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03 November, 2016

Dear Mr Cameron,

Consultation on the relaxation of Planning Controls for Digital Communications Infrastructure¹

Thank you for the opportunity to comment on this consultation.

The Chartered Institute for Archaeologists

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. We promote high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provide a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,300 members and around 80 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

CIfA's Scottish Group has over 250 members practising in the public, private and voluntary sector in Scotland. CIfA is also a member of the Built Environment Forum Scotland (BEFS), a network organisation that brings together non-governmental organisations and professional bodies that work with Scotland's built environment.

Relaxation of Planning Controls for Digital Communications Infrastructure

General

The Institute recognises the importance of improving Scotland's digital communications infrastructure in order to grow the economy and applauds Scottish Government's ambition for the availability of world class digital connectivity across the country. ClfA supports Scottish Government's initiatives to this end, provided that there are adequate safeguards to protect the historic environment. The historic environment can be vulnerable to relatively small changes, both individually and cumulatively. Such changes can involve actual disturbance of the fabric of heritage assets, but they can also impact upon heritage assets less directly (for instance, through an effect upon the setting of such assets).

In many cases where permitted development rights are exercised, there is no significant effect upon the historic environment. However, development carried out on, or in the vicinity of, historic assets (which are not confined to designated areas and the assets within them) can have a highly damaging impact upon the significance of those assets. This includes groundwork which, even when relatively minor in scale, can cause disproportionate damage to, or destruction of, archaeological remains.

The stipulation of appropriate limitations / thresholds and conditions and the use of 'prior approval' mechanisms can reduce the risk to the historic environment, but where the principle of development is established unacceptable harm to the significance of historic assets cannot always be avoided and unsustainable development results. In such cases permitted development rights need to be excluded.

Where permitted development rights are excluded that does not mean that development cannot in every case take place. It simply means that development should only take place in any given case when environmental issues (including impact upon the historic environment) have been fully assessed and impacts have been deemed to be acceptable.

The following answers to the specific questions posed in the consultation document are confined to the effects of the proposals on the historic environment.

Question 1: Do you agree Class 67 PD rights should continue to apply only to Electronic Communications Code Operators?

1.1 Yes. Given the potential for harm to the historic environment through the exercise of permitted development rights, we do not favour any extension of Class 67 PD rights to non-code operators. If there is to be any extension any extension of rights to non-code operators (which we oppose) we would expect such operators to be subject to the same duties as code operators and accountable in a similar manner.

Question 2: Do you agree with the proposed update to the general conditions for Class 67 PD rights?

2.1 Yes.

Question 3(a): In view of the controls in place outwith the planning system, should Category A listed buildings and scheduled monuments be removed from the general area based restrictions on Class 67 PD rights?

3.1 No.

3.2 Such assets are designated in the light of their significance and susceptibility, often to relatively minor changes. Notwithstanding the existence of other controls it would be wrong, by extending permitted development rights to apply to them, to suggest that the development of such sites is generally unobjectionable in planning terms. It is therefore appropriate that permitted development rights continue to be restricted in respect of such assets and any concerns should be met by ensuring that any applications for permission or consent are dealt with together.

3.3 In any event, development outside the boundaries of listed buildings and scheduled monuments which affect the settings of those assets do not require listed building or scheduled monument consent and should be protected.

Question 3(b): Are there any other Class 67 designated areas which can be removed from the general area based restrictions?

3.2 No, given the sensitivity of such areas. If anything, we would like to see the list extended, for instance, to include sites of archaeological interest as defined in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

Question 4: Do you have any other comments on the Class 67 designated areas in light of the proposals set out in this paper?

4.1 No comment.

Question 5: Do you agree with proposals to extend the time period for emergency works from 12 to 18 months?

5.1 No comment.

Question 6: Do you agree with the proposed extension of Class 67 PD rights for small antenna on buildings, including dwellinghouses?

6.1 No, insofar as the proposed extension of rights affects designated areas (including the settings of listed buildings and scheduled monuments). Such areas are designated in the light of their significance and susceptibility, often to relatively minor changes and PD rights which affect them should not be extended unless there are safeguards in place to avoid additional harm to the significance of historic assets.

Question 7: Do you agree with the proposed increase in height allowed for altered or replaced ground based masts under Class 67 PD rights?

7.1 Only if there are adequate safeguards to ensure that the additional impact of such alteration or replacement, particularly upon the appearance and setting of historic assets, can be addressed and significant harm to the historic environment prevented.

Question 8: Do you agree with the proposed increase in the maximum distance allowed between the original and replacement ground based masts under Class 67 PD rights?

8.1 No, unless there are adequate safeguards to ensure that any additional impact upon historic assets and their settings (whether from ground disturbance or from changes to the appearance or setting of historic assets) can be addressed and significant harm to the historic environment prevented. Increasing the permissible distance between the existing and the replacement mast increases the potential for harm to the historic environment.

Question 9(a): Should the current width restriction of one third the original or one metre (whichever is the larger) for alterations to ground based masts be increased?

9.1 No, insofar as any increase might relate to designated areas, given the sensitivity of those areas.

Question 9(b): What should the new restriction be?

9.2 Not applicable.

Question 10(a): Do you agree with proposals to introduce PD rights for new ground based masts outside the Class 67 designated areas?

b) do you agree the proposed height restriction of 25m?

c) do you agree a prior approval should be required on siting and appearance?

10.1 No comment.

Question 11(a): Is there scope to introduce Class 67 PD rights for new ground based masts within any, or all, of the Class 67 designated areas?

b) if yes, within which of the Class 67 designations should such PD rights apply?

c) Should any conditions (e.g. prior approval) and/or restrictions (e.g. on height) apply?

11.1 Not in those designated areas with historic or archaeological interest by virtue of their sensitivity, often to relatively minor changes, encompassing both ground disturbance and changes to the appearance and setting of historic assets.

Question 12(a): Do you agree with the proposed mechanism for prior approval of new ground based masts?

12.1 No, if and insofar as it cannot prevent development which is objectionable in principle by virtue of its effect on the historic environment and in other cases affecting the historic environment secure appropriate mitigation and/or compensation.

b) In particular, do you agree with the proposed publicity requirements, including neighbour notification and on-line publication?

12.2 Subject to the above, yes.

c) Do you agree with the proposed list of statutory consultees for the purposes of Class 67 prior approval?

12.3 Yes. We particularly welcome the identification of Historic Environment Scotland as a statutory consultee *'where development may affect a World Heritage Site, Historic Garden and*

Designed Landscape, Royal Park or Palace a Scheduled Monument or its setting, a Category A Listed Building or its setting, or an Historic Battlefield.'

Question 13: 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?

13.1 No further comment.

Question 14: Do you agree with the proposed fee of £150 for prior approval for new ground based masts?

14.1 No comment.

Question 15(a): What should the Class 67 PD rights be for ground based equipment housing (and development ancillary to such equipment housing) within the various Class 67 designated areas?

15.1 There should be no extension of permitted development rights in this regard given the sensitivity of those areas.

Question 15(b): Please explain your answer, including any proposed conditions and restrictions on such PD rights.

15.2 See above.

Question 16: Do you agree with the proposed increase in Class 67 PD rights to allow up to five antenna systems on a building outside Class 67 designated areas?

16.1 Yes, provided that the appearance and setting of historic assets is safeguarded.

Question 17: What additional PD rights should apply to apparatus on buildings in Class 67 designated areas? Please explain your answer – including any different restrictions and/or conditions that might apply in different Class 67 designated areas.

17.1 There should be no extension of permitted development rights in this regard given the sensitivity of those areas.

Question 18(a): Are any changes required to current PD rights for apparatus on buildings and structures to further support deployment of 'small cell' technology in future? (Paragraph 20 of the consultation refers).

Question 18(b): If yes, what particular PD rights are needed? Please give reasons for your answer.

18.1 No comment.

Question 19(a): Is there scope to extend PDR for supporting equipment (ground based masts)?

19.1 Not in designated areas. Elsewhere there may be scope, but any extension should include appropriate safeguards for the historic environment.

Question 19(b): 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 the Class 67 designated areas)?

19.2 No comment.

Question 20: Do you have any further comments on the proposed miscellaneous changes to Class 67?

20.1 Where there is to be ground disturbance, even of a relatively minor nature, there needs to be adequate safeguards for the historic environment.

Question 21: Do you have any comments on any other aspects of the proposed Class 67 PD rights?

21.1 No comment.

Question 22: Do you have any comments or information relevant to the SEA aspects of this issue? If so, please elaborate.

22.1 No comment.

Question 23: Do you agree with the conclusions of the partial BRIA, in particular regarding the anticipated benefits of the proposed changes? Do you have any further comments or information to support the final BRIA?

23.1 No comment.

Question 24: 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.

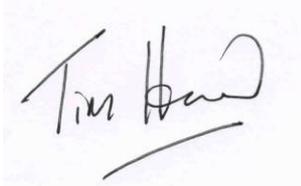
24.1 No comment.

Question 25: In relation to the partial Equality Impact Assessment, please tell us what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups.

25.1 No comment.

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Howard', with a horizontal line underneath.

Tim Howard LLB, Dip Prof Arch
Senior Policy Advisor

¹ <http://www.gov.scot/Publications/2016/08/5901>