Radio Society of Great Britain
Advancing amateur radio since 1913

Public Law Team
Law Commission
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Our Ref: PAC/LCW

1 March 2018

Dear Sir/Madam

CONSULTATION ON REFORM TO PLANNING LAW IN WALES

The Radio Society of Great Britain represents the interests of radio amateurs in the United Kingdom. Radio amateurs have to obtain a licence from Ofcom to transmit on a range of allocated frequencies within the radio spectrum. Licence conditions limit transmission powers and, as a result, so that the signals may be received around the world, the antenna systems used need to be as efficient as possible whilst not causing interference to electronic receiving equipment in the vicinity. This means that they need relatively large aerial systems often supported by poles or masts attached to their dwellings or on free-standing masts in the garden. These require planning permission. I have been asked, as Chairman of the RSGB's Planning Advisory Committee, to comment upon the proposals in the consultation on reform to the Planning Law in Wales to ensure that any changes should recognise, and take account of, the particular requirements for amateur radio antenna systems.

For the most part it is unlikely that the proposed changes in primary legislation will have a direct impact on the ability of radio amateurs to receive planning permission for their aerials. However, there are a few proposals which may have, perhaps unforeseen, consequences as the result of the somewhat unusual nature of such proposals when considered in the context of the residential environment. My comments on the proposals are set out below.

Question 5.10. A statutory purpose for planning. The RSGB considers that a statutory purpose should be included 'on the face of the Bill' and that it should be worded along the lines of that given in paragraph 5.5 in the paper. The reason is that it appears to be forgotten by many that the purpose of planning is IN THE PUBLIC INTEREST. It is not its purpose to protect private interests. All too often, planning applications for amateur radio antennas are being refused on the basis that they will 'harm the outlook' from a neighbour's property. The Courts have long held that no-one has the right to a view across adjoining privately owned land. Simply because a neighbour does not like the look of the aerials next door is not a direct effect on their living conditions, such as loss of privacy through overlooking or from overshadowing.

Question 7.2. The definition of development. The RSGB welcomes the fact that it is not recommended that s55(2)(a) of the TCPA Act 1990 should be amended. This relates especially to the provision that works which do not materially affect the external appearance of a building is not development. However, it would be very helpful if it could be stated explicitly that certain types of building works are not development. There is no mention of the concept of 'de minimus' and yet such things as wire aerials suspended from a house to a tree are usually accepted as not being

development. There is an anomaly in that, whereas standard domestic TV aerials which extend above the roof line on a house never require permission, presumably on the basis that they are not development, satellite dishes are treated as 'permitted development' under the GPDO. We would like all aerials mounted on a dwelling below the roof line to be excluded from the definition of development.

Question 7.6. It is noted that it is not proposed to change the wording of s55(2) as mooted in paragraph 7.49. The RSGB would prefer that the wording 'incidental to the enjoyment of the dwelling(house) as such' remains as it is. It is a well understood concept. Amateur radio is precisely that. We would not favour the wording in para. 7.49.

Question 7.11. Agree. The Certificate of Lawfulness procedure is often used by amateur radio enthusiasts who have erected aerial systems for more than 4 years without permission.

Question 7.12. The RSGB is strongly in support of this proposal. Although permitted development rights for aerials are woefully limited, they do apply. This should also cover instances where the proposal would not amount to development.

Question 8.23. Contrary to what is stated in paragraph 8.156 the current wording of s73 is useful in the particular context of amateur radio. By its nature amateur radio is experimental and may require relatively frequent alterations to particular aerials to obtain the best results. This does not fit at all well with the planning system which is, essentially, designed to deal with 'buildings' which are relatively permanent or altered only infrequently. There needs to be maximum flexibility to allow changes without the need for planning permission or, failing that, to make applications for alterations as easy as possible.

Question 18.15(2). Although the RSGB does not oppose the suggestions that a flat should be included within the definition of a 'dwelling' account will need to be taken of the fact that satellite dishes are not permitted on flats to preclude visual cluttering on the south facing front of flatted blocks.

Additional Comment. It is noted that there is no reference to the lack of any clear statutory basis for local planning authorities to make what is a termed a 'split decision' on the lines of the power for the Secretary of State on appeal in s79(1)(b) of the TCPA Act 1990. The RSGB would very much like to see such a power explicitly granted to LPAs at application stage. The reason is that may radio amateurs have more than one antenna because each one operates on a different frequency band. They would usually make a single application for all the antennas together. It may be that only one of those is objectionable but the whole proposal is refused as a result. The amateur has no option but to re-apply omitting the offending antenna or to appeal. There appears to be no logic in the power to split decisions resting only with the Secretary of State.

Yours faithfully,

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