Telecommunications

Version no	**2.0**
Date of last update/review	**January 2025**
Responsibility of	**Subject Lead for Telecommunications**
Review Changes: amendment the Key legislation and Policy section to include a link to the NRW guidance on potential landscape and visual impacts and the Murtagh v SSLUHC and IPs Hutchinson 3G (UK) Ltd & RB of Kingston upon Thames Judgement; include a reference to the Murtagh v SSLUHC and IPs Hutchinson 3G (UK) Ltd & RB of Kingston upon Thames Judgement (paragraph 24); and add new sub section on Designated or other sensitive landscape (after paragraph 28).	

Key legislation and policy

Legislation	• Part 24, Schedule 2; Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No. 2) Order 2014).
National policy and guidance	• Future Wales: Policies 13 & 14 • PPW – Paragraph 5.2.1 onwards • DMM – Paragraph 3.3.1 onwards
Judgments	• Langley Park School for Girls v Bromley LBC
Other guidance	• Code of Best Practice on Mobile Phone Network Development for Wales • add link to NRW guidance (due to be published 01 April 2025. • Murtagh v SSLUHC and IPs Hutchinson 3G (UK) Ltd & RB of Kingston upon Thames
Other ITM Chapters	• Approach to Decision Making • Role of the Inspector • Green Belt • Landscape and Visual Impact • Highway Safety

1. Inspectors make their decisions on the basis of the evidence before them. Consequently, they may, where justified by the evidence, depart from the advice given in this guidance.

SDPs & LDPs

2. In producing SDPs and LDPs, planning authorities should:

   - Engage with digital infrastructure providers to identify the future needs of their area, including 5G,
   - Consider the potential impact of poor coverage on different groups and plan positively to overcome these issues, and
   - Address these issues in Strategic and Local Development Plans.

3. PPW states that development plans should set out policies for telecommunications development. The support in FW Policy 14 for increased mobile coverage, the requirement to identify future needs and plan positively to address poor coverage indicates that development plans should include more than just a criteria based development management policy. However, neither FW nor PPW say this in terms.

4. Policies placing a moratorium on new telecommunications development or setting minimum distances between equipment, housing or schools for example, would conflict with PPW.

5. The Development Plans Manual (5.125) advises LPAs to produce an infrastructure plan to *'clearly evidence how infrastructure of the appropriate capacity, location, funding and timing, will be in place to support the implementation and* delivery *of the LDP'*. Telecommunications is listed as a type of infrastructure likely to be required to deliver allocations in a plan. It would be reasonable, therefore, to expect providing or improving telecommunications infrastructure to be a requirement for allocations, particularly in areas of poor coverage.

6. As FW is part of the development plan it should not be necessary for lower level plans to repeat Policy 13's requirement that new development include the provision of Gigabit capable broadband infrastructure.

7. Given the importance attributed to improving coverage across the country, criteria based policies should be permissive. PPW requires criteria based policies to be able to accommodate technical changes that may affect the siting and appearance of apparatus. Nonetheless, national policy recognises the visual impact apparatus can have, particularly in rural areas and sensitive landscapes and one would expect polices to include criteria safeguarding these interests.

Appeals

Prior approval

8. Template: *The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule*

2, Part *24 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2014.*

9. Most telecommunication development delivering mobile phone coverage is permitted development. This is subject to conditions including, in certain cases, prior approval. Nevertheless, by virtue of benefitting from PD rights, the principle of development and to a certain extent its impact, is deemed to be acceptable. In determining whether prior approval is required, consideration is limited to siting and appearance. The DMM advises the formal submission of details for approval should only be required where a proposal is likely to have a significant impact on its surroundings.

10. The Code of Best Practice on Mobile Phone Network Development Wales contains useful guidance on the technical matters which influence siting and design. It is recommended that this document be read in full (it's only 15 pages).

Appearance

11. Factors to be considered include materials, colour and design. Design includes dimensions, shape and whether it is solid or an open framework.

Siting

12. Factors relating to siting include:

- the height of the site in relation to surrounding land;
- the existence of topographical features and natural vegetation;
- the effect on the skyline or horizon;
- the site when observed from any side, including from outside the authority's own area;
- the site in relation to areas designated for their scenic or conservation value;
- the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character;
- the site in relation to residential property; and
- any other relevant considerations.

13. The scope of landscaping and screening to reduce the impact of the development on its surroundings should be taken into account.

14. S38(6) does not apply in prior approval cases. That's not to say development plan policies are not material but care should be taken to avoid concluding that a proposal accords or conflicts with the development plan.

15. The DMM states that whether a development is likely to have significant effects on a European Protected Species is a material consideration in prior approval cases.

16. Siting and appearance will largely involve considering the impact of the proposed development on the character and appearance of the area. However, highway safety could be relevant to siting if equipment obstructs a visibility splay or a pavement as could biodiversity.

17. The duty under S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to permitted development that requires prior approval. However, that's not to say that you cannot not consider the impact of siting and appearance of telecommunications development on listed buildings and their settings, you should.

18. The duty under S72 does apply if the proposed development is in a conservation area. Under S72(1) special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

19. The GPDO does not provide any specific authority for imposing conditions beyond the deemed conditions for development by electronic communications code operators. Whilst there is nothing to say that conditions cannot be imposed it is best to avoid doing so. Consequently, if you consider, for example, a mast needs to be a finished in a different colour in order to be acceptable, the appeal should be dismissed.

Casework issues

Need

20. PPW states that the principle of the need for development should not be questioned. However, provision may be a material consideration, particularly in areas of poor coverage and to meet the objectives and aspirations of national and local policy. The need to provide or improve connectivity should be balanced against any harm identified.

Health

21. PPW advises that provided ICNIRP guidelines are met, the health aspects of mobile telecommunication equipment should not be considered. It is a statutory requirement that applications for planning permission or prior approval be accompanied by a declaration that the development has been designed to comply with ICNIRP guidelines.

22. Although objections on health grounds may not be supported by scientific evidence, the fear of such impacts can be a material consideration and may need to be addressed under 'other matters'. It should be sufficient to note the concerns, point to the declaration and say that you have no reason to believe that the guidelines would not be met.

Alternative sites

23. Appellants may provide evidence to explain which alternative sites were considered and why they were rejected in favour of the appeal proposal. If the

proposed development is acceptable it should not be necessary to address alternatives sites.

24. Langley Park School for Girls v Bromley LBC held that where there are clear planning objections to a proposed development, the more likely it is that it would be relevant to consider whether those objections could be overcome by an alternative proposal. This was emphasised by the findings in **Murtagh v SSLUHC and IPs Hutchinson 3G (UK) Ltd & RB of Kingston upon Thames** (ADD LINK) where an Inspector did not expressly consider the option of siting the equipment on an existing mast.

25. If you need to consider alternative sites, is there persuasive evidence that:

- they should be discounted?
- the landowner is unwilling to allow an installation? (are there any letters confirming this?)
- mast sharing would not be feasible? (what are the technical constraints?)
- alternative siting would not provide adequate coverage?
- alternative siting suggested by the LPA and locally have been considered?
- the alternatives would be materially less harmful?

Green Belt/Green Wedge

26. In prior approval cases, the principle of development is not a consideration and the question of whether or not the proposal represents inappropriate development does not arise.

27. Where planning permission is required; PPW paragraph 3.73 onwards sets out the presumption against inappropriate development in Green Belts and Green Wedges. Telecommunications development is not listed as a type that would not be inappropriate in the Green Belt/Wedge. Nor is it likely to preserve the openness of the Green Belt/Wedge and so would not benefit from the exemption in paragraphs 3.77 and 3.78.

28. Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Those other considerations might include poor coverage and the lack of alternative sites.

Designated or other sensitive landscape

29. Advice in relation to assessing the potential landscape and visual impact from proposed telecommunications infrastructure in designated or sensitive landscapes, including National Parks and National Landscapes (formerly Areas of Outstanding Natural Beauty), is provided in NRW's '*Telecommunications apparatus and their landscape and visual effects'* guidance note issued in

February 2025. A link to the document is provided in the key legislation and guidance section.

Site visits

30. As most locations will be visible from a public place site visits will usually be unaccompanied. When setting up your site visit programme leave sufficient time to look at any alternative sites which have been suggested.