

## **Explanatory Memorandum to the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019**

This Explanatory Memorandum has been prepared by the Planning Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019.

I am satisfied the benefits justify the likely costs.

Hannah Blythyn  
**Deputy Minister for Housing and Local Government**  
21 February 2019

## **PART 1**

### **1. Description**

1.1 The Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”), as amended, allows some minor development to be undertaken, within certain parameters, without the need to submit a planning application. This is known as “permitted development”.

1.2 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019 (“the Amendment Order”) amends Schedule 2 to the GPDO by:

- inserting Classes D and E into Part 2 (minor operations) to permit the installation of electrical outlets and upstands for recharging electric vehicles;
- inserting Part 17A (installation of devolved associated lines) to permit the installation of certain overhead electric lines;
- replacing Part 24 (development by electronic communications code operators (Wales)). Changes to this Part extend permitted development rights in relation to the height and width of ground-based masts and extend the period for the use of land for moveable electronic communications apparatus in an emergency from six to eighteen months. The Amendment Order also makes amendments in relation to the construction, installation or replacement of certain apparatus for fixed line broadband services on article 1(5) land. Prior approval for such development is not required if certain conditions are satisfied. The condition that work be completed by 30 May 2019 is removed.
- amending Part 43 (installation of non-domestic microgeneration equipment). Amendments to this Part extend permitted development rights for non-domestic solar installations, provide that development is not permitted if the solar PV, solar thermal equipment or stand alone solar would be installed within three kilometres of the perimeter of an airport or aerodrome and amend conditions in paragraph A.2 and B.2.

1.3 The Amendment Order also makes minor amendments to assist clarity.

### **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

2.1 None.

### **3. Legislative background**

- 3.1 The powers to make the Amendment Order are in sections 59, 60, 61 and 333 of the Town and Country Planning Act 1990. These sections give the Secretary of State power to grant (or to enable local planning authorities to grant) planning permission for categories of development specified in a development order. The GPDO is made under these powers. The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). These powers are thus now exercisable by the Welsh Ministers.
- 3.2 Section 333(5B) of the Town and Country Planning Act 1990 provides that the procedure for a statutory instrument which contains a development order is a negative resolution procedure.

### **4. Purpose and intended effect of the legislation**

#### Electric Vehicle Charging Points

- 4.1 Charging points that involve the installation of equipment (such as an upstand) which is located outside a building constitutes 'development' under the Town and Country Planning Act 1990 (the 1990 Act), whether located within public or private open-air car parks, within the front garden of a dwellinghouse or as part of an on-street parking bay. Additionally, an external plug installed on the face of an existing wall (e.g. of a dwellinghouse) may be deemed development under the 1990 Act if it is considered to materially affect the external appearance of the building.
- 4.2 There is continuing growth in the numbers of electric vehicles (EV) and alternative fuel vehicles (ALV) being registered in the UK. As the technology develops, it is anticipated that demand for EVs will continue to grow. Wide scale take-up of EV will require a comprehensive network of EV charging points to reassure drivers that they will be able to recharge their vehicles whenever and wherever they need to.
- 4.3 Electric and plug-in hybrid vehicles potentially offer significant environmental benefits compared with existing internal combustion engine vehicles, and greatly improved fuel efficiency. Accordingly, the Government is promoting a switch towards EV.
- 4.4 The purpose of the provisions in the Amendment Order in relation to Part 2 of Schedule 2 to the GPDO is to grant permitted development rights for the installation, alteration and replacement of electrical outlets and upstands for recharging of EVs, subject to conditions relating to amenity and highway safety, to expedite the creation of a Wales-wide network of

EV charging infrastructure - at homes, workplaces and key destinations, such as supermarkets, retail and commercial centres and leisure.

- 4.5 These rights will be subject to certain constraints, such as maximum size and siting, designed to minimise impacts on neighbours and the wider environment.
- 4.6 Amendments made by the Amendment Order also clarify that on-street EV charging points and associated infrastructure can be installed by local authorities under their permitted development rights to provide facilities required in connection with the operation of any public service administered by them.

#### Devolved associated lines

- 4.7 Consents for overhead electric lines are currently granted under the Electricity Act 1989 (up to 132KV) or the Planning Act 2008 (132KV and above). These are both consents granted by the Secretary of State. On 1 April 2019, the Wales Act 2017 places consenting for electric lines (subject to a limit of 132KV nominal voltage) the purpose of which is to facilitate the connection to the electricity national grid of generating stations consented by Welsh Ministers (“devolved associated lines”) into the 1990 Act to be consented by way of a planning permission. Further statutory instruments are being laid which require the planning permission to be obtained from the Welsh Ministers as an application for a Development of National Significance (“DNS”).
- 4.8 Section 37(2) of the Electricity Act 1989, the Overhead Lines (Exemption) Regulations 1992 and the Overhead Lines (Exemption) (England and Wales) Regulations 2009 provide for exemptions from the requirement for the consent of the Secretary of State under section 37 of the Electricity Act 1989 to the installation or keeping installed of an electric line above ground.. These exemptions have the effect of providing powers to undertake minor works. Devolved associated lines will now require planning permission instead of a section 37 consent. In the interests of continuity for developers and to preclude relatively minor works from requiring a DNS application, the purpose of provisions in the Amendment Order in relation to devolved associated lines is to carry forward those existing exemptions as permitted development and thus, not requiring an application for planning permission.

#### Telecommunication

- 4.9 The delivery of a fast reliable mobile telecommunications and broadband network to all parts of Wales is essential to achieve Wales’s digital connectivity goals, including areas not currently served by the market. In October 2017 the Welsh Government also published the Mobile Action Plan for Wales. The Plan identifies a number of actions required to achieve national objectives for digital connectivity, including the review of

permitted development rights, and revision of telecoms policy in Planning Policy Wales.

- 4.10 The Planning System has an important role to play in supporting and enhancing digital connectivity, through national and local policy and through permitted development rights.
- 4.11 Permitted development rights for mobile telecommunications in Wales are set out in Part 24 of Schedule 2 to the GPDO. The Welsh Government's review of permitted development rights provided an opportunity to consider if the current regulations applying to mobile telecommunications are fit for purpose and able to deliver the objectives set out in national strategy.
- 4.12 The Amendment Order replaces Part 24 in its entirety. The key changes in relation to telecommunication masts are:
- In the case of the installation of a new ground based mast in a protected area, an increase of 5 metres to the maximum height permitted (15 metres increased 20 metres).
  - In the case of the installation of a ground based mast in an unprotected area, an increase of 10 metres to the maximum height permitted (15 metres increased to 25 metres).
  - In the case of the alteration and replacement of a ground based mast in a protected area, an increase of 5 metres to the maximum height permitted (15 metres increased to 20 metres).
  - In the case of the alteration and replacement of a ground based mast in an unprotected area, an increase of 5 metres to the maximum height permitted (20 metres increased to 25 metres).
  - An increase in the width of existing ground based masts of 1 metre, or one third whichever is the greater, at any given height. Where a mast is altered or replaced in an SSSI, the mast must not exceed its previous width.
  - Extension of the period for the use of land for moveable electronic communications apparatus in an emergency from six to eighteen months
  - Removal of the requirement to seek prior approval for the alteration or replacement of a mast when the altered/replacement mast does not exceed the height of the existing mast, or the maximum heights permitted by the GPDO prior to amendment by the Amendment Order.
- 4.13 The purpose of these provisions is to increase the flexibility of the permitted development rights regime for electronics code operators to enable the further roll-out of mobile coverage across Wales, particularly in those areas with limited or no coverage currently.

#### Fixed-Line Broadband

- 4.14 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2014 amended Part 24 of Schedule 2 the GPDO to provide that, in relation to article 1(5) land, the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-

line broadband services would not require prior approval under paragraph A.3. In order to rely on the amendment to the permitted development rights, development had to be completed before 30 May 2018 and certain other conditions had to be complied with. Article 1(5) land refers to land within a National Park, an Area of Outstanding Natural Beauty and an area designated as a Conservation Area.

- 4.15 The above amendment was made to support the Programme for Government commitment to deliver fast reliable broadband to those parts of Wales not currently served by the market.
- 4.16 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2018 extended the date by which development had to be completed to 30 May 2019.
- 4.17 The Welsh Government is continuing to work with operators to further extend coverage and build upon the success of Superfast Cymru. Broadband providers are continuing to deploy commercially across Wales and the need for street cabinets and other associated apparatus will continue to be essential to help deliver the Welsh Government's objectives. The delivery of fast reliable broadband to those parts of Wales not currently served by the market remains a nationally important program and a government commitment.
- 4.18 The provisions in the Amendment Order in relation fixed-line broadband services remove the condition that work has to be completed before 30 May 2019 and therefore removing the requirement for prior approval of the Local Planning Authority for the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-line broadband services on article 1(5) land providing other conditions are met.
- 4.19 The purpose of this provision is to maintain the expedited procedure to assist the telecommunication industry with the roll-out of superfast broadband.

#### Non-domestic Microgeneration

- 4.20 The Welsh Government is committed to increasing the amount of energy we produce from renewable sources and has introduced stretching targets for renewable energy and committed, through legislation, to radically decarbonise by 80% by 2050. It is important therefore that the planning system both proactively plans for new renewable and low carbon energy developments for the long term, but is also not perceived as a barrier to smaller scale developments which have no or minimal impact on their surroundings. By operating in this way the planning system can maximise its contribution to ensure that Wales' potential to generate renewable and low carbon energy is realised.
- 4.21 Permitted development rights for non-domestic solar PV and solar thermal were introduced in the Town and Country Planning (General Permitted

Development) (Amendment) (Wales) (No.2) Order 2012 by the insertion of Part 43 into Schedule 2 of the GPDO.

- 4.22 The purpose of the amendments to help facilitate an increase in the take-up of the installation of solar panels on non domestic properties by reducing costs and other planning barriers to business owners who are considering installing solar panels to reduce their own business costs.
- 4.23 The changes made by the Amendment Order in relation to Class A and Class B of Part 43 of Schedule 2 remove the energy output threshold (50kw electrical and 45kw thermal) for solar installations.
- 4.24 In addition, in the case of both Class A (the installation, alteration or replacement of solar PV or solar thermal equipment on a building other than a dwellinghouse or a block of flats) and Class B (the installation, alteration or replacement of stand alone solar within the curtilage of a building other than a dwellinghouse or a block of flats) development, the Amendment Order introduces a new limitation excluding development within three kilometres of the perimeter of an airport or aerodrome. Interpretation of what constitutes an “airport” or “aerodrome” are also provided. The purpose of this limitation is ensure the impacts of larger solar arrays permitted by the Amendment Order are full considered by the LPA through a planning application to maintain the safe operations of airports and aerodromes.
- 4.25 The Amendment Order also introduces a new condition that also applies to both Class A and Class B development to ensure the possible affects of glint and glare are minimised (flash of light and continuous reflection of sunlight) when locating solar panels. Whilst solar panels are designed to absorb as much light as possible and in most circumstances have low reflective properties, because the new proposals allow potentially large solar installations, the condition encourages a precautionary approach to any potential impacts from sunlight.
- 4.26 The conditions inserted by the Amendment Order for Class C (the installation, alteration or replacement of a ground source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats.) and Class D (the installation, alteration or replacement of a water source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats) are consequential amendments required to maintain the existing policy position as a result of removing the definition of ‘microgeneration’ from Part 43. There is no policy change in respect of these provisions.

## **5. Consultation**

- 5.1 A consultation ran from 31 May 2018 to 28 September 2018 on a wide ranging set of proposals regarding to the consolidation and amendment of the Town and Country Planning (Use Classes) Order 1987 and the GPDO. A total of 148 responses were received.

- 5.2 The Amending Order takes forward key ministerial priorities in advance of a consolidating order which will encompass the remaining proposals.
- 5.3 There was broad agreement from stakeholders to all of the proposals in the consultation which form part of this Order. A summary of the consultation responses is available at <https://beta.gov.wales/subordinate-legislation-consolidation-and-review>.
- 5.4 Furthermore, a 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.5 Question 3 asked whether respondents agreed with our proposals for overhead electric lines, which included the transfer of exemptions from the requirement for consent from the Electricity Act 1989 to the Town and Country Planning Act 1990. The vast majority of respondents agreed with this approach, and this statutory instrument implements this proposal.
- 5.6 A summary of the consultation responses is available at: <https://beta.gov.wales/changes-approval-infrastructure-development>.



## PART 2 – REGULATORY IMPACT ASSESSMENT

### Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019

#### 1. Minor operations: recharging vehicles

##### Options

1.1 The following options are considered:

**Option 1: Do nothing** – Planning permission will continue to be required for vehicle charging infrastructure

**Option 2: - Make the legislation** - Grant permitted development rights for the installation of electric vehicle charging points, including clarification that local authorities may install electric vehicle charging points as permitted development.

Option 2 is the favoured option as it will result in a more enabling regime for the installation of electric vehicle charging infrastructure.

##### Cost and Benefits Analysis

1.2 The sectors most likely to be affected by the proposals include:

- Businesses wishing to install apparatus to provide charging facilities at workplaces, retail/leisure facilities etc.
- LPAs who determine applications for planning permission.
- The general public who want to install apparatus to provide charging facilities at home.

1.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

##### Cost Analysis for Option 1: Do nothing

###### Business

1.4 The requirement for planning permission for the installation of vehicle charging infrastructure will continue, resulting in additional cost to businesses who wish to provide charging facilities for electric/plug-in hybrid vehicles. The planning fee for a planning application is currently £190.00. There will be additional associated costs for the preparation of the necessary supporting information, such as plans. A benchmarking

study undertaken in England<sup>1</sup> estimated the total cost of submitting a householder development application varied from £150 to £2,900, with an average cost of £1,187. A number of variables had an impact on these costs, including the use of an agent, the use of existing plans submitted as part of previous schemes, and the savings incurred by submitting applications via the Planning Portal (this limited printing costs). The Welsh Government believe the costs identified in this study are representative of a) the costs likely to be incurred in Wales and b) the costs likely to be incurred by businesses for an application for this scale of development.

- 1.5 The requirement for planning permission may also deter some business from installing charging points, to the detriment of decarbonising the transport network in Wales and combating climate change.

#### Local Planning Authorities

- 1.6 LPAs will continue to validate, process and determine applications for planning permission for vehicle charging infrastructure. Each application will need to be publicised and a site visit undertaken. The application will be determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

#### General Public

- 1.7 As per businesses, the requirement for planning permission for the installation of vehicle charging infrastructure will continue, resulting in additional cost to the general public who wish to operate electric/plug-in hybrid vehicles and have charging facilities at home. The planning fee for a householder application is currently £190.00. The associated costs will be as the same as those outlined in paragraph 1.4.
- 1.8 The need for planning permission may deter some from the purchase of a electric/plug-in hybrid vehicle to the detriment of the benefits of decarbonised travel.

### **Benefit Analysis for Option 1 – Do nothing**

#### Businesses

- 1.9 There are no indirect or direct benefits for businesses.

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<sup>1</sup> Benchmarking the costs to applicants of submitting a planning application.  
<https://webarchive.nationalarchives.gov.uk/20090903233426/http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf>

### Local Planning Authorities

- 1.10 LPAs retain the associated planning application fee and their ability to influence the siting and appearance of electric vehicle charging infrastructure.

### General Public

- 1.11 There are no indirect or direct benefits for the general public.

## **Cost Analysis for Option 2: Make the legislation**

### Businesses

- 1.12 There are no additional direct or indirect costs to businesses. The proposals are de-regulatory and as such are expected to result in cost-savings to businesses. These cost-savings are considered further in paragraph 1.15.

### Local Planning Authorities

- 1.13 There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.

### General Public

- 1.14 There are no additional direct or indirect costs to the general public.

## **Benefit Analysis for Option 2**

### Business

- 1.15 Those wishing to install electric vehicle charging points will make savings on planning application fees (currently £190.00) and associated administration costs incurred for the preparation and submission of a planning application, as outlined in paragraph 1.4. There are also time savings for businesses and the uncertainty created by the planning application decision process is removed.

### Local Planning Authorities

- 1.16 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

## General Public

- 1.17 As per businesses, those wishing to install electric vehicle charging points at their homes will make savings on planning application fees (currently £190.00) and associated administration costs incurred for the preparation and submission of a planning application as outlined in paragraph 1.4.

## Environment

- 1.18 There were 2,500 plug-in vehicles in Wales in 2017 and while the number is increasing (new electric and hybrid registrations in Wales increased by 35% in 2017), concerns remain about the charging infrastructure. This legislation is expected to facilitate the development of a network of electric charging points across Wales and may thus encourage more drivers to shift from a petrol or diesel vehicle to a plug-in vehicle. There are a number of environmental benefits associated with electric vehicles including reduced carbon emissions and improved air quality.

## **2. Devolved associated lines**

- 2.1 The requirement for a Regulatory Impact Assessment (“RIA”) has been assessed against the RIA code for subordinate legislation. In this instance, an RIA was not considered necessary relating to these provisions.
- 2.2 These amendments to the GPDO are as a consequence of the commencement of sections 39 to 42 of the Wales Act 2017 insofar as they affect the devolution of the consenting of overhead electric lines. This devolution occurs on 1 April 2019 and from that date, a consent under section 37 of the Electricity Act 1989 cannot be gained for a devolved associated line. Instead, such applications are to be consented under the Town and Country Planning Act 1990.
- 2.3 A series of exemptions are set out in section 37(2)(a)-(b) of the Electricity Act 1989 and in the Overhead Lines (Exemption) (England and Wales) Regulations 2009 which prevent the requirement for consent where the proposal involves the installation of an overhead electric line. For continuity and to preserve the existing legal situation, those exemptions are transferred to permitted development rights under the 1990 Act, where they relate to devolved associated lines.
- 2.4 Accordingly, as this results in routine technical and consequential amendments which have no policy impact, no RIA is required. It is noted the Wales Act 2017 was accompanied by an EMRIA which assessed the impact of the devolution of various functions, and is available at:

[https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/527740/Wales\\_Bill\\_impact\\_assessment.pdf](https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf)

### 3. Telecommunication – Size and Widths of Mast etc.

#### Options

3.1 The following options are considered:

**Option 1: Do nothing** – Legislation remains the same and the existing permitted development rights apply.

**Option 2: - Make the legislation** – Increases the permitted development rights for the heights and widths of telecommunication masts with amendments to existing prior approval arrangements.

Option 2 is the favoured option as it will result in a more enabling regime for the installation of telecommunication infrastructure.

#### Cost and Benefits Analysis

3.2 The sectors most likely to be affected by the proposals include:

- Mobile infrastructure operators wishing to install new or enlarged mobile telecommunication equipment
- LPAs who determine applications for planning permission.
- The general public who will potentially benefit from increased mobile coverage but may also be impacted on by higher masts in their communities.

3.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

#### Cost Analysis for Option 1: Do nothing

##### Business

3.4 The requirement for planning permission for larger masts and equipment will continue, resulting in additional cost to the mobile industry to roll out their networks. This includes the planning application fee and additional associated costs for the preparation of the necessary supporting information, such as plans.

3.5 The requirement for planning permission may also deter some operators from installing new, or larger masts, to the detriment of communities in the vicinity who will not benefit from greater mobile coverage.

##### Local Planning Authorities

3.6 LPAs will continue to validate, process and determine applications for planning permission for larger masts and equipment. Each application will need to be publicised and a site visit undertaken. The application will be

determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

#### General Public

3.7 There are no direct costs to the public.

#### **Benefit Analysis for Option 1 – Do nothing**

##### Businesses

3.8 There are no indirect or direct benefits for businesses; this will maintain the existing situation.

##### Local Planning Authorities

3.9 LPAs retain the associated planning application fee for larger masts etc and have more control over the development.

##### General Public

3.10 There are no indirect or direct benefits for the general public.

#### **Cost Analysis for Option 2: Make the legislation**

##### Businesses

3.11 There are no additional direct or indirect costs to businesses. The proposed legislation is de-regulatory and expected to result in cost-savings to businesses. This is considered further in paragraph 3.14.

##### Local Planning Authorities

3.12 There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.

##### General Public

3.13 There are no additional direct or indirect costs to the general public. There will be less scope to challenge in principle new or enlarged equipment, however the ability to make comments on siting and design issues will remain through the prior approval process.

#### **Benefit Analysis for Option 2**

##### Business

- 3.14 Mobile operating companies will be able to apply for increased sizes of masts without the need for full planning permission. Narrowing discussions around siting and design mean that the principle of the development will not need to be discussed. Increased mobile coverage will also enable businesses to more readily access communication networks. In those circumstances where planning permission or prior approval is no longer required, figures from the UK Government suggest that there is an average £2,250 reduction in administration costs.
- 3.15 Moving from full planning permission to permitted development rights could reduce the time taken to go through the necessary planning processes as deemed consent is given after 8 weeks. This reduces uncertainty in the industry.

#### Local Planning Authorities

- 3.16 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts. LPAs may experience a rise in the number of environmental complaints due to impact on amenity.

#### General Public

- 3.17 The general public will benefit from a potential increase in mobile coverage and the wider economic and social benefits arising from greater connectivity.

### **4. Development by Electronic Communications Code Operators: Fixed-line Broadband**

#### **Options**

- 4.1 The following options are considered:

**Option 1: Do nothing** - Part 24, A.2(4) (a), the prior approval application requirement will recommence on 1 June 2019 for the installation of all telecommunications apparatus on article 1(5) land: developers will be required to make prior approval applications to the local planning authority (LPA) which have to be processed by them (including undertaking the statutory publicity and consultation requirements).

**Option 2:** - Permanently dis-applying the Part 24, A.2 (4) (a), prior approval requirement where specified equipment is being used on article 1(5) land subject to standard conditions.

Option 2 is the preferred option as it will maintain the expedited process for the roll-out of broadband in Wales.

## **Cost and Benefits Analysis**

- 4.2 The sectors most likely to be affected by the proposals include:
- Businesses such as Electronic Communications Code Operators (“Code Operators”) wishing to install apparatus to provide telecommunications services.
  - LPAs who determine prior approval applications as well as applications for planning permission.
  - The general public who may have an interest in an individual development proposal.
- 4.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

### **Cost Analysis for Option 1: Do nothing**

#### Businesses

- 4.4 From June 2019, the prior approval requirement will recommence with a cost to Code Operators for each application made of a standard application fee of £380 together with the costs with producing a valid application, e.g. supporting information such as plans, drawings, and agent fees to prepare, submit and manage the application etc. Whilst there are no specific costs available for this type of development, it is assumed that the costs are likely to be similar to those for a prior approval application, estimated as £2,350 in the benchmarking study referenced in paragraph 1.4.
- 4.5 Also, there is an indirect cost to businesses in any delay in the determination of the planning application and the ultimate provision of superfast broadband to increase and improve digital connectivity.

#### Local Planning Authorities

- 4.6 Individual prior approval applications made to the LPA will need to be the subject of a decision, and that decision will need to be notified to the developer, within a period of 56 days. Regardless of whether in the individual case they do actually exercise their discretionary power, each application will need to be publicised by the LPA and be the subject of consultations by them in order to meet statutory requirements. The planning fee paid is intended to offset the LPAs costs.

#### General Public



- 4.7 There is an indirect cost to the general public through any potential delay of access to superfast broadband as a result of delays to the installation of the necessary infrastructure.

### **Benefit Analysis for Option 1 – Do nothing**

#### Businesses

- 4.8 There are no indirect or direct benefits for businesses.

#### Local Planning Authorities

- 4.9 A discretionary power remains available to LPAs to require their approval, in any specific case, to the siting and appearance of the development.

#### General Public

- 4.10 Any prior approval or planning applications which are made will need to be publicised by the LPA affording third parties, such as the general public, the opportunity of making representations to the LPA about the individual application made.

### **Cost Analysis for Option 2**

#### Businesses

- 4.11 There are no additional direct or indirect costs to businesses.

#### Local Planning Authorities

- 4.12 There will be a loss of future potential planning fee income from the prior approval applications and planning applications no longer require, this however is offset by the LPA not incurring the costs involved in dealing with those applications.

#### General Public

- 4.13 There are no additional direct or indirect costs to the general public.

### **Benefit Analysis for Option 2**

#### Businesses

- 4.14 There are direct cost savings for Code Operators through the saving of the prior approval application fee and the associated costs involved in making the application. The process will be streamlined, offering more certainty for Code Operators reducing unnecessary delay and expense.
- 4.15 Businesses generally are also likely to benefit:

- a) as potential users, from any earlier provision of telecommunications services which the infrastructure involved is intended to provide; and
- b) from the wider resulting economic benefits of good digital connectivity.

#### Local Planning Authorities

- 4.16 The reduced number of prior approval applications and planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

#### General Public

- 4.17 The general public will benefit from earlier provision of telecommunications services which the infrastructure involved is intended to provide and the wider resulting social and economic benefits of improved digital connectivity.

### **5. Non-domestic solar installations**

#### **Options**

- 5.1 The following options are considered:

**Option 1: Do nothing** – Legislation remains the same and the existing permitted development rights apply.

**Option 2: - Make the legislation** – Removes the energy threshold output limitation on the current permitted development rights and introduces additional conditions/limitations restricting development near an airport or aerodrome and requires the possible affects of glint and glare to be considered.

Option 2 is the favoured option as it will result in a more enabling regime for the deployment of non-domestic solar installations.

#### **Cost and Benefits Analysis**

- 5.2 The sectors most likely to be affected by the proposals include:
- Renewable energy companies / businesses wishing to install solar panels on the roof of non domestic buildings.
  - Local planning authorities through the processing of planning applications.
  - The general public who will potentially be impacted on by increased numbers of solar panels on roofs of non domestic buildings in their communities.

- 5.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

### **Cost Analysis for Option 1: Do nothing**

#### Business

- 5.4 The requirement for planning permission for larger solar installations on non domestic roofs will remain. This includes the planning application fee and additional associated costs for the preparation of the necessary supporting information, such as plans.
- 5.5 The requirement for planning permission may deter some businesses from considering installing solar panels on their roofs which mean this significant resource is left untapped.

#### Local Planning Authorities

- 5.6 LPAs will continue to validate, process and determine applications for planning permission for larger solar arrays on non domestic roofs. Each application will need to be publicised and a site visit undertaken. The application will be determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

#### General Public

- 5.7 There are no direct costs to the public.

### **Benefit Analysis for Option 1 – Do nothing**

#### Businesses

- 5.8 Businesses within 2-3km of an airport or aerodrome will continue to be able to erect solar arrays on, or within the grounds of, non-domestic buildings without the need for planning permission, subject to compliance with the relevant conditions.

#### Local Planning Authorities

- 5.9 LPAs retain the associated planning application fee for larger masts etc and have more control over the development.

#### General Public

- 5.10 There are no indirect or direct benefits for the general public.

## **Cost Analysis for Option 2: Make the legislation**

### Businesses

- 5.11 The proposed legislation is de-regulatory and as such there are potential cost-savings to businesses through a no longer requiring planning permission for larger solar arrays (subject to compliance with the relevant conditions) and the costs associated with preparing and submitting an application.
- 5.12 Notwithstanding this, businesses within 2-3km of an airport or aerodrome will no longer benefit from permitted development rights for solar arrays on, or within the ground of, non-domestic buildings. This will in effect increase costs (incurred by through preparation and submission of a planning application) for businesses within this proximity threshold of an airport or aerodrome should they wish to undertake development previously permitted by Part 43 of the GPDO.
- 5.13 This is however considered to affect a relatively small number of buildings. An increase in costs for impacted properties (should they wish to undertake solar development previously permitted by Part43) is not considered to outweigh the potential savings to be achieved by the majority of businesses in Wales who will be able to install as much solar panel apparatus as they wish, subject to compliance with the relevant limitations and conditions.
- 5.14 The additional condition concerning minimising glint or glare is unlikely to result in any additional costs as such consideration of the impacts of the siting of solar development should already be taken into account by the solar industry when surveying sites.

### Local Planning Authorities

- 5.15 Local Planning Authorities may feel that they will lose control over the siting and design of new non domestic solar installations, however conditions are in place to limit the impact. There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.
- 5.16 The potential number of additional applications that may be submitted as a result of the new condition regarding development within 3km of an airport or aerodrome is considered to be de minimis in respect of Local Planning Authority fee income.

### General Public

- 5.17 There are no additional direct or indirect costs to the general public.

## **Benefit Analysis for Option 2**

### Business

- 5.18 Businesses will benefit from not paying planning application fees and associated supporting evidence necessary to accompany such an application. This should lead to an increase in the number of installations, thereby assisting in meeting renewable energy and carbon targets.

### Local Planning Authorities

- 5.19 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

### General Public

- 5.20 The general public will benefit from a potential increase in mobile coverage and the wider economic and social benefits arising from greater connectivity.

## **6. Consultation**

- 6.1 Consultation was undertaken on wider proposals for the amendment and consolidation of the Town and Country Planning (Use Classes) Order 1987 and the GPDO the proposals between 31 May and 28 September 2018. The consultation paper was available on the Welsh Government's website. In addition, key stakeholders from the private, public and third sectors were directly notified. In total, 148 responses were received.

- 6.2 A summary of responses is available on the Welsh Government website and includes details of changes made to the proposals.

## **7. Competition Assessment**

- 7.1 A competition filter test has been applied to the proposed amendments. The results of the test suggest that the proposals are unlikely to have any significant detrimental effect on competition.

## **8. Post implementation review**

- 8.1 Regular meetings between Welsh Government's Planning Directorate and business sector representatives and Chief Planning Officers enables discussion regarding any issues or concerns with the arrangements introduced by the new secondary legislation. Feedback from the Planning Inspectorate (Wales) and representations to the Welsh Government's Planning Directorate by interested sectors, Assembly Members and the public will also provide evidence of the effectiveness of the new arrangements.