

## **Sept 09 TELECOMS CODE: LANDLORDS BEWARE!**

When the Telecoms market emerged, there was a period in the mid-1990s to the early 2000s, when operators frantically built new telecoms sites in order to provide network coverage across the UK for mobile phone users. Many landowners welcomed this as a way of generating additional income.

However, Landowners need to be aware that telecoms operators enjoy special protection under the Telecommunications Code (“the Code”) and it can therefore prove difficult to force a telecoms operator to remove its equipment at lease expiry.

The Code regulates the installation and retention of telecoms apparatus on land and buildings.

The Code’s underlying objective is to maintain network coverage for mobile and other telecommunications, for the benefit of customers. This however can lead to undesirable outcomes for landowners, whose interests are subordinate to this objective.

### **Intelligent negotiation**

The Code may send shivers down the spine of landowners but experience to date suggests that operators will tend to seek a negotiated solution rather than relying on Code powers. In reality operators are unlikely to compel unwilling landowners to accept the installation/ retention of their apparatus and will want to avoid adverse publicity and save time and money. If the landowner genuinely requires vacant possession for redevelopment, operators will usually make efforts to arrange an orderly relocation.

Landowners would however be well-advised to open relocation discussions with operators at the earliest possible stage as operators may use the threat of invoking Code powers to buy the time they need to relocate the telecoms apparatus.

Having acted on both sides of the fence, Carter Lemon Camerons LLP can anticipate the needs and the attitudes of the other side and construct a package deal to ensure both parties achieve their objectives.

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