

**1. Introduction**

The City of Wolverhampton is committed to supporting the rollout of future-proofed digital infrastructure in order to make the city a more attractive place to live, run a business and invest. We recognise that futureproofed Digital infrastructure is the backbone of a modern thriving economy driving productivity and spreading growth and in delivering effective and efficient public services. Covid-19 accelerated the adoption of digital services which are considered critical to level-up our economy to power economic and social recovery.

[Wolverhampton Digital Infrastructure Strategy](https://www.wolverhampton.gov.uk/sites/default/files/2022-04/Digital-Wolverhampton-Strategy-March-2022.pdf) sets out our approach to supporting the rollout of full fibre broadband and wireless connectivity including 5G. We recognise the significant benefits that futureproofed digital infrastructure can bring to the city, its residents and businesses, contributing to our key Relighting our City recovery commitment priorities:

* Support people who need it most
* Create more opportunities for young people
* Generate local jobs and learning opportunities
* Grow our vital local business
* Stimulate vibrant high streets and communities.

As such, we are keen to maximise use of our assets and simplify processes and procedures to support the rollout. This includes making available our street furniture assets to Code Operators to support the rollout of small cell technologies on a non-exclusive open access basis.

**2. Digital Infrastructure Guidance**

Guidance published by the Department for Digital, Culture, Media & Sport (DCMS) paves the way for “a clear and transparent process for industry and government”. The City of Wolverhampton Council has developed this Digital Infrastructure Toolkit on the basis of the [DCMS guidance](https://www.gov.uk/government/publications/digital-infrastructure-toolkit) and has adopted a non-exclusive, open access approach to Telecommunication Operators.

This toolkit provides:

* Guidance to Code Operators seeking to host 4G/5G Small Cellson the City of Wolverhampton’s Council assets;
* Guidance on setting up an agreement between the Local Authority and the Code Operator;
* Standard Financial Terms; and
* Advice on the processes for Code operators to follow when considering siting digital communications infrastructure on the City of Wolverhampton Council assets.

This Toolkit sets out the Council’s guidance as at 27 November 2020. Code operators must satisfy themselves as to the accuracy of any information contained in it and otherwise provided by the Council. The Council may amend its guidance and the process to be followed at any time.

**Electronic Communications Code**

This toolkit follows the electronic communications code as set out in Schedule 3A of the Communications Act 2003. The regulations support the Government’s commitment to establish reliable mobile connectivity across the country, as well as supporting faster and cheaper deployment of the infrastructure. Details of the Electronic Communications Code can be found [here](https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/electronic-comm-code).

**3. Process**

**Expression of Interest**

The City of Wolverhampton Council will consider proposals for the installation of 4G/5G Small Cells from Code Operators seeking to deploy their technology in Wolverhampton. Only Code Operators can apply.

Operators should submit an Expression of Interest (Annex 1) via the Procontract portal.

**Installation Information**

Ultimately the code operator will need to provide the Council with the following information:

* Scope of the project
* Deployment approach
* Technical information (technical information of the small cells to deploy, architecture)
* Identified/pre-selected assets
* Project Timelines

This information will be shared with the planning and highways departments, who will review it and raise any potential concerns. If required, a workshop will be arranged with all the stakeholders to address potential issues or gain a better understanding of the proposed solution.

Our open access approach advocates for multiple Code Operators sharing the same assets, hence the Code Operator needs to consider the following three scenarios:

1. Un-deployed Asset: When an asset has not been previously deployed, the first Code Operator to deploy small cells needs to demonstrate to the Council that other Code Operators can share the same asset, specifying capacity limitations and highlighting potential interoperability issues.

2. Deployed Asset: When an asset has been previously deployed, the existing Code Operator will be consulted to avoid any interoperability issues with its legacy infrastructure. If required, the Council could arrange a workshop to address any concerns.

3. More than one operator requesting access to the same asset: The Council will assess both requirements in parallel, giving the priority for the deployment on the asset to the operator that successfully demonstrates that:

a. Its deployment approach has been approved by the planning team and highways team

b. Its deployment approach can actually benefit the second operator (i.e. by deploying shareable infrastructure, by having reduced times of deployment, by taking less space or capacity from the asset)

c. Allow the council to implement smarter services or can benefit a wider part of the community

We are asking Code Operators to aim for 3 months to propose the design and 3 months to install. Land banking is not accepted.

**Planning Regulations**

Proposals for 4G/5G small cell and cabinet sites outside Conservation Areas can be ‘de minimus’ or ‘permitted development’ under the Permitted Development Order. On this basis only a 28 day ‘prior notification’ need be submitted. Planning permission or prior approval is more likely to be required in [Conservation Areas](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwolverhampton.maps.arcgis.com%2Fapps%2Fwebappviewer%2Findex.html%3Fid%3D191ee3ccb73f4a4a831a563fa5d8c9db&data=02%7C01%7CHeather.Clark2%40wolverhampton.gov.uk%7C9b61bf0603da4d35657b08d8638daeda%7C07ebc6c370744387a625b9d918ba4a97%7C0%7C0%7C637368807463328965&sdata=tmvAaT0wy7D519IIHhkCHoZmzen%2B0FFeTFlYU3m1X3A%3D&reserved=0).

Code Operators should make use of the City of Wolverhampton’s Planning free, quick and informal pre-application service to confirm which is most appropriate. We are happy to give quick informal advice. Wolverhampton’s Planning Department can be contacted via the Planning inbox (planning@wolverhampton.gov.uk).

**Legal Agreement**

The City of Wolverhampton Council streetlamp assets are managed, operated and maintained internally. Our standardised legal agreement is based on the DCMS standard agreement, adapted to integrate the relationship with our contractor.

An agreement to host infrastructure in Wolverhampton must be in writing to:

* Record the agreed terms between the Local Authority, the Contractor and the Operator.
* Ensure the interests of all parties are protected for the duration of the Agreement
* Takes into consideration other operators that will seek to host infrastructure in the city
* Help avoid disputes

Wolverhampton reserves the right to reject any application if the Code Operator fails to prove that its solution is not preventing another Operator from hosting infrastructure in the same asset.

A subsequent Code Operator deploying a solution on a deployed asset must prove that the solution will not interfere with the previously deployed solution.

**Financial Terms**

The Electronic Communications Code provides for two forms of remuneration: Consideration and Compensation.

**1. Consideration:**

Consideration is dealt with in paragraph 24 of the Code. Where a Tribunal is required to determine the consideration payable by an operator, their calculation must be based on: “an amount or amounts representing the market value of the agreement ... to confer or be bound by the code right”, with “market value” for these purposes being assessed by reference to specific assumptions.

**2. Compensation:**

Compensation is dealt with in paragraph 25 of the Code and is intended to allow landowners to recover loss or damage that has been sustained or will be sustained as a result of an agreement to host infrastructure on land or buildings. Typical matters [Heads of Claim] which could be taken into account as compensation might include:

* Surveyors Fees;
* Access - e.g. Creation of management information system to handle enquiries for access;
* Disturbance - during the build and subsequently (maintenance visits); and
* Injurious Affection - reduction in land value as a consequence of granting the rights.
* Joint site surveys involving the Highways department

Note wayleaves, planning, legal and electric costs are additional.

**3. Business Rates**

Departments, advisers, and operators should note that installation of infrastructure will create a separate assessment for business rates payable on the property/asset. Additional business rates consequently payable will be the responsibility of the operator.

**Wolverhampton Rates**

In order to maintain openness and transparency, Wolverhampton has adopted a non-exclusive, open access approach for Telecommunication Operators seeking to deploy in Wolverhampton.

Wolverhampton has set the following standard financial terms for the deployment of 4G/5G Small Cells technology on its assets within the borough:

* The Code Operator will cover all liabilities, expenses, costs (including but not limited to any solicitors' or other professionals' costs and expenses), claims, damages and losses related to installation, maintenance, upgrade and removal of small cells equipment.
* Payment per year per asset/site/lamppost deployment per Operator – 1st small cell: £300, 2nd small cell £150, 3rd small cell £100, 4th small cell £100 payable to the Council by the operator.

The length of the agreement can cover a minimum term of 5 years and a maximum term of up to 12 years.

When an asset is not suitable to host telecoms infrastructure, the Code Operator will be given the option to upgrade the asset at its own cost, however this option must be approved by the highways and planning team.

If no installation work is carried out within 12 months of the license being allocated to a Code Operator, then the node licence will lapse.

**Annex 1: - Expression of Interest for Code Operators seeking to install 4G/5G small cell technology on City of Wolverhampton Council assets**

**Part 1: Operator Applicant**

Details: Lead Contact

|  |  |
| --- | --- |
| Name: |  |
| Lead Contact Position: |  |
| Operating Company: |  |
| Address (including postcode): |  |
| Email address: |  |
| Telephone number: |  |

**Part 2: Site or Geographical area of interest**

|  |  |
| --- | --- |
| Site name or area (if applicable) |  |
| Site address (including postcode) or location |  |

**Part 3: Evaluation of readiness**

Only Code Operators can apply.

|  |  |
| --- | --- |
| Are you a Code Operator |  |
| Do you have an operator with agreed CAPEX spend? How many are committed? Which Operators? |  |
| What is your proposed tech solutions and is it futureproofed for 5G? |  |
| Please demonstrate track record/delivery competence regarding small cells and/or street works solutions |  |

**Part 4: Signature**

Please sign to confirm that the information contained here is complete and accurate. The Electronic Communications Code 2017 specifies that site providers may reclaim all “reasonable” costs of external advisors (i.e. surveyor and legal) in negotiating and concluding any agreement. Signature also confirms that the operator will meet these costs.

**1. Signature of Operator**

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**2. Date**

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Please send the completed form to: digitalwolves@wolverhampton.gov.uk