

# Ground-Based Telecommunications Masts Note

## Introduction

This note outlines the main legislative requirements for both telecommunications operators and the planning authority when assessing the installation or replacement of ground-based telecommunications masts across the city. This note does not address the installation or replacement of other types of telecommunications equipment.

Telecommunications providers have been tasked with updating infrastructure across Scotland in order to meet the aims of the Scottish Government's 5G Strategy for Scotland. The Strategy seeks to ensure that the economic and social benefits of 5G connectivity are fully realised in order to make the country more productive and efficient while playing an important role in the transition to a zero-carbon economy and tackling the climate emergency through reduced emissions. The rollout of 5G in the coming years in connection with these aims is expected to result in a significant increase in telecommunication development in the city.



The specific technical infrastructure required for 5G means that sharing is not always possible. While some existing 3G/4G services are provided by existing towers or behind church louvres, the size and weight of 5G infrastructure means that it can often be impractical or impossible to accommodate such infrastructure alongside existing antennas needed for 3G/4G. Therefore, it is often more practicable to install 5G equipment at new sites.

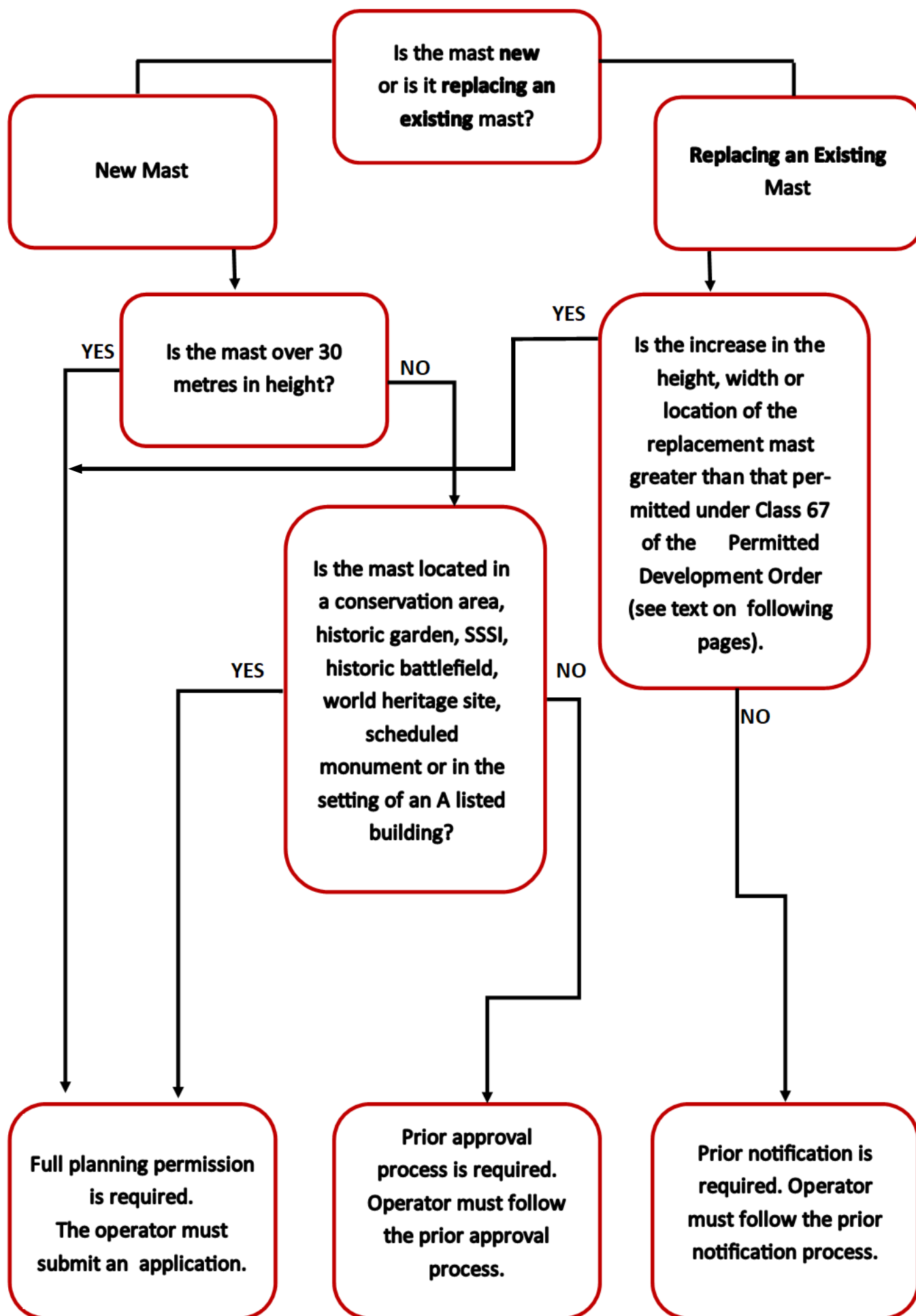
5G internet is a new technology which does not transmit as far as previous mobile broadband and does not pass through physical barriers with the same efficiency. As a densely populated urban area, Edinburgh also faces the challenge of a substantial increase in demand which will require a significant increase in network capacity. The result of these pressures is that there is a need to build new infrastructure in urban areas directly where the demand will be greatest. Service operators are required to meet government targets for coverage of 5G through license agreements issued by Ofcom.

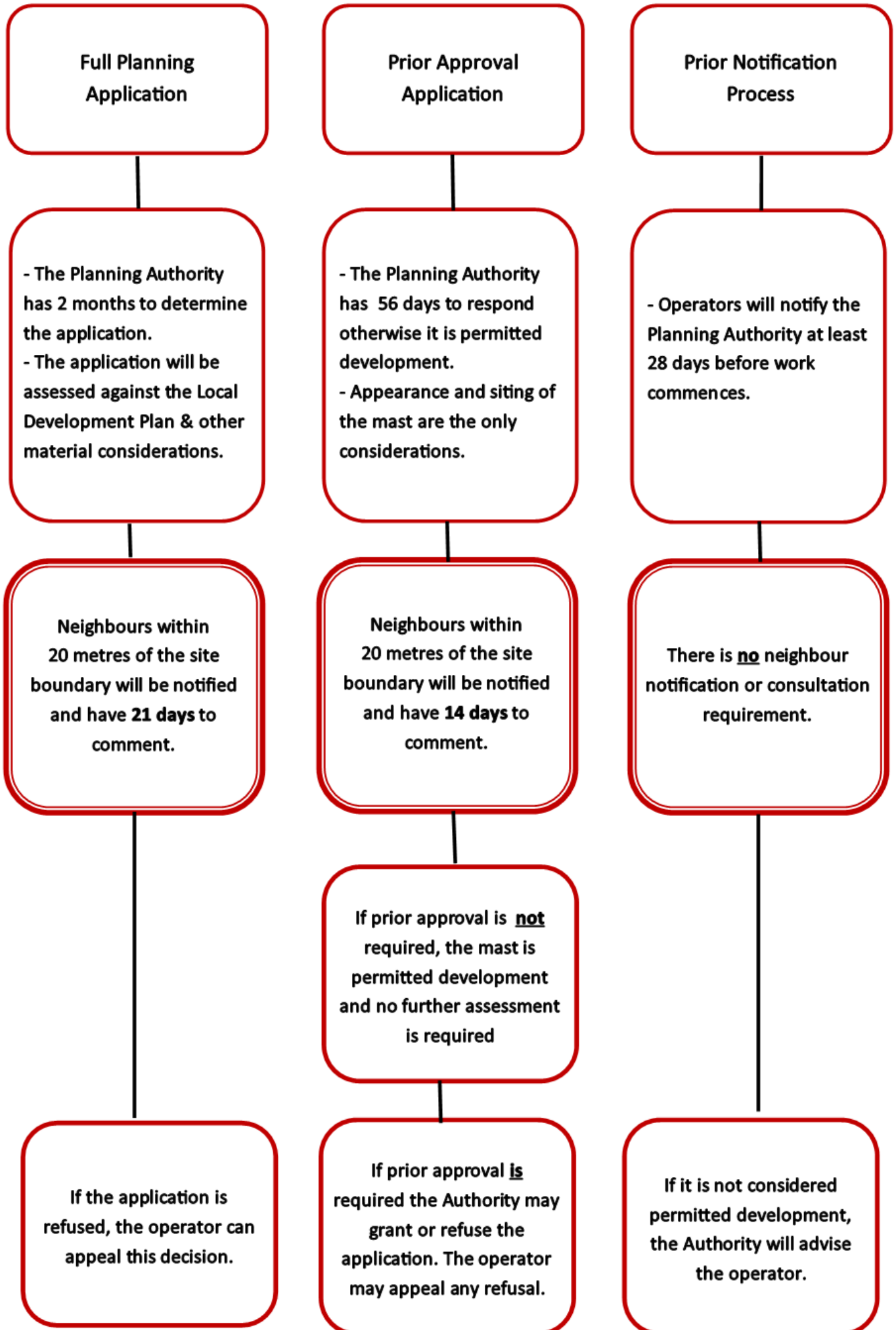
## Legislative Background

- Class 67 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) grants permitted development rights to electronic communications operators to undertake certain development without the need for a planning application. The order is applicable only to Scotland. Separate regulations are in place for telecommunications development in England and Wales.
- These permitted development rights are usually exercised through two different processes, Prior Notification and Prior Approval, depending on whether the proposed development involves the installation of a new mast or the replacement of an existing mast.
- Not all new electronic communications development can be undertaken through permitted development rights. Some development requires full planning permission. The extensive exceptions to permitted development rights are set out within Class 67.
- The flow charts on the following two pages provide a basic guide to what type of ground-based masts fall under Prior Approval or Prior Notification, and what the two processes involve. These charts should be read carefully in conjunction with the detailed supporting information on the subsequent page.



## Planning Process for Ground Based Masts





## New Ground Based Masts

Planning permission is automatically required for any new ground-based masts which are greater than 30 metres in height or exceeds 2 metres in width at its widest point.

Planning permission is automatically required for any new ground-based mast within:

- National Scenic Area,
- National Park,
- conservation area,
- European site,
- world heritage site,
- historic garden or designed landscape,
- scheduled monument,
- the setting of a category A listed building,
- a site of special scientific interest; or
- a historic battlefield.

(hereinafter collectively referred in this Note as "Heritage Assets")

### Prior Approval Process

- For new masts which are less than 30 metres in height and are not located in one of the above areas, operators must apply to the planning authority to determine whether PRIOR APPROVAL is required in respect of the appearance and siting of the mast. It is important to note that prior approval is different from planning permission.
- The planning authority has 56 days from the date on which a valid application is received to give the developer their decision as to whether their approval is required, and where it is required, to give the developer a decision on whether or not it is granted. If the planning authority doesn't respond within 56 days, the works can begin.
- On receipt of a valid application, the planning authority is required to notify all neighbouring residents within 20 metres of the application site that an application for prior approval has been submitted.
- Individuals who are notified about an application for prior approval only have 14 days to make comments. This is shorter than the 21 days normally allowed for planning applications.
- The planning authority can consult with other bodies such as the roads authority and airport if necessary, before making a decision.
- If the planning authority determines that prior approval is not required, the mast is permitted development.
- If the planning authority determines that prior approval is required and refuse prior approval, the operator may appeal to the Directorate for Planning and Environmental Appeals (DPEA) if they wish to proceed with the development. If an appeal is submitted, a reporter will then decide whether to uphold the refusal or approve siting and appearance of the mast.



## Replacing Existing Ground Based Masts

For works which involve altering or replacing\* an existing ground-based mast (including within Heritage Assets), operators must give written notice to the planning authority of their intention to carry out the development at least 28 days before it commences. This is known as **PRIOR NOTIFICATION**.

- Operators will generally email the planning authority directly notifying that the mast alteration or replacement will be taking place.
- On receipt of prior notification of specified works the Planning Authority must make a factual assessment of whether the described works meet the Class 67 requirements on width, height and location of just requiring prior notification, not planning permission.

### Width

- For existing masts which are 2 metres wide or under, any replacement or alteration must not result in an increase in width exceeding 2 metres.
- For existing masts which are more than 2 metres wide, any replacement or alteration must not result in an increase in width exceeding 50%.

### Height

- For existing masts which do not exceed 30 metres in height, any replacement mast can be extended by up to 50% of the height of the existing mast. (Example, a 16 metre high mast can be replaced by a 24 metre high mast).
- For existing masts which exceed 30 metres in height, any replacement mast can be up to 50 metres high.
- For existing masts above 50 metres, any replacement mast can be increased by up to 20% of the height of the existing mast. (Example, a 55 metre high mast can be replaced by a 66 metre high mast).

### Location

- Replacement' masts must not be sited more than six metres from the location of the original mast;
- If the planning authority determines that the works described in the prior notification do not constitute permitted development, it will contact the operator and advise them that planning permission is required.
- There is no requirement under the planning acts to undertake any neighbour notification when dealing with a prior notification. Neighbouring residents cannot make comments on prior notifications
- There is no requirement under the planning acts to keep a public register of prior notifications.
- It is important to note that any complaints relating to replacement masts must be addressed to [OFCOM](#) as the regulatory body.

## Emergency Powers

- Operators have permitted development rights to use land in an emergency\* for no longer than 18 months to station and operate moveable telecommunications apparatus which is needed to replace unserviceable apparatus.
- Operators are required to give notice to the planning authority that they intend to site equipment on land as soon as possible on or after the emergency arises, providing a description and plan of the development

\* An 'emergency' is defined as an event or situation which threatens serious damage to human welfare in a place in the United Kingdom.

## Health Related Issues

- Many individuals raise concerns about the potential health implications of masts from emission of radiofrequency fields. It is important to note that in accordance with Scottish Planning Policy (SPP), health implications are not a material consideration and cannot be taken into account by the planning authority when a planning application or an application for prior approval is submitted to the planning authority.
- Notwithstanding the above, all telecommunications development which involves the installation of one or more antennas (including antennas situated within masts), must be accompanied by an ICNIRP declaration. An ICNIRP declaration is a declaration by the developer that the antenna is designed to be in full compliance with requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection which places limits on the exposure of the general public to electromagnetic fields.

## Competition & Need

- Planning authorities are not expected to question the need for a service or to prevent competition between operators.
- It is not for the Council, as planning authority, to question the technical information relating to the requirements for a mast or the site selection process.

## Delegation

- Simplified planning controls including decisions relating to permitted development and the requisite Prior Approval Process are delegated to the Chief Planning Officer. Planning applications relating to telecommunications development are subject to the Council's Scheme of Delegation under the Local Government (Scotland) Act 1973.

## Pre-Application Discussions

- There is no requirement for pre-application or pre-prior approval discussions. Given the need to meet Government targets in relation to coverage, previous experience and practice has highlighted that applications would be made contrary to advice because of these targets.

## Links

[Planning Circular 2/2015: non-domestic permitted development rights](#)

[Scottish Government - 5G Strategy](#)