

The Cabinet Office



Isle of Man
Government

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Consultation Summary & Department Responses

Draft Telecommunications Development Order 2019

Date: November 2019

We Asked - The Town & Country Planning Act (1999) sets out a definition of 'development'. Things that fall within this definition must have planning approval before they can be carried out. Planning approval can be via individual planning applications or can be a 'blanket' approval by secondary legislation (aka Permitted Development). The mechanism for the latter is a Development Order produced by the Cabinet Office and approved by Tynwald. The determination of a planning application must take into account all relevant material considerations and must not take into account anything which is not a material consideration.

Development Orders may be appropriate where proposals are unlikely to be contentious or where relevant the material considerations are unlikely to benefit from case-by-case consideration. Where a proposal is contentious due to non-material issues, there is unlikely to be any benefit of case-by-case consideration by way of a planning application as the process cannot legally take into account the non-material issues which make it controversial.

A Telecommunications Development Order was implemented in 2013 and a draft replacement order was published, alongside explanatory information, for an 8 week consultation, which closed on the 05.08.19.

You Said - There were 479 responses to the consultation. 19 respondents indicated they were responding on behalf of an organisation, including 1 MHK, 4 Local Authorities, Manx Utilities, the Digital Agency, the Chamber of Commerce Digital Committee and 5G Aware IOM.

We Did – This report is a summary of the responses and the issues they raise. It considers questions 5 – 9 of the consultation¹, providing statistical analysis of the answers and common issues. It includes some quotes of those in support of the order. A number of detailed points were raised in relation to the order, some suggesting changes and some raising concerns. These are set out in appendix 2.

The draft order has been updated in light of the above, and will require Tynwald approval before coming into operation.

¹ The first four questions were background as to who the respondent was and whether responses could be published

Appendix 1 – Set Questions

Question 5: The order is intended to make it easier to install smaller-scale telecommunications equipment – do you think the order will achieve this?

378 respondents answered this question: 150 said yes, 102 said no and 126 said neutral.

274 provided more detailed comments. Of these answered, 56 included a standard phrase (with minor or no alteration) "I do not want or consent to 5G installations or equipment being permitted..." and 179 indicated that installation should not be easier (not including anyone who included the standard phrase). Of those who answered yes or neutral, 46 stated "I do not want or consent to 5G installations or equipment being permitted..." and 133 indicated that they did not think installation should be easier. It is noted that 144 raised concerns in relation to 5G Technology (this included the 56 who used the standard phrase) and 90 Raised Health Concerns (this excludes the 56 who used the standard phrase).

This suggests that that there was a level of confidence that the legislation would have the intended outcome, but concern over whether that outcome was desirable, particularly if it would facilitate the roll out of 5G.

It is also noted that:

- 5 raised conflict with biosphere
- 4 raised landscape impacts
- 5 raised townscape impacts
- 13 raised wildlife impacts (some in conjunction with 5G/health concerns)
- 5 raised concerns with business being prioritised over other issues

Comments in support included:

- "The rollout of 4G has been held back by Planning. I welcome a change that will make the rollout of 5G smoother and more efficient"
- The Chamber of Commerce Digital Committee stated, "Whilst the Committee is supportive of the strategy and fully recognises the need to reform and improve the current planning process"
- The Digital Agency noted, "The ability for licensed operators to install and maintain their equipment is vital if the Island is to achieve Tynwald's aim of being at the forefront of telecoms innovation. The National Telecoms Strategy, unanimously approved by Tynwald in October 2018, agreed that new planning legislation in support of the delivery and maintenance of telecoms infrastructure should be introduced. This legislation meets the requirement of that strategy and modernises the current outdated and restrictive legislation".

Question 6: What outcome do you think this could have for the Island?

This question was asked within the context of larger structures requiring full planning approval. 400 respondents answered this question. In reading the responses it appears that some people answered it on the basis of 'this' being the Development Order overall. Also, some have answered on the basis of what they think should happen, rather than what they think the order (in whole or part) may have. Nevertheless the responses are helpful in identified the broad issues and concerns.

- 151 raised concerns about 5G (including 40 that used the standard phrase)

- 143 raised health concerns including 81 that raised concerns about 5G (excluding any that used the standard phrase)
- 115 welcomed there being a full application process for larger proposals (although some of these were in the context that all telecoms should require full planning approval)
- 49 indicated broad support for facilitating the provision of telecommunications infrastructure
- 16 indicated it was a balanced approach
- 6 raised concerns about negative impact on service provision
- 10 raised concerns about too much bureaucracy

It is also noted that:

- 11 referenced biosphere (4 supporting and 7 raising concern about conflict with biosphere)
- 35 referenced landscape impacts
- 23 referenced townscape impacts
- 26 referenced wildlife impacts (some in conjunction with 5G/health concerns)
- 8 raised concerns with business being prioritised over other issues
- 2 raised concerns about house prices
- 2 raised concerns about impact of views (from houses)

Question 7: Do you think the proposed prior approval process is appropriate?

398 respondents answered this question. 100 said Yes, 248 said no and 50 were neutral.

255 provided more detailed comments. 129 raised 5G concerns, including 46 who used the standard phrase. 78 raised health concerns, including 54 of those that raised 5G concerns (but not including those who used the standard phrase). It is also noted that:

- 28 said there should be consultation
- 63 said that telecoms development should require full planning approval.
- 5 raised concerns about too much bureaucracy
- 27 made comments in relation to probity
- 2 raised concerns about foreign telecommunications companies
- 3 made comments in relation to insurance

One respondent noted, "As long as it is strictly controlled to prevent abuse. Discussion prior to the submission of planning applications is generally positive and this formalises the process. However decisions should be made at a high level and not be delegated below the level of Senior Planning Officer".

The Digital Agency noted, "This element of the order appear to be appropriate in that it ensures that certain types of infrastructure will require prior approval before they can move forward. It provides a process by which operators can approach planning authorities to gain permission to install infrastructure which is not covered under permitted development. It also provides the public security that the planning authorities have the ability to permit or refuse any application which does not conform to the permitted development criteria. This approach seem sensible and mirrors the approach taken in many other jurisdictions including the UK".

Question 8: Are there any issues which you think are missing from this list and not adequately covered elsewhere?

372 responded to this question. 184 said yes, 70 said no and 118 were neutral

259 provided more detailed comments. 152 raised 5G concerns, with 49 of these using the standard phrase. 116 raised health concerns, including 77 of those that raised 5G concerns (but not including those who used the standard phrase). It is also noted that:

- 6 raised the need for more consultation
- 10 said that telecoms development should require full planning approval.

It is also noted that:

- 2 made comments in relation to insurance
- 1 suggested more competition is required
- 2 raised privacy concerns
- 13 said there was no need/urgency for 5G

Question 9: Do you have any further comments in relation to the Order?

358 responded to this question.

238 raised 5G concerns, with 79 of these using the standard phrase. 125 raised health concerns, including 99 of those that raised 5G concerns (but not including those who used the standard phrase).

- 10 raised concerns with business being prioritised over other issues
- 10 raised concerns about conflict with biosphere
- 27 said there should be more information/consultation on the proposed Development Order
- 84 said more research was required
- 48 said there was no need/urgency for 5G
- 10 indicated broad support for facilitating the provision of telecommunications infrastructure (not including the 49 who had so indicated in response to question 6)

The response from Sure noted, "As identified in the Isle of Man's National Telecommunications strategy, current planning does not support the Islands aims or ambitions, however Planning and Permitted Development orders (PDOs) are critical components in facilitating and achieving its aims.

5G is only one component of the strategy, the aim is to ensure that the island has the required and appropriate telecommunications infrastructure covering both mobile and fixed infrastructure. Sure is fully supportive of both the strategy and the need to reform and improve the current planning and PDO processes and note that the UK is also embarking on further reform and improvements to their PDOs beyond what is being proposed in the Isle of Man, recognising the importance of Critical National Infrastructure".

Appendix 2 – Detailed Points Raised

Issue	Suggested Response	Change to Order
Cabinets		
Schedule 2, Class 1 (Telecommunication Cabinets) – Condition 3 (Not within 20 metres of a primary window) might be too restrictive in some roads/streets. Maybe add "wherever possible" (also suggestions that it is not restrictive enough and should be increased).	The condition preventing the location of a cabinet within 20m of a primary window applies to Schedule 2 but not Schedule 3. Therefore if there was a circumstance in which a Cabinet had to be closer than 20m this could potentially be carried out under Schedule 3 (but would therefore be subject to the prior approval process).	No Change
Schedule 2, Class 1 (Telecommunication Cabinets) – Condition 3 (Not within 20 metres of a primary window) – request confirmation that this is line of Site from the primary window.	The intention is that it is 20m from the front of a primary window (it is not intending to be a circle 20m in diameter with the primary window in the middle). Schedule 2, Class 1 is not intended to allow flexibility for sites within 20m of the front of a primary window but not visible due to e.g. walls or topography. The condition preventing the location of a cabinet within 20m of a primary window applies to Schedule 2 but not Schedule 3. Therefore if there was a circumstance in which a Cabinet had to be closer than 20m this could potentially be carried out under Schedule 3 (but would therefore be subject to the prior approval process) and the prior approval application could make clear why there was not a line of site.	Review wording of Schedule 2, Class 1, Condition 3
Schedule 2 Class 1 How does anyone other than the resident of a property know which room's windows are primary windows? The cabinet may be on top of a building not just at ground level.	It is often possible to determine this from the outside of a house, and planning approvals (which for new houses include layouts) are public information. It is accepted that there may be occasions where this causes some difficulty, but it is considered that it is an important safeguard which should nevertheless be retained.	No Change
Telecommunication Cabinets may include fans which could be noisy (especially in summer and if close to residential properties) there should be a maximum noise level (at least in residential areas).	Conditions are sometimes attached to planning approvals limiting noise impacts. The model condition states, <i>"The noise level emitted from the wind turbines shall not exceed the L9010min of: 40dBA between 07.00 – 23:00 at the boundary of any residential property. 43dBA between 23.00 – 07.00 at the façade of any residential property"</i> .	Add a condition in relation to noise to Schedule 2, Class 1 and Schedule 3, Class 1.
Equipment should not interfere with access to a private dwelling (issues in UK of this happening).	This appears to be a sensible precaution.	Add wording to protect accesses to private dwellings as part of condition 4 of Schedule 1.

Issue	Suggested Response	Change to Order
Pavements should not be obstructed and so any installation maintains a minimum of 1.5 metre footpath width to ensure accessibility.	It is noted that the Ramsey Commissioners have published a policy in relation to applications for advertising 'A' boards, Pavement Café's or Display of Goods in pedestrian areas on the public highway in Ramsey. This includes a requirement that, "A minimum unobstructed width of 1500mm must be maintained between the up-stand of the kerb (or any existing street furniture) and any item to allow the free passage of pedestrians and wheelchairs.	Add wording to protect pavement width as part of condition 4 of Schedule 1.
Cabinets have traditionally been green to blend in to the surroundings but are now plastered with very colourful adverts reducing their 'camouflage' this should be stopped.	The appropriate colour for a cabinet may depend on its location, and therefore it is not considered appropriate to specify a standard colour. The display of advertisements is controlled via separate regulations and so it is outside the scope of the Telecommunications Development Order to allow or prevent the display of advertisements.	No Change
Structures on Land		
The optimal height of transmitter is at 15 metres to be above typical building height. Class 2 (Structures on Land) in Schedules 2 and 3 has a condition restricting the height to 12 metres. This should be increased to 15 metres. This may reduce the overall number of structures required. Research by the UK found that 20m masts increase coverage by 10% while 25m masts can increase coverage by 19% so reducing the need for as many masts. Estimated that 12 metre limit may increase number required by 50%.	It is noted that the English Permitted Development allows for masts up to 25 metres (and a different Prior Approval process than proposed here). This height is not considered appropriate in a Manx context. However, it is also considered important to attempt to minimise the amount of structures required overall. Therefore a balance should be struck. It is considered that an increase to 15m would be appropriate.	Amend Schedule 2, Class 2, condition 4(a) to replace 12m with 15m and similarly the condition attached to Schedule 3, Class 2.
Telecommunications masts are not small scale and should be excluded (either from Schedule 2 or from the order altogether)	See comments above. In addition it is noted that the purpose of the order is in part to facilitate the improvement of the telecommunications network on the Isle of Man. It is considered that structures are an integral part of this and so need to be included in some form within the order.	No Change
Requiring prior approval of all structures on land may encourage co-location and reduce the overall number required	See comments above. Prior approval is required for structures which do not meet conditions 1-3 of Schedule 2, Class 2 (within a Conservation Area, 9m of designated water course or 20m of Primary Window). It is considered that this strikes an appropriate balance between protection/control and the ability to develop a fit-for-purpose network.	No Change

Issue	Suggested Response	Change to Order
The replacement of existing structures is less likely to be of concern than the erection of new structures.	Noted, and the additional safeguards/prior approval that is within Schedule 2 could potentially not be applied to replacements. However, it is considered that these provide safeguards as replacements are unlikely to be identical.	No Change
Landscape impact may be much greater in rural areas and so in these areas there should be a higher level of control.	Noted. It is difficult to define 'rural areas' within legislation, and hence the caveats relate to specific designations (e.g. Conservation Areas).	No Change
Consideration needs to be given to design. The visual impact is reduced if they are positioned and disguised. Alternatively, masts be made into iconic landmarks.	Noted, and this could be considered as part of the consideration of visual impact within the Prior Approval process (or where a full planning application is required). It is difficult to include this into legislation in a way which would be clear and usable.	No Change
Schedule 2, Class 2 (Structures on Land) – Condition 3 (Not within 20 metres of a primary window) - assurance is sought that this is based evidence from technical and health advisors.	The distance from a primary window relates to visual impact (it does not relate to health), and is based on established guidance in relation to overlooking.	No Change
Schedule 2, Class 2 (Structures on Land) – Condition 3 (Not within 20 metres of a primary window) – request confirmation that this is line of Site from the primary window.	The intention is that it is 20m from the front of a primary window (it is not intending to be a circle 20m in diameter with the primary window in the middle). Schedule 2, Class 2 is not intended to allow flexibility for sites within 20m of the front of a primary window but not visible due to e.g. walls or topography. The condition preventing the location of a cabinet within 20m of a primary window applies to Schedule 2 but not Schedule 3. Therefore if there was a circumstance in which a Cabinet had to be closer than 20m this could potentially be carried out under Schedule 3 (but would therefore be subject to the prior approval process) and the prior approval application could make clear why there was not a line of site.	Review wording of Schedule 2, Class 1, Condition 3
Equipment should not interfere with access to a private dwelling (issues in UK of this happening).	This appears to be a sensible precaution.	Add wording to protect accesses to private dwellings as part of condition 4 of Schedule 1.
Pavements should not be obstructed and so any installation maintains a minimum of 1.5 metre footpath width to ensure accessibility.	It is noted that the Ramsey Commissioners have published a policy in relation to applications for advertising 'A' boards, Pavement Café's or Display of Goods in pedestrian areas on the public highway in Ramsey. This includes a requirement that, "A minimum unobstructed width of 1500mm must be maintained between the up-stand of the kerb (or any existing street furniture) and any item to allow the free passage of pedestrians and wheelchairs.	Add wording to protect pavement width as part of condition 4 of Schedule 1.

Issue	Suggested Response	Change to Order
Structures on Buildings		
The erection of equipment on a dwelling house should be specifically excluded	There is no provision for the erection of a structure on a building of less than 4m tall. Mounted Equipment could be directly mounted on the side of a building (Class 7) and requires prior approval if within a Conservation Area, more than 0.6m in diameter or more than one item is to be installed (this is in alignment with the provisions for satellite dishes on houses (Class 27 of the 2012 Permitted Development Order). Inclusion within the Development Order does not remove private property rights (so the permission of the building owner would be required). It is therefore not considered that dwelling houses should be excluded.	No change
The optimal height of transmitter is at 15 metres to be above normal building height. Class 3 (Structures on Buildings which are 4 to 12 metres tall) in Schedules 2 has a condition that structures must be at eaves level (if pitched roof) this should be removed to enable installation at 15 metres height. This may reduce the overall number of structures required.	This condition does not apply within Schedule 3 and so the effect of the condition is to trigger the need for Prior Approval, not necessarily prevent installation at above eaves level.	No Change
Classes 3 and 4 (Structures on Buildings which) in schedule 2 has a condition limiting it to 2 structures per building. This should be reconsidered (increased possibly with other requirement) to encourage co-location and reduce the overall number of locations required.	This condition does not apply within Schedule 3 and so the effect of the condition is to trigger the need for Prior Approval, not necessarily prevent installation at above eaves level.	No Change
Telecommunications Structures on Buildings are not small scale and should be excluded (either from Schedule 2 or from the order altogether).	In addition it is noted that the purpose of the order is in part to facilitate the improvement of the telecommunications network on the Isle of Man. It is considered that structures on buildings are an integral part of this and so need to be included in some form within the order. Prior approval is required for structures which do not meet conditions 1-3 of Schedule 2, Classes 3 and 4 (within a Conservation Area, more than 2 on a building, installed above eaves level). It is considered that this strikes an appropriate balance between protection/control and the ability to develop a fit-for-purpose network.	No Change

Equipment		
The installation of 5G Technology should be excluded from the PDO (also suggested that this could be by a condition which could then be removed if the technology was deemed safe)	Although it could be argued that this issue falls outside the remit of the planning system, the comment is noted. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral. However, it is noted that the Chief Minister’s committee on National Telecom Infrastructure concluded that “planning requirements should be aligned with national strategic requirements to grow and support the fibre network and the introduction of new technologies, such as 5G”. It also concluded that “Agility, coherence and innovation will become increasingly important as new technologies such as 5G, artificial intelligence and the internet of things unfold” and “Lampposts could be used to support the roll out of 5G technology if a shared approach is adopted”. It identified that “Planning is a key part of the evolutionary journey and delivery of 5G will require different planning rules. The existing planning rules are not sustainable or scalable”.	No Change
The installation of technology (either any or specifically 5G) near to schools, playgrounds, hospitals and/or residential areas should be prevented	Whilst this is a locational point, the consultation responses indicate that this is driven by health concerns. Although it could be argued that this issue falls outside the remit of the planning system, the comment is noted nonetheless. The Public Health Directorate’s advice has been sought on health matters and the following has been published: <ul style="list-style-type: none"> • More information about RF-EMF and 5G and the evidence relating to any public health concerns (June 2019) - this includes reference to World Health Organisation advice • A copy of the presentation given to MHKs on 10th June 2019 • Video of Director of Public Health discussing 5g 	No Change
The installation of 5G technology outside of urban areas should be prevented (or there should be some 5G free areas where people can chose to live)	Noted. It could be argued that this is not a planning consideration. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral. However, see comments above in relation to health.	No change
5G is the most recent technology but the Order should somehow take into consideration future technology (post 5G)	Noted. It could be argued that this is not a planning consideration. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral.	No change

<p>It is unclear however how (if at all) the development order as drafted will accommodate installation of smaller-scale telecommunications equipment on structures such as street lights or electricity poles without the requirement for a full planning approval process. This should be clarified.</p>	<p>Such installations are likely to be <i>de minimus</i>. The definition of development includes, Section 6(3) of the Act states, "The following operations shall not be taken for the purposes of this Act to involve development ... the carrying out for ... alteration of any building or works which do not materially affect the external appearance of the building ...". The definition of building includes, "any structure or erection". Therefore the addition of smaller scale equipment to a lamp-post may be considered to not materially alter its appearance and so not be development (and so outside the scope of this order)</p>	<p>No Change</p>
<p>Class 6 (Equipment on Structures on Buildings) has a condition limiting it to 6 items per structure. This should be reconsidered (increased possibly with other requirement) to encourage co-location and reduce the overall number of structures required.</p>	<p>This condition does not apply within Schedule 3 and so the effect of the condition is to trigger the need for Prior Approval, not necessarily prevent installation at above eaves level.</p>	<p>No Change</p>
<p>Class 5 (Equipment on structures on land) makes shrouding mandatory, and this requirement should be removed.</p>	<p>This condition does not apply within Schedule 3 and so the effect of the condition is to trigger the need for Prior Approval, not necessarily prevent installation at above eaves level.</p>	<p>No Change</p>
<p>There should be provision for monitoring of equipment post-installation to check working properly</p>	<p>This could be regarded as not being a planning consideration. The comments have been discussed with Public Health and the Communications Commission. In light of this, it is noted that the all radio equipment on the market in Europe must comply with the Radio Equipment Directive which, in conjunction with harmonised standards, sets out the essential requirements that the equipment must meet; any equipment that meets these requirements carries the CE mark. It therefore follows that if equipment carries a CE mark it is fit for use in the Isle of Man. It should be noted that the Radio Equipment Directive contains specific provisions to ensure "the protection of health and safety of persons and of domestic animals" therefore any equipment carrying the CE mark has been determined to be safe. It is unlikely that any faults that could develop within such equipment would result in this being breached as it has been manufactured to stringent standards.</p>	<p>No Change</p>
<p><i>Underground Equipment</i></p>		
<p>Schedule 2, Class 8 should have a condition specifying a minimum depth of installation</p>	<p>Noted. The Development Order does not remove the requirement for other approvals. The DOI control works to dig within the highway and can specify depths/reinstatements. It is therefore considered that this need not be controlled within the Order.</p>	<p>No Change</p>

Prior Approval Process		
The process should include consultation and a right of appeal	The Development Order has come out of the action plan which states ' <i>faster processes to allow for new smaller telecoms improvements</i> '. The approach has been to remove the big lattice masts from Permitted Development PD altogether so these would require full planning approval – and consequently there will be public consultation and rights of appeal for those. This leaves smaller apparatus and we have looked at these in terms of their size and positioning leaving some of them needing a prior approval if for instance they are in Conservation Areas. The Prior Approval process is intended to be a quick process to identify if there are likely to be planning issues (and, if so, to require a full application). Things which receive Prior Approval (or do not require it) do not have a right of appeal, which is no different from any other permitted development. If the prior approval process is very similar to the planning application process, then there is limited value in having a Development Order and it may be more appropriate to simply apply the established planning application process. This would not deliver the action within the Action Plan.	No Change
An opportunity for Local Authorities to directly be able to provide input on behalf of concerned residents.	See above.	No Change
The process should include consideration of impact on views from houses	The potential loss of a view is not a material planning concern. However, the loss of a reasonable outlook is and would be considered as part of "the visual and noise impact on residential amenity" (Schedule 4, 2(7)(a)).	No Change
The process should include consideration of health/safety impacts (Public Health was considered as a material consideration for 19/003300/B).	The assessment within 19/00300/B in relation to health stated, "In general terms, credible health concerns are capable of being a material planning consideration. However, the advice from Public Health is noted and on this basis the concerns raised by objectors in relation to human health are not considered to constitute a reason for refusal". It is not clear how the case-by-case assessment of health through the Prior Approval process would result in anything beyond the repeating of standing advice/requirements. Public Health have been involved in the development of the order and a standard condition applies to all of the development within the order that it must be in compliance with ICNIRP.	No Change

<p>The process should include consideration of cumulative impact (and how/if this outside scope of an individual ICNIRP certificate)</p>	<p>This could be regarded as not being a planning consideration. The comments have been discussed with Public Health and the Communications Commission. In light of this, it is noted that the ICNIRP guidelines, and the associated test methodologies, take into account the cumulative field strength of all sources in an area – this means that the emissions of all transmitters are taken into account, not just those using particular frequencies and/or technologies. It is also noted that Ofcom has undertaken a lot of measurements in this space and no site has ever found to be above the ICNIRP exposure limits for the general public – the results were typically tens of thousands times lower than the ICNIRP guidelines. This is consistent with the findings of other regulatory authorities across Europe; it is therefore unlikely that the Isle of Man would be an exception in this regard.</p> <p>A copy of the guidelines is here: https://www.icnirp.org/cms/upload/publications/ICNIRPemfgdl.pdf. They make clear what evidence lies behind them and address the point about cumulative effects (and that the guidance is based on worse possible scenarios).</p>	<p>No Change</p>
<p>The process should include consideration of the planning history of the site and the presence of previous refusals should mean an automatic requirement for full planning application</p>	<p>Previous decisions on a site may be a material consideration in the determination of planning applications, more so if they are similar to what is being proposed and less so if circumstances have changed since the previous application. Given the caveats within the order, and that it comes from the Reform of the Planning System – it is not considered that this suggestion is appropriate.</p>	<p>No Change</p>
<p>Who makes the decision – are they independent and qualified?</p>	<p>The Prior Approval Process gives powers to DEFA to make the determination. This means the Minister unless the power is delegated (either to the Political Member, the Planning Committee or Officers). It would be for the delegation instrument to determine who made the decision. This is the same as the situation for full planning applications.</p>	<p>No Change</p>
<p>The decision should be made by Planning Committee</p>	<p>See above</p>	<p>No Change</p>
<p>It is not clear when the prior approval process applied</p>	<p>The prior approval applies to development which is not within Schedule 2 and is within Schedule 3</p>	<p>No Change</p>

<p>If prior approval is not given, then the company can submit a full planning application. This gives them two bites of the cherry, and is clearly wrong.</p>	<p>The Prior Approval process is intended to identify whether or not a full planning application is required, based on clear criteria. Therefore refusal or prior approval would be on the basis that a full planning application is required to properly assess a specific proposal.</p>	<p>No Change</p>
<p>There should be an option to amend or adjust if required</p>	<p>If Prior Approval is declined, a fresh (and amended proposal can be submitted).</p>	<p>No Change</p>
<p>Code Powers</p>		
<p>The order as drafted only allows works by companies with code powers. There are a number of licensed communication providers on the Island who provide wireless services and do not have code powers. New legislation should take into account those licenced operators who run networks using spectrum allocated through the Communications Commission who might not have, or need, the associated code powers.</p>	<p>This is a sensible suggestion. An element of selectivity is required, however it is considered that this could be licensed operators rather than only those with code powers.</p>	<p>Amend Schedule 1, Condition 1 to reference Licensed Operators rather than code system operators.</p>
<p>There are a number of providers on the Isle of Man. All of them are licensed by the Communications Commission and all of them erect equipment for radio communications. At the moment they tend to use these items to place small communications equipment on the roof of buildings. They ensure that the equipment is not visible from the road. Confirmation is sought that this is not the sort of installation the PDO is seeking to control.</p>	<p>See above. Also, such installations may be <i>de minimus</i>. The definition of development includes, Section 6(3) of the Act states, "The following operations shall not be taken for the purposes of this Act to involve development ... the carrying out for ... alteration of any building of works which do not materially affect the external appearance of the building ...". The definition of building includes, "any structure or erection". Therefore the addition of smaller scale equipment to a lamp-post may be considered to not materially alter its appearance and so not be development.</p>	<p>No Change</p>

Currently the communication providers on the Isle of Man work well together. We need manage radio interference and therefore segregation of equipment is important. There are already a number of buildings which have installations from more than two providers and this has been achieved in a manner where the structures are not visible from the road. There is a potential that the document as written could slow down rollout rather than speed it up. We suspect that it may be necessary to better define what an installation is in respect of this document. For example do patio mounts count as an apparatus installation in the context of this document?	See above	See above
Definitions		
Throughout the Order, "the Department" is referred to, although which Department is not expressly stated. It would be helpful for the sake of clarity to include it in the Interpretation section.	This is a helpful suggestion. The Act uses the Department to mean DEFA whilst references to Cabinet Office are by name. The same approach has been taken in the order, although as the order is produced by the Cabinet Office it is possible for there to be confusion.	Add definition of 'The Department' as meaning DEFA
The definition of ground level should be highest point not lowest point, as this would be consistent with the 2013 order and other legislation.	This change would increase the potential height allowed and so reduce the effectiveness of the safeguards within the order. It is noted that the order uses a different definition to other secondary legislation, however the definitions within this order only apply to this order.	No Change
The definitions do not cross reference the different terminology used in the 2013 order and so it is not clear whether a telecommunications structure includes a mast used to support telecommunications equipment.	It is considered that the terms and definitions used previously could be clearer, and hence different terms and definitions have been used. As the new order would replace the previous order, it is not considered that cross references would be helpful. The definition of a telecommunications structure is, "means a structure the primary purpose of which is to have mounted equipment attached to it" and so would include a mast.	No Change
General Conditions		
The ICNIRP Standards are out-of-date and need to be reviewed –other standards referenced	It could be argued that this is not a planning consideration. However. the Public Health Directorate has issued advice (see above)	No Change

There is a potential for a significant amount of small development which cumulatively could impact on Conservation Areas and so the stance should be retained as in the 2013 order that in Conservation Areas only underground development is permitted development.	The Island benefits from a significant number of Conservation Areas which, by definition, are within built-up areas. To exclude any development from the order (other than underground) from such areas would significantly undermine it. However, the location of a Conservation Area is a trigger for Prior Approval for certain classes.	No Change
There should be more flexibility about the potential to remove trees (with replacement planting) rather than have a condition which excludes anything involving tree removal.	It is considered that this level of consideration would require a full planning application.	No Change
Development under Schedule 3 should be commenced with 12 months and completed within three years subject only to any additional time elapsed resultant from an unsuccessful appeal process.	Full planning applications have a standard condition requiring commencement within 4 years (but no completion deadline). It is considered that a similar approach, but with 3 years for commencement, is appropriate. There is no appeal process as part of the Prior Approval scheme.	No Change
The condition requiring the restoration of sites would be strengthened by requiring a photographic record of the property to be made before installation.	It is agreed that a photographic record would be helpful, however the practicalities of enforcing this (particularly where no prior approval is required) are of concern. It is considered that the wording of condition 8 of Schedule 1 could be improved.	Review wording of Condition 8 of Schedule 1
The order mentions the protection of trees but not other habitat which could be lost (and would be difficult to replace, even with a restoration condition) and so emphasis should be placed on compensation of habitat impact.	The order protects trees and statutory designations (ASSI, Conservation Areas). There are size limits on development which can take place on land (Cabinets and Structures) with or without prior approval.	No change
Water quality should be protected	It is not clear how water quality might be impacted on, however a condition is attached in certain circumstances in relation to distance from designated watercourses and the prior approval process includes consideration of impact on designated water courses.	No change
<i>Other Concerns</i>		
Government should have a clear position on what the Island needs are and how such developments would contribute to meeting the needs. This should be clear and well known. Applications should be considered in a balanced manner and if the benefits of this technology are wanted there will have to be some development to support it.	It could be argued that this goes beyond planning. It is noted that the Government has produced a National Telecommunications Strategy	No change

There is no need for 5G, 4G/fibre is sufficient	Noted. It could be argued that this is not a planning consideration. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral.	No change
64% of respondents to the original planning consultation said they did not want further Permitted Development for telecommunications infrastructure.	Noted, however the planning consultation was not a referendum. The issues identified within the consultation have informed the order and it is noted that some types of development would not require full planning applications.	No change
All telecommunications development should require planning approval. Why does Telecommunications need a specific Development Order? It appears to be in order to make quicker decisions before the public can appeal. Is this applied to any other planning?	Permitted Development is an established part of the planning system and allows for various types of development, including extensions to houses. Because of the technical nature, a separate Telecommunications Permitted Development Order currently exists and would be replaced by the new order. The Prior Approval process does not currently apply to any other form of Permitted Development.	No change
Planning should be approved in such a way that it does not encourage many small deployments rather than a few well-sited larger ones. It is also important to focus on universal availability. The current system doesn't fully cover the Island and those areas that have poor coverage are also often those with poor or no access to alternatives.	Noted. It may not be the case that a small number of large developments is more desirable than a larger number of smaller developments. The order focuses on potential impacts rather than limiting overall numbers.	No change
The Communications Commission should be reviewed	The comment is noted however this is outside the scope of this consultation.	No Change
We need to bring down the cost of telecommunications and there needs to be more competition.	It could be argued that this is not a planning consideration. However, one of the intended outcomes of the development order is to facilitate investment in infrastructure and services, which should enable competition.	No Change
The development of telecommunications infrastructure has the potential to conflict with Biosphere status (and may result in it being lost)	It could be argued that this is not a planning consideration. The published information in relation to the Isle of Man biosphere indicates that, "Maintaining and improving our infrastructure and economy in ways that respect and support our amazing environment" and that, "the UNESCO Biosphere Isle of Man project is not about stopping anyone doing anything". It is considered that a proportionate approach to the control of telecommunications development is not inconsistent with the designation.	No Change

The extra electricity that will be required to run the extra 5G installations is against the island becoming carbon neutral by 2050.	It could be argued that this is not a planning consideration. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral. However, the provision of improved communications technology could facilitate people working from home/remotely and so reduce the need to travel. In this way it could contribute to our response to Climate Change.	No Change
Concerns with the Interested Person Status Operational Policy (in particular the 20 metre distance)	Noted. The Interested Person Status Operational Policy relates to the Department’s determination of IPS in relation to full planning applications and so is outside the remit of the development order.	No Change
The order will set a precedent and make it harder in the longer term to resist any telecommunications development (even larger items that may well require full planning approval)	Noted. The proposals which are excluded from the order will require full planning approval, and the Development Order does not alter the policy framework against which such proposals would be judged.	No Change
Role/Remit of Planning Process - should move from old fashioned planning for structures and sizes to planning for use and technologies.	Noted. The Development Order focuses on key planning issues – impact on the appearance of the built environment, highway safety etc. and is technology neutral.	No Change
Impact on property values	No change – not a planning issue. The planning system cannot engage with how development impacts on property values as all development impacts in some respect on the value of property, as does many aspects of change, whether to increase them or decrease them	No Change
Impact on insurance availability	No change – not a planning issue. It is not clear how such development impacts on insurance, however, in a similar manner to property values, there are many aspects of change that can result in increased or decreased risk in terms of insurance matters and as such planning cannot address these.	No Change
Liability for any future health claims/legal action	It could be argued that this is not a planning consideration. The Public Health Directorate has issued advice (see above)	No Change
Concern in relation to smart metres (and data protection)	The comment is noted however this is outside the scope of this consultation.	No Change