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Consultation – summary of responses

Proposed additional permitted
development rights for Electronic
Communications Code Operators
(facilitating Broadband roll-out)

Date of issue: October 2014

1. INTRODUCTION

1.1 The “Proposed additional permitted development rights for Electronic Communications Code Operators (facilitating Broadband rollout)” consultation paper was issued on 29 July 2013 and responses were invited by 31 October 2013. It included 13 specific questions together with a more general consultation question.

1.2 24 responses were received and a list of them appears as an Annex to this document. The table below gives a breakdown of the respondents:

Category	Number
Businesses / Planning Consultants (B)	6
Local Authorities (including National Park Authorities) (LPA)	10
Government Agencies (GA)	1
Professional Bodies / Interest Groups (P)	5
Other (other groups not listed above)	2
TOTAL	24

1.3 This document provides a summary of responses received arranged under the following sections:

- Section 2 “The fixed-line Broadband proposals” (pages 2-7)
- Section 3 “Mobile infrastructure proposals”(pages 7-15)
- Section 4 “Possible time-limiting of Proposals A-F” (page 16)
- Section 5 “Annex 1 to consultation paper issues” (pages 17-19)
- Section 6 “Code of Best Practice on Mobile Phone Network Development” (page 20)
- Section 7 “Draft Regulatory Impact Assessment” (page 21)
- Section 8 “The general consultation question” (page 22).

2. THE FIXED-LINE BROADBAND PROPOSALS (paragraphs 5.7 to 5.11 of consultation paper)

Proposals

2.1 We propose to disapply the current Part 24, A. 2(4) (a) prior approval requirement on article 1(5) land where the development concerned consisting of:

- 1) the installation at ground level of a cabinet not exceeding 1,200 millimetres in width , 450 millimetres in depth and 1,600 millimetres in height for the purpose of supplying a broadband service;
- 2) the provision of a fibre optic overhead supply cable not exceeding a diameter (measured externally) of 20 millimetres to that cabinet (including either i) the addition of that cable to any existing electronic communications apparatus or ii) its addition to any existing building or structure in accordance with the Electronic Communications Code); and
- 3) the provision of any structure or pole by which that cable is to be installed, supported or carried (including the provision of any additional structure or poles required by the addition of that cable to any existing electronic communications apparatus).

2.2 The developer will have to meet the following requirements:

- a) Send details of the proposed development in the case of land:
 - i) within a National Park to the National Park Authority ,to the County Council for the area and to Natural Resources Wales;
 - ii) within an Area of Outstanding Natural Beauty, to the County Council for the area and to Natural Resources Wales;
 - iii) within a Conservation Area, to the local planning area [authority] for the area and also to the County Council for the same area (if different from that local planning authority).
- b) The developer will have to allow a 21 day period in which these bodies may make representations and if representations are made the developer will have to have regard to them.
- c) A subsequent requirement will also apply to the developer to give one month's notice of the proposed development to the local planning authority with an invitation to make any representations during that period.

2.3 Two general conditions would also apply:

- i) Cabinets to be coloured green unless agreed otherwise in writing by the local planning authority.
- ii) Type of supporting structure or pole used to match those (if any) already in use in the area unless agreed otherwise in writing by the local planning authority.

2.4 We propose that the disapplication would apply for a period of 5 years only (expiring on 30 May 2018). This period corresponds to the one during which, under the 2013 Amending Regulations, modified general obligations imposed on Code Operators on the installation of their apparatus underground would apply. It would include the actual period in Wales during which the Next Generation Broadband for Wales project operates.

2.5 Question 1: Do you agree that the consultation procedures described in a) to c) of paragraph 5.8 above [*paragraph 2.2 of this document*] should in Wales be the minimum statutory requirement?

Q.1			Yes	Yes (qualified)	No
	Overall		4	6	6
	By type:				
		B	1	2	1
		LPA	2	4	3
		GA			1
		P	1		1
Total					16

(1 LPA did not express any preference)

Analysis

Overall: Most (10) were in agreement although 6 qualified their agreement.

Business: 1 business thought the proposed legislation should be specific to fixed broadband companies alone; another commented on the detailed description of the development involved and the overall length of the pre-application period with two separate pre-application periods.

Local Planning Authorities (LPAs): Many LPAs raised the two separate pre-application periods and the status of any representations made to the developer. Individual LPAs were also concerned about the detail of the time periods involved and the information to be provided by a developer. A number of LPAs considered that the existing Part 24 prior approval application process for article 1(5) land should remain.

Government Agency: Considered that the existing Part 24 prior approval application process for article 1(5) land should remain. And was also concerned about the status of any representations which it might make (as a prospective consultee) under the proposed procedures as well as any which might be made by individual LPAs.

Professional bodies: 1 felt that the requirement for the developer to “have regard” to representations would not provide sufficient protection for the historic environment and that the provisions do not provide any protection for World Heritage Sites.

2.6 Changes made

a) Revised description of relevant development (“Class A development on any article 1(5) land which consists of the construction, installation, alteration or replacement of a telegraph pole, cabinet or line, in connection with the provision of fixed-line broadband”) adopted in the implementing development order.

b) Condition precedent consultation conditions reviewed and revised in the implementing development order: no separate provision made for notification to planning authority as already covered by the (non-devolved) Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended; single one month’s notice requirement to apply in the cases of both the County Council and Natural Resources Wales.

c) Wording of the condition covering the colour of cabinets reviewed and revised in the implementing development order to allow greater local choice.

2.7 Points of clarification

a) The details of the notice to be given to the planning authority under the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended, are contained in those regulations.

b) The UK Department for Culture, Media and Sport (non-statutory) Cabinet Siting and Pole siting Code of Practice already contains some specific provisions for World Heritage Sites.

2.8 Question 2: Can you suggest any other general conditions which might also be imposed?

Q.2			Yes	Yes (qualified)	No
	Overall		4	6	6
	By type:				
		B	1	1	2
		LPA	2	4	3
		GA		1	
		P	1		1
Total					16

(1 LPA did not express any preference)

Analysis

Overall: Most with suggestions (10) either raised issues about the detail of the proposed general conditions or suggested additional possible general conditions. 6 of these responses were from Local Planning Authorities.

Business: 1 business suggested a specific provision requiring details to be sent to the highway authority; a general condition controlling advertising on street cabinets; and a change to Part 24 so that it would contain a general provision covering the colour of street cabinets.

Local Planning Authorities (LPAs) : Individual LPAs suggested general conditions covering: removal of redundant apparatus/ restoration of the site; obstruction of vehicular/ pedestrian access; maintaining visibility splays ; re-use wherever possible of existing poles; and also thought there should be a wider local choice of street cabinet colour. 1 LPA suggested a condition requiring a repeat consultation with LPA after 10 years.

Government Agency: Also supported a wider local choice of street cabinet colour and suggested a general condition requiring the siting of the supporting pole or structure to be agreed by the local planning authority.

Professional bodies: 1 felt that the general condition should be more specific about the shade of green needed for street cabinets.

2.9 Changes made

See paragraph 2.6.

2.10 Point of clarification

Generally need to avoid making provision (condition wise) for something which is already the subject of other legislation. (Removal of redundant

apparatus is already covered by, for example, paragraph A.2 (2) of the Part 24 PDR and by paragraph 22 of the Electronic Communications Code. The Town and Country Planning (Control of Advertisements) Regulations 1992 already make provision for a largely self-standing separate regime for outdoor advertisement control).

2.11 Question 3: Do you agree that the alternative “fast track” land use planning arrangement described above should apply for the temporary period described in paragraph 5.9 [paragraph 2.4 of this document]?

Q.3			Yes	Yes (qualified)	No
	Overall		4	7	6
	By type:				
		B		3	1
		LPA	3	4	2
		GA			1
		P	1		2
Total					17

(1 LPA and 1 professional body did not express any preference)

Analysis

Overall: Most (11) were in agreement although 7 qualified their agreement.

Business : 2 businesses considered that the proposed arrangement should operate for a longer period than proposed (either permanently or for 10 years); 1 business thought that the proposed legislation should actually be applied to fixed broadband companies alone; another on the basis that it would be for fixed broadband.

Local Planning Authorities (LPAs): 3 LPAs agreed with the proposal without qualification. There was a division within LPAs expressing either qualified agreement or disagreement. Some supported a temporary period; others opposed one. 1 LPA was opposed in principle to the proposal.

Government Agency: Considered that the prior approval application process should be retained for development proposals within National Parks or Areas of Outstanding Natural Beauty.

Professional bodies: 2 did not support the proposal, did not believe it was necessary and felt it could have unintended consequences. Another (not expressing any preference) felt that time limiting the proposal would do little to address their primary concern.

2.12 Changes made

See paragraph 2.6.

2.13 Point of clarification

The (non-devolved) Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2013 introduced, for a 5 year period only, a more permissive regime for the installation above ground of fixed-line broadband electronic communications apparatus. On the expiry of this period, the original requirements of the (non-devolved) Electronic Communications Code (Conditions and Restrictions) Regulations 2003 covering the undergrounding of apparatus will re-apply.

3. MOBILE INFRASTRUCTURE PROPOSALS (Proposals A-F in the consultation paper)

3.1 Proposal A

In the case of antenna mounted on buildings and structures, change the Part 24, A 2(4) (b) threshold at which these become subject to a prior approval application requirement from up to 4 metres above the height of the building or structure on which it would be installed to up to 6 metres.

3.2 Question 4: Do you agree that the current prior approval threshold for antenna mounted on buildings and structures should be increased from 4 metres to 6 metres?

Q.4			Yes	Yes (qualified)	No
	Overall		6	7	
	By type:				
		B		3	
		LPA	4	3	
		GA	1		
		P	1	1	
Total					13

(2 businesses supported the views of a professional body; another business was also supportive of proposals. 3 LPAs and 1 professional body did not express any preference)

Analysis

Overall: All (13) were in agreement although 7 of them qualified their agreement.

Business :2 businesses felt that clear wording was needed in the final legislation raising points of detail; 1 also raised some general interpretation issues about Part 24,suggested an alternative proposal and favoured inclusion of a set back distance; another thought that generally higher siting of antenna was beneficial.

Local Planning Authorities (LPAs):2 LPAs were supportive of the aim; another thought that there should be a requirement for such antenna to be set in a minimum of 3 metres from any edge of the building.

Professional bodies: 1 (not expressing any preference) felt that adequate safeguards were needed for both historic assets and their settings and that any relaxation should not apply to World Heritage Sites.

3.3 No changes made

3.4 Points of clarification

a) No set back distance requirement has been applied under Part 24 (England) as revised from 21 August 2013 and already operating in England.

b) The installation of antenna on buildings or structures which are either listed buildings or a scheduled ancient monument is already excluded from the Part 24 PDR. Currently the (non-devolved) Electronic Communications Code and related (non-devolved) Electronic Communications Code (Conditions and Restrictions) Regulations 2003 do not make any special provision for World Heritage Sites. Consideration of the case for any restrictions through planning control needs to be looked at as part of any wider comprehensive review of the Part 24 PDR as a whole or a wider review of permitted development rights. Local Planning Authorities already have powers by means of Article 4 directions to seek to withdraw individual permitted development rights in particular areas.

3.5 Proposal B

Increase the number of antenna systems allowed on buildings or structures (other than masts) as permitted development.

Currently up to 2 antenna systems are permitted on buildings (or structures) below 15 metres in height and up to 3 antenna systems on buildings (or structures) of 15 metres or more in height. The proposal was to increase these limits to 3 and 5 antenna systems respectively. (There was no specific associated consultation question.)

Analysis

A professional body supported Proposal B in the consultation paper and their views were supported by 2 businesses. Another business also advocated the adoption of the equivalent of Proposal B.

3.6 No changes made

3.7 Point of clarification

The same proposal is included within Part 24 (England) as revised from 21 August 2013 and already operating in England.

3.8 Proposal C

New permitted development right (not subject to a prior approval application requirement except when within a SSSI) permitting the installation of up to two small cell antenna (of up to 0.5 metres in size) on the walls of buildings or structures. In the case of the walls of buildings or structures on article 1(5) land, only one small cell antenna (of up to 0.5 metres in size) to be permitted and not on a chimney or on a wall or roof slope fronting a highway.

3.9 Question 5: Do you agree that a new permitted development right should be introduced specifically for the installation of a limited number of small cell antenna of up to 0.5 metres in size?

Q.5			Yes	Yes (qualified)	No
	Overall		8	1	1
	By type:				
		B	2		1
		LPA	5		
		GA			
		P	1	1	
Total					10

(2 businesses supported the views of a professional body; another business was also supportive of proposals. 5 LPAs, 1 Government Agency and 1 professional body did not express any preference)

Analysis

Overall: All except one (9) were in agreement although 1 qualified their agreement.

Business: 1 advocated the use of larger antenna of up to 0.6 cm.

Local Planning Authorities (LPAs): 1 LPA considered that they should not be sited on the principal elevation; other individual LPAs (expressing no

preference) favoured making no express provision and were concerned about the potential for proliferation.

Government Agency: Did not express any preference but held no objection to the proposal.

Professional bodies: 1 supported in principle but advocated small cell antenna provisions -similar to those recently introduced in England and based on the new wider linked small cell antenna definition - not subject to a prior approval application requirement. It also considered that the proposed front elevation siting restrictions would largely negate the operational purpose of the small cell.

3.10 Question 6: Do you think any other dimensional limits or additional siting restrictions should apply to such small cell antenna and also include your reasons?

Q.6			Yes	Yes (qualified)	No
	Overall			8	7
	By type:				
		B		2	1
		LPA		4	5
		GA		1	
		P		1	1
Total					15

(2 businesses supported the views of a professional body; another business was also supportive of proposals. 1 LPA and 1 professional body did not express any preference)

Analysis

Overall: Most (8) with specific comments either raised issues about a definition of such antenna and its measurement or suggested siting restrictions.

Business: 1 suggested that size should be measured in any linear measurement; another that for buildings over 15 metres in height the installation of over 8 antenna should be permitted to provide greater capacity.

Local Planning Authorities (LPAs): 1 LPA considered that they should not be sited on the principal elevation of a building and advocated a condition requiring their sensitive location within the elevation of a building; other individual LPAs wanted clarification of how dimensions ought to be measured and were concerned about cumulative impact.

Government Agency: Held no objection to the proposal.

Professional bodies: One referred to their earlier comments (Q5).

Questions 5 and 6

3.11 Changes made

a) Reviewed and revised in the implementing development order: provision made for the installation of up to two small cell antenna on buildings/other structures based on the same "small cell antenna" definition which is already in use in England; subject to a prior approval application requirement when used on article 1(5) land; use on a dwellinghouse or within its curtilage is excluded as permitted development.

b) Existing paragraph A.1 (g) (i) siting restriction within the Part 24 PDR will not apply to small cell antenna.

3.12 Point of clarification

Paragraph A.2 (1) of the Part 24 PDR requires any antenna installed on a building to, as far as practicable, be sited so as to minimise its effect on the external appearance of the building.

3.13 Proposal D

Increase the total aggregated size limit of dish antenna on buildings or structures (other than masts) as permitted development.

Currently the total aggregated diameter of all the dish antenna on a building or a structure which is below 15 metres in height is limited to a total threshold of 1.5 metres (measured in any dimension) and 3.5 metres (measured in any dimension) for a building or structure of 15 metres or more in height. The proposal was to increase the aggregated dish diameter total threshold limit to 4.5 metres for buildings or structures below 15 metres in height and 10 metres for buildings or structures of 15 metres or more in height.

3.14 Question 7: Do you agree that the aggregated dish diameter threshold limits should be increased as proposed in paragraph 5.27 above?

Q.7			Yes	Yes (qualified)	No
	Overall		9	1	4
	By type:				
		B	3		
		LPA	3	1	4
		GA	1		
		P	2		
Total					14

(2 businesses supported the views of a professional body; another business was also supportive of proposals. 2 LPAs and 1 professional body did not express any preference)

Analysis

Overall: Most (10) were in general agreement although 1 qualified their agreement.

Business: All were in agreement.

Local Planning Authorities (LPAs): 4 LPAs were in agreement although 1 of them qualified that agreement. 4 LPAs were concerned that such a significant increase could have a visual impact on buildings. 2 LPAs (one not expressing a preference) asked about applicability to article 1(5) land and, in one case, suggested an additional condition for that land.

Government Agency: Was in agreement.

Professional bodies: Both expressing a preference were in agreement.

3.15 No changes made

3.16 Points of clarification

a) Paragraph A.1 (i) within the existing Part 24 PDR does not generally permit the provision of new antenna on article 1(5) land.

b) The same proposal is included within Part 24 (England) as revised from 21 August 2013 and already operating in England.

3.17 Proposal E

New permitted development right (to be subject to a prior approval application requirement) permitting limited additional antenna to be installed on existing buildings or structures (including an existing mast) on article 1(5) land.

The proposal was to permit a maximum of the installation of –

- 2 additional point-to-point microwave dishes of up to 0.6 metres in diameter to be added to an existing building or structure (including a mast) on article 1(5) land; and
- 3 additional antenna of up to 3 metres in height to be added to an existing building or structure (including a mast) on article 1(5) land.

3.18 Question 8: Do you think any additional siting restrictions should apply to such additional antenna?

Q.8			Yes	Yes (qualified)	No
	Overall		1	7	7
	By type:				
		B		1	2
		LPA	1	4	4
		GA		1	
		P		1	1
Total					15

(2 businesses supported the views of a professional body; another business was also supportive of proposals. 1 LPA and 1 professional body did not express any preference)

Analysis

Overall: Most (8) with specific comments suggested possible siting limits, questioned the position of ancillary equipment or argued that the proposal should go further.

Business: 1 argued that all the associated ancillary equipment should be considered as part of the one prior approval application.

Local Planning Authorities (LPAs): Individual LPAs suggested restrictions on the installed height of antenna, their projection, that they should be used on larger buildings only and their size should be related to that of the building and the same limits as proposed for Proposal C. 1 LPA was concerned about buildings adjacent to article 1(5) land.

Government Agency: Was concerned that the installation of an extensive array of antenna could also lead to incongruous development and that it should be subject to a prior approval application requirement.

Professional bodies :1 agreed with the proposal but advocated that it should, in addition, permit up to 3 additional point to point microwave dishes (similar to what had recently been introduced in England) but not subject to a prior approval application requirement.

3.19 Change made

The implementing development order increases the number of microwave [dish] antenna permitted from two to three.

3.20 Point of clarification

For article 1(5) land only and apparatus to be subject to a prior approval application requirement.

3.21 Proposal F

Extend permitted development rights to permit (subject to a prior approval application requirement) masts (not on article 1(5) land) to be increased in height from up to 15 metres to up to 20 metres and in width by up to a third.

3.22 Question 9: Do you think any additional conditions should apply to such an extended permitted development right?

Q.9			Yes	Yes (qualified)	No
	Overall			7	7
	By type:				
		B		1	2
		LPA		4	4
		GA		1	
		P		1	1
Total					14

(2 businesses supported the views of a professional body; another business had no comments. 2 LPAs and 1 professional body expressed no preference)

Analysis

Overall: There was an equal division (7) between those suggesting additional conditions and those not. (A number of Local Planning Authorities suggested additional conditions). Comments covered points of detail or (in one case) argued that the proposal should not be subject to a prior approval application requirement.

Business: 1 considered that the final legislation should offer clarity (both permitted development wise and prior approval application wise) on specific elements of mast height / mast width increases at existing masts, replacement masts and replacement top mast section at the same site and any consequential extra regulatory burden involved.

Local Planning Authorities (LPAs): Individual LPAs supported the exclusion of masts on article 1(5) land and suggested some form of additional control for land adjacent to article 1(5) land; 1 LPA thought that the proposal in combination with others could lead to developments having a more significant impact.

Government Agency: Considered that the provision should not extend to proposals within protected landscapes.

Professional bodies: 1 raised the issue of replacement masts close to an existing mast site and also argued that the proposal should not be subject to a prior approval application requirement. Another (not expressing any preference) felt that the proposal should not extend to development on or affecting a World Heritage Sites and consideration should be given to providing safeguards for other historic assets not on article 1(5) land.

3.23 Changes made

Wording used in implementing development order includes a key parameter about the permitted mast width increase.

3.24 Points of clarification

a) The new PDR does not apply to article 1(5) land or to land within any Site of Special Scientific Interest. It is subject to a prior approval application requirement.

b) Currently the (non-devolved) Electronic Communications Code and related (non-devolved) Electronic Communications Code (Conditions and Restrictions) Regulations 2003 do not make any special provision for World Heritage Sites. Consideration of the case for any restrictions through planning control needs to be looked at as part of any wider comprehensive review of the Part 24 PDR as a whole or a wider review of permitted development rights. Local Planning Authorities already have powers by means of Article 4 directions to seek to withdraw individual permitted development rights in particular areas.

4. POSSIBLE TIME-LIMITING OF PROPOSALS A-F

4.1 Question 10: Do you support time - limiting Proposals A - F in this paper until 31/12/17? If not, what lesser or greater period do you favour?

Q.10			Yes	Yes (qualified)	No
	Overall		6	2	7
	By type:				
		B	1		2
		LPA	4	2	3
		GA			1
		P	1		1
Total					15

(2 businesses supported the views of a professional body; another business had no comments. 1 LPA and 1 professional body expressed no preference)

Analysis

Overall: Most (8) (including a number of Local Planning Authorities) supported time limiting although 2 qualified their support.

Business: The majority (2) were opposed. 1 pointed out that similar changes made in England were not time limited and doing so in Wales would be disadvantageous. Another, that a greater period would be more appropriate (until at least 2020 and beyond for the harder areas).

Local Planning Authorities (LPAs) : 3 LPAs felt that time limiting would be pointless as the apparatus involved would still be in use at the end of that period; 3 LPAs (one of which expressed no preference) also questioned why the period suggested was different from that described in paragraph 5.9 of the consultation paper.

Government Agency: Were opposed.

Professional bodies : 1 strongly disagreed with any time limiting arguing that the need to up-grade and maintain networks would not stop on 1/1/18; also that having a time limit in Wales alone risks putting the case for telecommunications infrastructure at a disadvantage relative to England.

4.2 Change made

No time limit for mobile infrastructure related changes included in implementing development order.

5. ANNEX 1 TO CONSULTATION PAPER ISSUES

5.1 Question 11: Have you any evidence that any of the specific issues mentioned in Annex 1 are significant ones in Wales?

Q.11			Yes	Yes (qualified)	No
	Overall				6
	By type:				
		B			2
		LPA			3
		GA			
		P			1

Analysis

Overall: 6 bodies from a range of interests confirmed that they had no specific evidence. Comments about the 5 specific issues mentioned in Annex 1 of the consultation paper were made by 2 businesses, 3 local planning authorities and one professional body.

5.2 (paragraph 1 of Annex: should the current definition of “antenna system” used in Part 24 be changed to reflect mobile operators sharing of infrastructure?)

Comments from business: 2 businesses supported the need for a revised definition of “antenna system”. 1 supported the revised definition recently introduced in England and advocated its adoption together with the equivalent of Proposal B.

Comments from Local Planning Authorities: Individual LPAs were in general agreement that clarity of definitions should be provided; supported encouragement of sharing; and that a consistent approach to interpretation was needed through better guidance /definition.

Comments from Professional body: Thought it would be helpful to amend the current definition and advocated the use of the revised definition recently introduced in England.

5.3 (paragraph 2 of Annex: should Part 24 include updated definitions of “antenna”, “small antenna” and “small cell antenna” as including their supporting structure, mounting, fixing and bracket?)

Comments from business: 2 businesses supported either an up-dated definition or the need for clarity.

Comments from Local Planning Authorities: Individual LPAs were in general agreement that clarity of definitions should be provided; a definition of

antenna should be provided as including the mountings; and that a consistent approach to interpretation was needed through better guidance /definition.

Comments from Professional body: Advocated the interpretative formulation recently added to Part 24 [A.4A and A.4B] in England.

5.4 (paragraph 3 of Annex :is clarification needed that the current volume limits (of up to 2.5, 90 and 30 cubic metres) in A.1 (l) of Part 24 covering the installation of radio equipment housing cabinets are not a cumulative ceiling?)

Comments from business: 1 agreed that the volume limits should not be seen as cumulative and sought clarification of the position of “electricity meter pillars”; 1 that clarity was needed.

Comments from Local Planning Authorities: Individual LPAs were in general agreement that clarity of definitions should be provided; that clarification on whether the volume is cumulative is welcomed; and that a consistent approach to interpretation was needed through better guidance /definition.

Comments from Professional body: That the proposal would give clarity for operators and LPAs; also advocated an approach similar to that recently taken in England.

5.5 (paragraph 4 of Annex: is clarification needed of what is under Part 24 “development ancillary to radio equipment housing” and should it continue to be subject to a prior approval application requirement under paragraph A.2(4) (b)?)

Comments from business: 1 favoured a wider definition , suggested some particular apparatus for inclusion in it and thought that the current relevant prior approval application requirement should be removed ; 1 considered that clarity was needed , raised the position of “meter cabinets” and thought that the current relevant prior approval application requirement should be removed.

Comments from Local Planning Authorities: Individual LPAs were in general agreement that clarity of definitions should be provided; that clarification on the meaning of ancillary development is welcomed; and that a consistent approach to interpretation was needed through better guidance /definition.

Comments from Professional body: Helpful to clarify the definition and pointed to the additional wording recently added to the original definition contained in A4 of Part 24 in England; does not believe that ancillary equipment should be subject to a prior approval application requirement.

5.6 (paragraph 5 of Annex: is clarification needed of the circumstances in which amendments to the details included in the original prior approval application notification made under Part 24 may later be varied in writing by the local planning authority?)

Comments from business: 1 supported a clarification; 1 felt that there is good reason to provide greater clarity.

Comments from Local Planning Authorities: Individual LPAs were in general agreement that clarity of definitions should be provided; that clarification about the way amendments can be agreed is also welcomed; and that a consistent approach to interpretation was needed through better guidance /definition.

Comments from Professional body: Agreed that clarification is needed and suggested mirroring the addition recently made as paragraph A.3 (8A) of Part 24 in England.

5.7 Way forward

Implementing development order includes within A.4 of Part 24 a replacement definition of “antenna system”. It also provides clarification in a number of areas: of the current volume limits for radio equipment housing; that the permitted development right will include, generally, any casing or covering, mounting, fixing, bracket or other support structure, perimeter walls or fences, handrails, steps or ramps or security equipment reasonably required. The prior approval application requirement for “development ancillary to radio equipment housing” on non-article 1(5) land is removed and clarification provided that that “development ancillary to radio equipment housing” can, generally, include security equipment, perimeter walls and fences, handrails, steps and ramps; and that the agreement referred to in the current A.3 (8) of Part 24 will require no special form of writing.

5.8 Point of clarification

Possible clarification on “electricity meter pillars/meter cabinets” to be considered as part of any replacement planning guidance (see paragraph 6.2 below).

6. CODE OF BEST PRACTICE ON MOBILE PHONE NETWORK DEVELOPMENT

6.1 Question 12: Do you agree that any up-dated references for the Code should be made available through the Welsh Government website?

Q.12			Yes	Yes (qualified)	No
	Overall		13	2	
	By type:				
		B	2	1	
		LPA	9		
		GA			
		P	2	1	
Total					15

(2 businesses supported the views of a professional body; another business and a Government Agency had no comments. 1 LPA expressed no preference)

Analysis

Overall: All (15) were in agreement although 2 qualified their support.

Business: 2 were in agreement; 1 offered to participate in any Welsh Working Group to revise the current Welsh Code of Best Practice.

Local Planning Authorities (LPAs): All were in agreement.

Professional bodies: 2 were in agreement; 1 strongly suggested that further revision of the Code is essential.

6.2 Way forward

More detailed guidance for local planning authorities, intended to supersede Annex 1 (“Guidance on Prior Approval Procedures for Telecommunications Permitted Development”) of Technical Advice Note 19 “Telecommunications” (August 2002), is to be produced.

7. DRAFT REGULATORY IMPACT ASSESSMENT

7.1 Question 13: Do you have any comments to make about the draft Regulatory Impact Assessment at Annex 2?

Q.13			Yes	Yes (qualified)	No
	Overall		4		12
	By type:				
		B	1		2
		LPA	1		8
		GA	1		
		P	1		2
Total					16

(2 businesses supported the views of a professional body; another business had no comments. 2 professional bodies expressed no preference)

Analysis

Overall: Most (12) of those responding had no comments to offer on the draft Regulatory Impact Assessment. 4, each from a different sector, offered comments.

Business: Thought that implementation of the proposals may introduce uncertainty during the initial learning process and referred to the potential knock on implications for individual Local Planning Authorities of an overall increase in the number of prior approval applications.

Local Planning Authorities (LPAs): Felt that the cost analysis does not consider the impact on the public with regard to introducing a “fast track” scheme of representation.

Government Agency: Felt an assessment of sustainable development should also consider and identify potential environmental effects.

Professional bodies: Referred to the wider economic and social benefits of good digital connectivity and the costs to Wales of not having those benefits available; also mentioned research by Deloitte on the wider economic impact.

7.2 Way forward

Up-dated Regulatory Impact Assessment produced.

8. THE GENERAL CONSULTATION QUESTION

8.1 Question 14: We have asked a number of specific questions throughout this consultation. If you have any related queries which we have not specifically addressed, please use this space to report them.

1 business thought that a much wider review of the Part 24 Permitted Development Right was needed and suggested some shorter term changes.

3 individual Local Planning Authorities raised distinct (general) issues including inter-action with the Habitats Regulations 2010; concerns held by their Committee Members; and the views of their own highway authority.

A professional body supported Proposal B in the consultation paper and also advocated 3 additional proposals. (Their views were supported by 2 businesses). 2 professional bodies (1 of whom said 6 linked organisations supported their response) said that they did not support the proposals for fixed electronic communications equipment. Another professional body had a general concern with regard to potential harm to the historic environment if deregulation occurs without adequate safeguards for it. In addition, in the context of some of the individual proposals they argued for exclusion of, more protection for, historic assets (especially World Heritage Sites) and archaeological remains. They also favoured the inclusion of World Heritage Sites within the definition of article 1(5) land in Wales as is already the case in England.

A Group was concerned over general issues over the access by communities to Broadband. An individual drew attention to a press article about an academic study highlighting the energy consumption of mobile phone networks.

8.2 Point of clarification

The implementing development order is based on the specific proposals which were the subject of the consultation paper. Central to them are:

- i) facilitating the installation of the infrastructure apparatus associated with fixed-line Broadband on article 1(5) land in Wales under the (time-limited) Next Generation Broadband for Wales project ;and
- ii) facilitating the infrastructure needed to meet the Mobile Broadband coverage obligation (to be met by the end of 2017), the specific (time –limited) Mobile Infrastructure Project and the wider provision of Fourth Generation (4G) mobile phone services.

ANNEX

List of respondents to consultation paper

A response on behalf of a Group
An individual response
Arqiva Ltd
Brecon Beacons National Park Authority
Bridgend County Borough Council
British Telecommunications plc
Caerphilly County Borough Council
Ceredigion County Council
Denbighshire County Council
Flintshire County Council
Institute for Archaeologists
Institution of Civil Engineers Wales Cymru
Mobile Operators Association
Mono Consultants Ltd
Natural Resources Wales
Neath Port Talbot County Borough Council
Pembrokeshire Coast National Park Authority
Rhondda Cynon Taf County Borough Council
Snowdonia National Park Authority
Spectrum Internet Ltd
The Campaign for National Parks (Cymru)
Three UK
Vodafone UK
Wales Environment Link