



FAILING TO MAKE THE CONNECTIONS

New legislation designed to accelerate the 5G roll-out is fuelling hostility between telecoms companies and building owners.

Operators say agents and landlords are not doing enough to support connectivity. But owners believe they are not being fairly recompensed for hosting mobile phone masts. This discussion in the EG Studio at LREF sought to find consensus

PETER DAWSON/SHUTTERSTOCK

Damian Wild
Editor in chief

That UK plc requires better digital connectivity to thrive in the years ahead has never been in doubt. Yet how the digital infrastructure needed to support the roll-out of 5G gets delivered has never been in deeper dispute. And unless common ground is found between telecoms operators and landlords – and soon – the already spluttering roll-out will grind to a halt.

Supported by an updated

Electronic Communications Code, the Digital Economy Act 2017 was drafted to make deployment of masts cheaper, easier and faster. It would put the UK in the digital fast lane, ran the thinking. Instead, it has created a climate of hostility, with inertia the result.

"The volume of deals being done to place infrastructure on property has pretty much dried up," says Shulmans head of property litigation Michael Watson. "Not one single landowner has ever come to

me and said, 'No, we disagree with the fundamental principle of connectivity.' We're all in absolute agreement on that.

"But at the end of the day, my question would be: how are you going to incentivise the landowner to engage?"

Previous agreements

Telecoms specialist Watson acts for landlords. "We've done this kind of work for many years, and previous networks have been rolled out quite successfully with

consensual agreements between asset owners and the network operators," he says. "But pretty much from the moment that the new Code came in, in December 2018, the tap was turned off."

On the other side of this debate – staged in the EG Studio at LREF – is Belinda Fawcett, general counsel and director of property and estates at Cornerstone, the infrastructure services joint venture between O2 parent Telefónica and Vodafone.

Fawcett acknowledges that money – the amount operators must pay landlords to host their masts – has reduced sharply, and activity has been affected.

"It is very slow since the Code was introduced," she says. "We are now working in a very hostile environment, and I use the word hostile quite deliberately."

In the middle of all this are the advisers. "It's an ongoing education process, and unfortunately it has been hostile," says John Gravett, head of real estate management at Cluttons. "People have not wanted to see an ancillary income stream withdrawn. I do believe it is up to the agents and the legal advisers to help educate and advise [landlords, even though] it may not be the message they want to hear. Ultimately, people still look at the silo income stream."

Methods of valuation

Fawcett sees "huge resistance to the legislation and the implementation of the legislation". She wants to see acknowledgment that rules designed "to make it quicker, easier and cheaper" to provide masts need to be embraced by everyone. "We have to find a proper method of valuation," she says. "But unfortunately there is resistance at the moment from the landowner community."

Building owners who are being offered lower sums to host masts see little direct incentive to engage. And for building owners it's not just about valuations, says Watson.

"The reality is that there is a certain level below which they will just say, 'It's just not worth endangering my asset,' as they see it," he says. "And that's the problem. There's no point in getting hooked up on the valuation methodology."

"You can use methodology A, B, C or D. You can present some clever arguments to landowners that say your land is only worth a hundred quid a year or whatever and they'll go: 'Thanks very much. That's very interesting. But that is insufficient to incentivise me to engage.'"



TERRY WILLIAMS / SHUTTERSTOCK

“

You can present some clever arguments to landowners that say your land is only worth a hundred quid a year and they'll go: 'That's very interesting. But that is insufficient to incentivise me to engage'

Michael Watson | Shulmans

There have been a handful of tribunals that have gone some way to establish precedent, but these too have come at a cost.

"We're being seen as being incredibly aggressive, and that's not the way forward," warns Fawcett, who says Cornerstone's hand has been forced by the unwillingness of many landlords and advisers to engage over the past 18 months. "We are changing our approach based on what the tribunal says, and we need the landowning community to do the same and to work with us to find a way through this."

Tribunals are not the answer, says Watson: "We haven't got enough judges to roll out 5G in that way." And the changed environment is having more profound consequences. "I have clients now who are saying to me, 'Can you put together a proactive strategy for us to remove telecoms assets from our investment portfolio because we just don't want this any more.' The fundamental problem is when you say to somebody, 'We want to put a big piece of kit

on top of your trophy asset. And then our engineers will be climbing up and down and bolting things on, and that could be a lot of kit. Oh, and by the way, we don't want to give you very much for doing that.'

"That's where the nimby approach kicks in. The problem is they say, 'Well put it on someone else's building.'"

Government intervention

With ownership fragmented, legal action will not yield results quickly, so it may have to be government which steps in if progress is to be made.

"We need the government to take a much more proactive approach and actually support the roll-out and implementation of the Code in the right way so that we can all get this 5G connectivity that we want," says Fawcett. "What we can't do is go back to where we were before the Code. Unfortunately, there were a lot of people making excessive amounts of money out of maybe ransom rents, and so on, and that just drove the cost of mobile infrastructure

exponentially high."

But for Gravett, all parties need to see the bigger picture. "We take it for granted," he says. "People have disconnected the nice, shiny product – the apps, the cloud computing, the ability to do whatever we do as quickly as we can. But we need the infrastructure to happen, and there is that disconnect in the knowledge and understanding that we need."

"We have gone from one side of the spectrum to the other. But the key issue is there is a consensual deal being sought in negotiations, and both parties need to engage."

IN PARTNERSHIP WITH

 Shulmans

CLUTTONS