



**Isle of Man**  
**Government**

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**TOWN AND COUNTRY PLANNING  
(DEVELOPMENT)  
(TELECOMMUNICATIONS)  
ORDER 2019**

Cabinet Office &  
The Department of Environment Food and Agriculture

# PUBLIC CONSULTATION – DRAFT TOWN AND COUNTRY PLANNING (DEVELOPMENT) (TELECOMMUNICATIONS) ORDER 2019

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## Introduction

The Cabinet Office is able to grant planning approval by way of an order for certain types of development, or development in specific locations and these can be subject to conditions and/or limitations. These are often referred to as Permitted Development Orders (PDO).

The Reform of the Planning System states that we will “undertake a range of procedural changes which introduce ... faster processes to allow new smaller telecoms improvements” and that this is intended to ensure, “our community and businesses receive the most modern and comprehensive mobile phone service and coverage, which helps make our lives easier and businesses more profitable”.

The Cabinet Office is seeking views on a draft development order in relation to Telecommunications infrastructure. This will replace an existing order approved in 2013 which is available to view here:

[www.gov.im/media/992462/townandcountryplanning\\_permitteddevelopment\\_\\_telecommunications\\_order2013.pdf](http://www.gov.im/media/992462/townandcountryplanning_permitteddevelopment__telecommunications_order2013.pdf)

## The Importance of Telecommunications Infrastructure

The Programme for Government sets out a number of goals which included a commitment to ‘Ensure *we are a digital Island, ready for new technologies like 5G, so we remain competitive, now and in the future*’.

The National Telecoms Strategy was unanimously approved by Tynwald in October 2018. The strategy was influenced and informed by the Chief Minister’s sub-committee on National Telecoms Infrastructure.

Both the Committee report and the National Strategy highlighted that access to world class telecommunications networks is essential for the future economic growth of the Island. The Committee found that development of planning policy would be required as part of the evolutionary journey in the delivery of 5G.

Tynwald therefore unanimously approved a number of actions in this area including; ‘*The Department for Enterprise will support the Cabinet Office to introduce new planning legislation and policy which supports the delivery and maintenance of telecoms infrastructure.*’

Government is a key enabler in developing and delivering policy which supports the implementation of new high speed telecommunication networks. Tynwald approved the strategy and supported the proposed change in legislation in the interest of accelerating the installation of new telecom networks such as fibre and 5G.

In May 2018 a report compiled by New America Open Technology, Google Open Source Research and Princeton University found that the Isle of Man has fallen 12 places in the global league tables for broadband network speeds. Without Government intervention to support the installation of new high speed networks the Island will fall further down these global league tables putting us at a distinct disadvantage against other jurisdictions. The strategy highlighted that planning reform was a vital part of the changes needed to help the Island climb these tables and to provide the type of networks the Island's residents and businesses need.

As the Chief Minister has stated, "*Superfast Broadband is not a nice to have, it is a must for business, for Government – for all of us. Government has a role to play in enabling this for everyone*".

These changes are to ensure that Island can once more be recognised as being at the forefront of telecoms innovation, a fully connected Island with access to choice, value and sustainable telecommunications infrastructure.

The permitted development order is only part of the solution, and there are a number of related goals to:

- introduce new legislation for national telecommunications which creates a more effective regulatory framework in this area;
- modernize the Telecommunications Act and work with industry to review associated mechanisms so that consumers are better served;
- create an environment that allows businesses to thrive and flourish;
- maintain our reputation at the forefront of innovation and emerging technologies and respond quickly to new business models;
- support the goals of energy security, the 2050 Emissions Reduction target and affordability to ensure an effective, secure and appropriate long term energy plan;
- continue our drive to transform Government services through the use of digital technology; and
- maximize efficiency of the services delivered through digital and tele-health care.

## **The Proposed Changes**

The 2013 Order:

- provided very broad descriptions of what was permitted, with the detail of what type of development is allowed clarified through a series of conditions – an approach which is different to the structure and format of the other Permitted Development Orders;
- imposes a prior approval process for some development which is similar to a planning process but, because it is not a planning application, means that such applications cannot be considered by a planning committee whose functions are to determine planning applications and is restricted in its scope as it relates to only siting and design;
- only allows underground development in Conservation Areas, unless carried out in an emergency; and
- does not have general conditions relating to number of issues such as the safe operation of the airport, preventing the removal of trees, protecting Areas of Special Scientific Interest and Designated Watercourses.

The 2019 Order is drafted to be in the same format as other permitted development orders, and with the use of clear classes of permitted development is intended to be easier to understand. The definitions under paragraph 3(3) have been reviewed.

Schedule 1 of the 2019 Order sets out general conditions that apply to all development under the order. These ensure that development is only permitted by telecommunications code operators, and must have an ICNIRP certificate if one is required. The conditions have been expanded from the 2013 Order and make it clear that no development is permitted which would:

- be within an Area of Special Scientific Interest, a Registered Building or Ancient Monument;
- impact upon the safe operation of the airport; or
- require the removal of (or works to) trees.

Schedule 2 of the 2019 Order sets out development that can be carried out without prior approval. Four parts (each with classes) are set out:

- Cabinets;
- Telecommunications Structures;
- Mounted Equipment; and
- Underground telecommunications structures.

The 2019 Order uses conditions to place restrictions on some forms of development within 20 metres of the primary window of a residential property, within Conservation Areas or within 9 metres of a Designated Watercourse. Conditions also restrict the size/number of certain types of developments.

Schedule 3 of the 2019 Order sets out development that can be carried out subject to prior approval. It has the same four parts (each with classes) as Schedule 1, but with less restrictive conditions in relation to size, numbers, proximity to primary windows, Conservation Areas and watercourses (given the prior approval process considers these matters).

Schedule 4 of the 2019 Order sets out the prior approval process including:

- Application details and submission;
- Determination; and
- Timescale.

A planning application requires the pros and cons of a proposal to be weighed, and a balanced judgement to be reached which considers all material considerations. The prior approval process as set out in the 2019 Order does not require this. It requires the decision maker to consider if there would be a negative material impact on specific issues and, if it is considered there would be, to refuse the prior approval. A precautionary approach is to be taken in cases of doubt. As this is a technical judgement, public consultation is not required and there is no appeal process (although a refusal of prior approval would not prevent an application being submitted and the decision on that application being appealed).

Some larger development (for example larger masts/antenna on land over 12 metres) that were potentially permitted development subject to prior approval under the 2013 Order (up to 15 metres) are excluded from the 2019 and so will now require a planning application.

## Planning Review Public Consultation

A public consultation on the Action Plan to Improve the Planning system was held from October 2017 to January 2018. As part of that consultation the following question was posed, *'The ever-increasing pace of mobile phone and data usage means that 5G or other telecommunication technology will be required quickly, so do you think planning exemptions for telecoms development should be extended?'*

A proportionately high number of people (110 – 64%) felt that exemptions should not be extended, with only 38 (22%) believing they should. Twenty-three people (13%) did not answer. Although some expressed concerns over health, the overwhelming response was that control was needed as masts have a high impact on visual amenity and that these developments should be subject to as much scrutiny as other types of development. There was concern that we do not always know what the next technology would look like and that planning exceptions may discourage innovative or carefully considered design solutions. Some were resigned to the fact that this was needed, but others felt strongly that the need for advanced high quality communication infrastructure was essential for economic growth. It was suggested that telecoms infrastructure should be planned as part of new developments.

With respect to health issues within the context of the planning system, provided a development is in accordance with the requirements of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and has the correct certificate, then it is considered that there is no place within the planning system to question such matters further. The Public Health Directorate have advised that they accept the evidence based recommendations of ICNIRP in respect of exposure thresholds. This application has a Declaration of Conformity with ICNIRP guidelines and we have no concerns to raise regarding impact on health. They are aware that ICNIRP is currently reviewing the exposure guidelines. However, they have not been advised by Public Health England (or any other specialised health protection agency) that there is any new evidence which should lead to the taking of a more cautious approach to the current guidelines whilst the update is awaited.

In recognizing the concerns of the public, the new Order has been drafted with the potential visual impacts in mind and consequently it has been divided into three sections; cabinets, structures and mounted equipment and restricting the scale of developments. Larger development is to be removed from the Order and instead would require planning approval allowing for public consultation and subsequent determination by planning committee if a number of representations are made.

By removing those larger structures from the Order and limiting the permitted developments to smaller structures and equipment the new PDO also proposes the removal of the need for public consultation aligning it closer to other PDOs where there is no prior approval or public consultation process. However, the need for prior approval for some development is included in specific circumstances (such as in conservation areas)

The full consultation results can be viewed here: <https://consult.gov.im/environment-food-and-agriculture/improve-the-planning-system/>



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