit from PD rights.
- Only minor and small equipment with sensitive location and design and subject to conditions could benefit from PD rights.
- PD rights for small apparatus on buildings which is not visible from the street and designed to match the roof covering as far as reasonably practicable.

67. Of those in the 'Government and agency' group who responded, while HES saw limited scope for PD rights for such apparatus on buildings in conservation areas, historic battlefields and historic gardens and designed landscapes, they did not support it within the settings of both category A listed buildings and scheduled monuments, which were likely to be more sensitive. SNH recommended prior approval for any such PD rights, but referred to their concerns in previous responses about European protected species, and issues around the information and considerations required making decisions on prior approval.

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<sup>3</sup> A legal concept that the law does not bother with trifles. In effect industry is arguing that whilst small cell infrastructure may technically be 'development' requiring planning permission, it is of so little consequence, in planning terms, the planning system should just ignore it. However, in planning the use of this concept depends on the specific circumstances of the case. TV aerials are an example of where this concept is generally applied.

68. Only one in the 'Individuals' category responded, suggesting allowing an up to 50% increase where there was existing development on site, with a requirement to apply for planning permission for works beyond that.

<b>Q18a – Are any changes required to current PD rights for apparatus on buildings and structures to further support deployment of 'small cell' technology in future? (Yes - 11, No - 4 )</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/comment</b>	<b>Total</b>
Industry	4		1	1	6
Planning Authority	6	1	2	1	10
Govt & Agencies				4	4
Heritage Bodies		1		6	7
Individuals	1	2		2	5
Other			1	5	6
<b>Total</b>	<b>11</b>	<b>4</b>	<b>4</b>	<b>19</b>	<b>38</b>

<b>Q18b – If yes, what particular PD rights are needed? Please give reasons for your answer.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/Comment</b>	<b>Total</b>
Industry	5	1	6
Planning Authority	7	3	10
Govt & Agencies		4	4
Heritage Bodies	1	6	7
Individuals	1	4	5
Other		6	6
<b>TOTAL</b>	<b>14</b>	<b>24</b>	<b>38</b>

69. 'Industry' respondents had little to add to their responses at Question 6 on small antennas and Question 7 on apparatus on buildings.

70. The lack of specific information on what this emerging infrastructure would consist of exactly or look like appeared to limit responses from other groups. The majority of responses among 'Planning Authorities' were accepting of PD rights in principle, but two qualified this with reference to needing a greater understanding of what it involved, and the others who responded saying it would need to be small and subject to appropriate limitations. The only other group with significant comments were some of the 'Individuals', two of whom rejected the idea of PD rights in this regard (with no reasons given) and one favouring anything that improved infrastructure and service provision.

## MISCELLANEOUS

<b>Q19a – Is there scope to extend PD rights for supporting equipment (ground based masts)? (Yes -11 , No - 7)</b>					
<b>Respondent Group</b>	<b>Yes</b>	<b>No</b>	<b>Comments only</b>	<b>No answer/ comment</b>	<b>Total</b>
Industry	3		2	1	6
Planning Authority	4	3	2	1	10
Govt & Agencies	1			3	4
Heritage Bodies	2	1	2	2	7
Individuals	1	3		1	5
Other				6	6
<b>Total</b>	<b>11</b>	<b>7</b>	<b>6</b>	<b>14</b>	<b>38</b>

<b>Q19b – If yes, please describe the type of development involved and the circumstances in which additional PD rights should apply (for example, should these apply within Class 67 designated areas)?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	5	1	6
Planning Authority	9	1	10
Govt & Agencies	2	2	4
Heritage Bodies	6	1	7
Individuals	1	4	5
Other	1	5	6
<b>TOTAL</b>	<b>24</b>	<b>14</b>	<b>38</b>

71. Several 'Industry' responses referred to the need for PD rights for back-up power supplies/ generators, one suggesting that existing compounds should be able to increase by one third under PD rights. Two of the responses referred to their responses to Question 15 and calls for PD rights for cabinets and ancillary development in all areas, with limits in designated areas above which prior approval would apply. Another respondent felt appropriate PD rights existed in this regard for their interests. One respondent also specifically mentioned a need for PD rights for poles at existing sites for satellite antennas as part of integrated backhaul, i.e. the connection to the wider communications network.

72. Of those in the 'Planning Authority' group who responded, three said no to additional PD rights due to concerns about clutter. Four agreed but with qualifications regarding designated areas, limitations on height and area of works and the need for guidance on appearance. Another wanted limitations specifying a defined compound, restrictions regarding visibility, intrusiveness and the use of prior approval in designated areas.

73. HES saw limited scope for further extensions to PD rights for existing masts in designated and non-designated areas, referring the need for appropriate size

restrictions and prior approval. SNH referred to their previous concerns around the potential impacts of PD on the environment and species and the need for safeguards.

74. The ‘Heritage Bodies’ who responded had mixed responses, with two disagreeing with further increases in PD rights for such works, one specifying no extension in designated areas, another agreeing to an extension to such PD provided there were robust procedural safeguards in all areas. Another cited the possibility of extending PD rights in larger designated areas, but considered it difficult to generalise what would be acceptable in all circumstances.

75. Three ‘Individuals’ disagreed with any such extension and one supported any change to help promote infrastructure and services.

<b>Q20 – Do you have any further comments on the proposed miscellaneous changes to Class 67?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	3	3	6
Planning Authority	3	7	10
Govt & Agencies		4	4
Heritage Bodies	4	3	7
Individuals		5	5
Other		6	6
<b>TOTAL</b>	<b>10</b>	<b>28</b>	<b>38</b>

76. One ‘Industry’ respondent felt a definition of ‘moveable structures’ in emergencies was needed, indicating these can involve a concrete base to support a mast but there would be no foundation as such. Another two respondents referred to the need to simplify and extend PD rights where possible to encourage the rollout of infrastructure and meet demands for services.

77. Two ‘Planning Authority’ respondents cited concerns about the impact of underground works under PD, especially on un-designated archaeological remains and in those designated areas which do not have their own consent regimes. They felt prior approval procedures and other controls on restoration and mitigation requirements should apply to such works. One ‘Planning Authority’ was concerned about the non-inclusion of antennas in the limitations on dimensions for masts under PD, and that this might mean ever increasing structures to support larger antennas.

78. Of the ‘Heritage Bodies’, one wanted to see investment in smaller equipment and sharing of apparatus encouraged, while another wanted safeguards in relation to even minor ground disturbance. Two raised concerns about underground works, one with reference to SSSI and European Sites (referring to the requirements for



Habitats Regulations Appraisals<sup>4</sup>), and another about historic sites, such as historic battlefields, which have no separate statutory protections, with archaeological remains a particular concern.

## **FURTHER COMMENTS - Question 21**

<b>Q21 – Do you have any further comments on any other aspects of the proposed Class 67 PD rights?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	4	2	6
Planning Authority	3	7	10
Govt & Agencies	2	2	4
Heritage Bodies	4	3	7
Individuals		5	5
Other	3	3	6
<b>TOTAL</b>	<b>16</b>	<b>22</b>	<b>38</b>

79. The ‘Industry’ responses were split. MNO respondents re-iterated their calls for simplification and increases in PD rights. They also raised the issue of PD rights for access tracks to mast sites, which they saw as likely to be an increasing issue where rollout extends to more remote sites.

80. On the other hand, the two ‘Industry’ respondents providing independent infrastructure stated their approach was better – larger but fewer masts with more sharing of apparatus. Neither thought PD rights for new masts was the way to go, with their experience indicating applications for planning permission for masts was not a barrier to rollout, and one specifically rejecting the idea that partial or total not-spots (areas with no mobile coverage at all) was due to a lack of PD rights for masts – citing other issues around commercial and other regulatory issues and access to power supplies and backhaul connections. One was concerned that PD rights and prior approval for new masts would create a glass ceiling as to what size of mast was considered acceptable, while the other was concerned this approach could re-awaken public concern about masts.

81. There was a suggestion of a different approach to allow PD rights for any change to existing sites subject to just the general conditions on minimising visual impact and removing redundant equipment – based on experience of upgrading terrestrial TV and radio networks, where the ability to obtain the necessary planning permissions in 100% of cases was cited as indicating a lack of need for an application for planning permission.

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<sup>4</sup> Requirements in the Conservation (Natural Habitats &c.) Regulations 1994 for an appraisal as to whether an appropriate assessment is required for proposals in European sites.

82. The three 'Planning Authority' responses covered different issues: one wanted greater emphasis on sharing infrastructure and more justification from operators around site selection; another wanted more guidance and a consolidation of the legislation on PD rights generally; and the third suggested prior approval be used for PD rights for larger development and for development in designated areas.

83. MOD raised the issue of safeguarded areas, calling for new masts and increases in the height or change in the location of existing ground based masts to be subject to prior approval and consultation with the relevant authority responsible for the safeguarded site. They also wanted guidance in Scotland to reflect that in England as regards issues relating to these safeguarded sites.

84. SNH was concerned about cumulative effects and felt prior approval may not be the best way to address these. They wanted guidance and the Electronic Communications Code to include consideration of cumulative effects.

85. Of the 'Heritage Bodies' who responded, the National Trust for Scotland wanted the requirements in the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 to consult them on certain proposals reflected in the PD rights. They were also concerned about cumulative effects and the lack of reference to conservation areas and national scenic areas (note: these are included in the list of designated areas discussed in the consultation paper).

86. Another such body wanted notification requirements to include a statement that the proposal would not significantly affect a Natura site (i.e. European sites) and for guidance to bring out the requirements of the Conservation (Natural Habitats &c.) Regulations 1994 and the Wildlife and Countryside Act 1981. While a third wanted a model developed to cover connectivity in remote and rural areas, so that such areas are not marginalised.

87. With the two 'Other' responses, one was concerned about Scotland falling behind the UK and was supportive of changes promoting rollout of infrastructure. The other gave a general statement supporting rollout, but wanted: protection against inappropriate development; for all stakeholders to be able to comment to the planning authority on proposals; and account taken of the apparent shift in power to operators from landowners in the Digital Economy Bill in the UK Parliament.

<b>Q22 – Do you have any comments or information relevant to the Strategic Environmental Assessment (SEA) aspects of this issue? If so, please elaborate.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry		6	6
Planning Authority	2	8	10
Govt & Agencies	2	2	4
Heritage Bodies	4	3	7
Individuals	1	4	5
Other		6	6
<b>Total</b>	<b>9</b>	<b>29</b>	<b>38</b>

88. One of the national park authorities felt the potential cumulative impacts of the proposal on the special qualities that underpin the designation of national parks should be assessed via SEA. The other national park authority felt reference needed to be made to the screening for environmental impact of specific development proposals in relevant designated areas.

89. HES welcomed the undertaking to keep the issue of SEA under review and referred to the potential negative impacts on the historic environment of some of the proposals being explored as indicated in their response. SNH felt the proposals discussed in the consultation would likely have significant environmental effects and so consideration should be given to SEA of the legislative amendments.

90. Several of the 'Heritage Bodies' indicated the potential impacts of these developments in designated areas indicated SEA of the proposals was required. One did not, though their answers generally were qualified with the need to have adequate procedural safeguards in place around PD.

<b>Q23 – Do you agree with the conclusions of the partial Business and Regulatory Impact Assessment (BRIA), in particular regarding the anticipated benefits of the proposed changes? Do you have any further comments or information to support the final BRIA?</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry	3	3	6
Planning Authority	6	4	10
Govt & Agencies		4	4
Heritage Bodies	2	5	7
Individuals	1	4	5
Other	1	5	6
<b>Total</b>	<b>13</b>	<b>25</b>	<b>38</b>

91. One 'Industry' respondent agreed with the partial BRIA and recommended option 2a), subject to the caveats in their response e.g. changes to the proposed

prior approval procedures. The other two Industry responses simply referred to the benefits to businesses and consumers from improved mobile coverage.

92. Four of the 'Planning Authority' respondents disagreed with the partial BRIA and felt the costs and complexity associated with prior approval procedure, which looks increasingly the same as a planning application, was not being taken into account. Another thought costs to planning authorities should decrease with PD but felt the administration costs in dealing with PD were underestimated. One Planning Authority agreed with the partial BRIA.

93. One of the 'Heritage Bodies' felt that the benefits to the businesses and individuals of better connectivity were not considered, but nor were the costs to businesses, residents and visitors and the wider economy of poorly sited and designed equipment.

94. One of the 'Individuals' indicated support for anything improving digital communications and one of the 'Other' respondents agreed with the partial BRIA.

<b>Q24 – In relation to the partial Equality Impact Assessment, please tell us about any potential impacts, either positive or negative, you feel the proposals in this consultation document may have on any particular groups of people.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry		6	6
Planning Authority	4	6	10
Govt & Agencies		4	4
Heritage Bodies		7	7
Individuals		5	5
Other	1	5	6
<b>Total</b>	<b>5</b>	<b>33</b>	<b>38</b>

<b>Q25 – In relation to the partial Equality Impact Assessment, please tell us about what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups.</b>			
<b>Respondent Group</b>	<b>Comments</b>	<b>No Answer/ Comment</b>	<b>Total</b>
Industry		6	6
Planning Authority	3	7	10
Govt & Agencies		4	4
Heritage Bodies		7	7
Individuals		5	5
Other		6	6
<b>Total</b>	<b>3</b>	<b>35</b>	<b>38</b>

95. One 'Planning Authority' disagreed with the reference to certain 'Age' groups not being able to take advantage of improved services through better infrastructure, as the reasons for this are not related to infrastructure per se.

96. Two of the authorities were concerned that a dilution of planning controls and use of prior approval could reduce stakeholder engagement in the consenting process. Another authority thought the changes might help reduce inequalities between people in remoter areas, who have less access to digital services than people in urban areas. One authority though more connectivity might lead to slower broadband speeds and potentially more 'online abuse'.

97. Another 'Planning Authority' thought more information should be made available to the public about the role of infrastructure in providing connectivity and services and about the guidelines on radio frequency emissions produced by the International Commission on Non-Ionising Radiation Protection.

98. One of the 'Other' respondents felt the poor might not be able to benefit from any improved services, but they did not think they would be disproportionately affected by the negative impacts of the proposals compared to other groups.

## **CONCLUSION**

99. The 'Industry respondents were fairly consistent in their calls for more PD rights to allow more flexibility in their activities and promote rollout. The one significant area of difference, between MNO and those independent infrastructure providers, was in the provisions of PD rights for new masts and the rollout of prior approval.

100. Views in other respondent groups were much more mixed. There were some themes that emerged, with a wide ranging concern about the ability of prior approval to provide adequate protection with regard to larger developments or development in designated areas, and whether such procedure would be practical and remove burdens from planning authorities.

101. There was little or no consistent or clear cut indication as to what PD rights might be further extended in designated areas or the specific restrictions and conditions that would make such PD rights acceptable in these areas.

## **ANNEX - LIST OF RESPONDENTS AND RESPONDENT CATEGORIES**

### **Industry**

Anonymous  
Anonymous  
Arqiva  
BT/EE  
Mobile UK  
Vodafone

### **Government and Agency**

Historic Environment Scotland  
Scottish Natural Heritage  
Ministry of Defence  
NATS

### **Planning Authorities**

Aberdeenshire Council  
Argyll & Bute Council  
Cairngorms National Park Authority  
City of Edinburgh Council  
Comhairle nan Eilean Siar (Western Isles Council)  
Falkirk Council  
Glasgow City Council  
Loch Lomond and Trossachs National Park Authority  
Perth & Kinross Council  
South Lanarkshire Council

### **Heritage Bodies**

Association of Local Government Archaeological Officers Scotland  
Chartered Institute of Archaeologists  
Cockburn Association  
Friends of Glasgow West  
National Trust for Scotland  
Pollockshields Heritage  
Royal Society for the Protection of Birds

### **Individuals**

Anonymous  
Anonymous  
Anonymous  
Mr Andrew McEwan  
Mr Jim Robison

**Other**

Burness Paull

Federation of Small Businesses

Scottish Council for Development and Industry

Scottish Countryside Alliance

Scottish Land and Estates

Scottish Water



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