

SUTTON DIGITAL INFRASTRUCTURE TOOLKIT

ENABLING SUTTON'S DIGITAL FUTURE



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1. Introduction

London Borough of Sutton's digital vision includes the empowerment of the market to deliver services needed in support of future technologies that improve the lives of its residents, partners and local businesses. Supporting the enablement of better connectivity is a key objective of our shared Sutton and Kingston Councils' [Digital Strategy](#) which was first published in July 2017 and refreshed in November 2018. A borough that is better connected through modern digital infrastructure stimulates inter-connectivity between business, public sector organisations and their customers - this in turn supports wider collaboration, attracts investment and helps create job opportunities for residents in the borough. Fast, reliable internet connectivity is a basic necessity for residents, local businesses and public services.

Sutton Council is committed to working with partners to create a connected "digital community", with faster broadband, wifi, mobile coverage, and shared infrastructure in support of a "hyper-connected" borough. This will be enabled through close working with market leaders, businesses, universities and residents to understand local needs and challenges, and to help us identify and develop innovative solutions. Our role is to enable the provision of digital connectivity infrastructure throughout the borough which will empower our residents, businesses, community and voluntary sector and public services, and contribute to Sutton's economic growth.

2. Digital Infrastructure Guidance

In line with the objectives published by the Department for Digital, Culture, Media & Sport ([DCMS](#)) for "a clear and transparent process for industry and government", Sutton Council has developed this Digital Infrastructure Toolkit on the basis of the [DCMS guidance](#) and has adopted a non-exclusive, [open access approach](#) to managing access rights with "Neutral Host Providers" / Mobile Network Operators (MNO's) / Telecommunication Operators and/or other similar parties (collectively, "Code Operators", as [registered with Ofcom](#)).

This toolkit provides:

- a process overview for **Code Operators** seeking to host **Small Cells / Wireless Infrastructure** on Sutton Council assets (lamp and CCTV columns only);
- guidance on progressing an "**agreement in principle**" to this end, and also a formal **legal agreement** between the Council and Code Operator; and
- details of standard **Financial Terms** and **Council Rates**.

This toolkit sets out the Council's guidance as at **22nd March 2021** and currently includes aspects relating to Small Cell deployments only at this stage. 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, and without notice.

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](#).

3. Process

Expression of Interest

Sutton Council will consider proposals for the installation of Small Cells / Wireless Infrastructure from Code Operators seeking to deploy their technology in Sutton.

Operators should submit an "Expression of Interest" application (completed Annex 1) via the London Tenders Portal in response to the Expression of Interest advertised by Sutton Council. The Code Operator should include the following **Proposal Details** as a separate attachment:

- Scope of the project
- Deployment approach
- Technical information (technical information of the small cells to deploy, architecture)
- Identified / pre-selected assets
- Project timelines
- Clarification of process for removing of Small Cell apparatus at end of contract period including responsibility for fixing / replacement of assets if damaged

This information will be shared with various Council departments, which they will review 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's proposal 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 has been consulted to avoid any interoperability issues with its legacy infrastructure. If required, the Council could arrange a workshop to address any concerns by all parties.
3. **More than one operator requesting access to the same asset:** The Council will assess both requirements in parallel and grant license to both Code Operators simultaneous use of assets (if possible), or alternatively grant license to a single Code Operator giving the priority to the operator that successfully demonstrates an overall greater value to the Council, residents and/or local business in the following aspects:
 - a. its deployment approach has been approved by the Planning department and Highways department;
 - b. its deployment approach will allow the Council to implement smarter Council services, or supports future “smart city” solutions;
 - c. its deployment approach will deliver greater value (quantifiable benefits);
 - d. its deployment approach does not limit or prohibit other wireless services (such as Wi-Fi and wireless broadband);
 - e. its deployment approach allows for multi-operator cellular coverage, i.e. it allows for or enables other operators to share the asset (e.g. by having reduced times of deployment, by taking less space or capacity from the asset, etc).

The Council aims to provide a balanced and comprehensive approach to assess applicants in a fair and transparent way that assures the best use of our street furniture. The Council will actively seek to prevent any “land grabbing” activities undertaken by Code Operators. This includes the avoidance of giving exclusive rights to individual assets (to the exclusion of other providers) or by deploying solutions that exclude other providers by using up the available space or power (i.e. “sterilising” the asset). Code Operators are expected to promote best use by offering other wireless services, such as Wi-Fi and wireless broadband, as well as wholesaling Small Cells, and installing sharable connectivity that can connect other wireless services and the Council’s own smart city solutions. A pure “first come, first served” policy will not be allowed to take place.

Agreement in Principle

For all successful Expression of Interest respondents, a broad-based "Agreement in Principle" will be signed with general terms and conditions, confirming access to the Council assets on condition of a successful legal consultation.

Contractual Arrangements

Bespoke Legal Agreement

A bespoke legal agreement to host infrastructure in Sutton must be proposed by the Code Operator using the DCMS [standardised legal agreement](#) (customised as needed) and should look to include the following key aspects:

- record the agreed terms between the Council and the Code 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 borough and potentially on assets in use by Code Operator;
- helps to avoid possible disputes;
- provides necessary assurances regarding public health safety;
- avoids unexpected costs to the Council as far as possible.

Sutton Council reserves the right to reject or cancel 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 or propose an alternative approach to cater for multiple Code Operator usage.

When an asset is not suitable to host telecom 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 Planning department.

If no installation work is carried out within **six (6) months** of the license being allocated to a Code Operator, then the licence (per site) will lapse automatically.

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

Financial Terms

The Electronic Communications Code provides for two forms of remuneration: *Consideration* and *Compensation*. The following aspects have determines the valuation of this remuneration which should be applied to all legal agreements submitted to the Council:

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;
- Legal Expenses;
- 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 result of granting the rights.
- Joint site surveys involving the Highways department

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.

Council Rates

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

Sutton Council has set the following standard financial terms for the deployment of Small Cells / Wireless Infrastructure technology on its assets (lamp and CCTV columns only) 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 cell equipment.
- In addition to the above, and before any formal engagement takes place, an "administration and coordination fee" of **£3,890** will be payable to the council per application to cover the following activities:
 - Initial discussions and agreement to proceed
 - Survey co-ordination
 - Design Review
 - Contract finalisation

Note: This fee will be payable on the first phase deployment and when a Code Operator introduces an additional MNO on to any existing or new sites. Where further deployments by the same Operator working in conjunction with the same MNO, using the same approach and hardware as the initial deployment, this fee will then be waived.

- Payment for each (separate) apparatus per lamp column per year (in advance) by each Operator post install, payable to the Council as follows:
 - 1st apparatus, £300
 - 2nd apparatus, £150
 - 3rd apparatus, £100
 - 4th apparatus, £100
 - 5th and subsequent apparatus, £50 each
- “Apparatus” will be defined under General Permitted Development regulations as: electronic communications equipment comprising of either a “small cell system” and/or “small cell antennae” (as each term is defined in the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016), with a total volume of 50,000 cubic centimetres per small cell and any coaxial, CAT6, fibre or power cables and service ducts to connect thereto as are reasonably required for the propagation of 4G/5G.

Planning Application

Sutton Council street lamp and CCTV assets are owned, operated and maintained by the Council. Proposals for digital infrastructure sites can be classed as ‘permitted development’ under the ‘The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016’. On this basis, an application for 28 day ‘prior notification’ to the Council’s Planning department is required under the GPDO.

Once a legal agreement has been completed, Code Operators should make use of the Sutton Planning [pre-application meeting service](#) to progress a formal planning application. Sutton Planning department can be contacted on 020 8770 5000 or via the Development Management inbox, developmentmanagement@sutton.gov.uk for further information. Any payment for this service should be made in advance of the pre-application process commencing.

Annex 1: Expression of Interest

Note: only [registered Ofcom Code Operators](#) may submit an application below.

Code Operators seeking to install Small Cell / Wireless Infrastructure technology on London Borough of Sutton assets, the following form must be completed and submitted:

Part 1: Code Operator Details

Lead Contact Name:	
Lead Contact Position:	
Company (as registered with Ofcom):	
Address (including postcode):	
Email address:	
Telephone number:	

Part 2: Proposal Overview

Please attach a detailed overview of the proposal including scope of the project, deployment approach, technical architecture of the small cells to deploy, identified assets (if any), and any expected project timelines.

Part 3: 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. **The Code Operator specified in Part 1 above agrees to pay the “administration and coordination fee” (£3,890), as well as any fees associated with the pre-planning meeting service with the Sutton Planning team.**

Signature confirms that the Code Operator will meet these costs.

Signature of Code Operator:	
Date:	

1) Submit this completed Annex 1 form with 2) attached proposal to the London Tenders Portal in response to the Small Cell Expression of Interest advertised by Sutton Council.