



Department for
Science, Innovation
& Technology

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Mark Garnier MP
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Dear Mark

Thank you for your correspondence of 19 September to the Department for Levelling Up, Housing & Communities on behalf of your constituents in Wyre Forest, regarding the rollout of fibre broadband in their area. Your correspondence was passed to the Department for Science, Innovation and Technology due to our responsibility for this area and I am responding as the Minister for Data and Digital Infrastructure.

Although I am not in the position to comment on individual cases of digital infrastructure rollout, I hope that you will find it helpful if I set out the Government policy in this area.

As I am sure your constituents will appreciate, access to digital services is becoming increasingly important to businesses and consumers throughout the UK and we are therefore working hard to make sure that your constituents have world-class connectivity. This Government is committed to ensuring there is a competitive broadband market and that everyone receives the connectivity they need at an affordable price. At the same time, we recognise that the legislative framework for deployment must take into account any effects on the local community. There is therefore a robust legal framework in place that not only provides operators with some statutory rights to install and maintain their networks, but also imposes specific duties and obligations on them which must be adhered to.

Following the passage of the Product Security and Telecommunications Infrastructure Act 2022, this Government does not intend to revisit the legislation relating to telecommunications infrastructure deployment currently. The Act introduced new measures that will make it easier for operators to upgrade and share the use of existing underground ducts and telegraph poles, reducing the need for future installations. The relevant measures came into force in February and April of this year.

As the Minister for Data and Digital Infrastructure at the time made clear during an adjournment debate on this topic on 15 March 2023, we believe the current legal framework strikes the right balance between promoting efficient deployment and considering the impacts on communities.

That framework not only provides operators with statutory rights to install and maintain their networks, but also imposes specific duties and obligations on them which must be adhered to. The Electronic Communications Code (Conditions and Restrictions) Regulations 2003, ("the 2003 Regulations") impose requirements to share apparatus where practicable; to use underground, rather than overground, lines where reasonably practicable, with certain exceptions; and when installing apparatus, to minimise the impact on the visual amenity of properties, potential hazards, and interference with traffic as far as reasonably practicable.

Permitted development rights enable certain types of development, including most telecommunications infrastructure, to be undertaken without the need for specific planning permission. However, the duties and obligations outlined above still apply and operators must still notify the local planning authority at least 28 days in advance of their intention to deploy certain infrastructure. The local planning authority



can then suggest conditions with which they wish the operator to comply in relation to the installation of apparatus.

Separate to the legal requirements, there is a Code of Practice (The Cabinet Siting and Pole Siting Code of Practice 2016) in place relating to the siting of cabinet and pole installations. This was developed in 2016 by the Government, in collaboration with two major fixed-line operators and other interested parties. It provides guidance on ways operators can ensure these installations are placed appropriately, and that local authorities and communities are engaged with regarding proposed installations. For example, it sets out that where new poles are to be installed the operator should place a site notice to indicate to nearby residents the intention to install a pole, and the proposed location.

Your constituents raise a point regarding other operators installing fibre products via underground ducting. I understand that installing telegraph poles can be disruptive, particularly in places where multiple operators are building networks simultaneously. In recognition of this, we told Ofcom we wanted firms to be able to access Openreach's national network of ducts and poles, and we passed the Access to Infrastructure Regulations, which give telecoms companies the right to use other infrastructures, such as electricity poles, to deploy their networks.

All these innovative approaches reduce the need for companies to dig to deploy their networks, but there will be some places where this is unavoidable. Fortunately, full-fibre technology will provide enough capacity for an entire generation as they can deliver speeds far in excess of today's needs. They are also more reliable than copper-based alternatives and will therefore require less maintenance in future.

Although, I understand your constituents' concern about different deployment techniques, I would like to stress that where and how operators choose to deploy their networks in commercially viable areas is ultimately a commercial decision. The government is unable to intervene due to competition law.

Increasing competition in the fixed telecoms market is a key factor in our strategy to deliver nationwide gigabit broadband coverage. We have made it as easy and attractive as possible for firms to build their networks in the UK, and currently have a thriving market of over 80 providers investing nearly £35 billion rolling out gigabit broadband all over the UK. This approach is the fastest and best value for the taxpayer as it allows us to focus government funding on the areas that would not otherwise be connected.

We believe that communities benefit enormously from the deployment of high-quality digital infrastructure, due to the economic and social benefits. However, we want to encourage adherence to Codes of Practice to ensure that deployment happens in accordance with existing regulations, so that the impact on communities and the environment is considered and broad support is maintained for the rollout of this critical infrastructure. We do not want to see poor operator practice undermine a programme that will ultimately be of huge value to the people we represent.

As the independent regulator for telecommunications operators, Ofcom can take enforcement action in respect of breaches of the restrictions and conditions contained in the 2003 Regulations if it has reasonable grounds to believe that operators are failing to comply with those requirements when deploying apparatus. It is important that Local Planning Authorities inform Ofcom of any situations where they believe operators are not complying with their statutory duties. This can play a key role in ensuring non-compliance is properly investigated, addressed and to reduce the risk of ongoing or future poor practice.

With that in mind, in April 2023, the previous Minister wrote to all Local Planning Authorities, asking that they notify Ofcom, and provide evidence of any instances where they believe operators have failed to comply with their duties under 2003 Regulations. The Minister also wrote to the Chief Executive of Ofcom. As the independent regulator for telecommunications operators, Ofcom is able to investigate and take enforcement action in respect of breaches of the restrictions and conditions contained in the above regulations. The Government has asked that Ofcom ensure their enforcement powers are used when appropriate and that they keep us informed of any developments.

Lastly, you ask whether there is any funding available to help with the rollout of fibre broadband. While

funding is available through Project Gigabit for areas which have been deemed not viable for a commercial fibre connection, as I am sure you will appreciate, Government funding needs to be focussed on delivering value for money. As such, it would not be appropriate to focus funding on areas with existing commercial build plans; and any publicly funded programmes would have to deliver best value for money. Your constituents may wish to liaise with the Local Authority to understand if there is any local funding available.

I appreciate that this may not be the answer your constituents were hoping for. However, I hope that it helps in some way to ensure them that the Government considers their concerns and is acting to ensure operators adhere to their obligations, when considering the roll out of fibre broadband.

With best wishes,

Your ever
John

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