Reforming planning rules to accelerate the deployment of digital infrastructure

The Association of Directors of Environment, Economy, Planning and Transport (ADEPT) Digital Connectivity Working Group Response

About ADEPT

The Association of Directors of Environment, Economy, Planning & Transport (ADEPT) is the voice of local authority place directors and their teams. Our members manage vital local services - from highways, waste, recycling and planning - while also preparing for the challenges and opportunities of the future.

ADEPT is a membership based, voluntary organisation with members across England. We bring together directors from county, unitary, metropolitan and combined authorities, along with sub-national transport bodies and corporate partners. Collectively, our members provide services for more than 42 million people, manage 164,000 miles of road and handle around 65% of all recycled waste in England.

ADEPT members develop long term strategies, investment and infrastructure needed to make their places resilient, sustainable, inclusive and prosperous. They drive clean, sustainable growth, delivering the programmes that are fundamental to creating more resilient communities, economies and infrastructure. These services include housing, environmental and regulatory services, planning, economic development, culture and highways and transport. Find out more at: www.adeptnet.org.uk

About the ADEPT Digital Connectivity Working Group

The Digital Connectivity Working Group was established in 2018 to bring together digital infrastructure leads to help facilitate the delivery of improved broadband and mobile connectivity at the local level. The group has extensive collective delivery experience and would be happy to discuss further any aspects of the response below.

Call for Evidence Response

1. Temporary redeployment after a Notice-to-Quit (Question 1-4)

We agree that the current limit of 18 months for the emergency period to temporarily deploy infrastructure without planning permission, following a Notice-to-Quit, can be problematic and creates unnecessary risks. Sudden loss of mobile coverage can have a negative impact on local businesses and communities – especially in areas where there may be poor fixed broadband connections – so it is important that there are safeguards to ensure continuity of service and telecoms resilience (in light of the national PSTN migration).

We are aware that operators can sometimes experience difficulties or delays in identifying and acquiring suitable alternative replacement sites so we believe that extending the current time limit of 18 months is reasonable and provides additional contingency. It will also help ensure that consultation and engagement work is carried out in an appropriate way.

2. **Larger rooftop infrastructure on protected land (question 5-8)**

We understand the rationale to increase the rooftop antenna limit on protected land as siting with existing equipment should create less visual and physical impact than installing additional monopoles, masts etc to deliver the same connectivity upgrades. However, we are concerned about local planning authorities losing control over visual considerations e.g. colour of equipment, that could help mitigate the impact, especially in protected landscapes and conservation areas.

Whilst we are supportive of the proposal to increase the number of antenna from 3 to 6 without requiring a full planning application, we believe prior approval should still be required to ensure that planning authorities are able to ensure that reasonable mitigations are taken regarding visual impact. We would also ask that clear planning guidance is put in place to support local planning teams regarding this.

3. **Ground-based monopoles in non-designated land (questions 9-12)**

The previous changes to permitted development rights, allowing mobile infrastructure monopoles has often been seen by local communities as very contentious. Furthermore, the need for standalone 5G and the need for further infrastructure to improve coverage and capacity remain poorly understood by many local residents – as is the need for the height of many mobile phone masts/monopoles.

In light of these experiences, if steps are taken to further extend permitted development rights for ground-based monopoles, it will be important that:

- The Government publishes clear, independent and easy to understand information that explains the need to upgrade capacity and extend mobile infrastructure that concerned parties can be referred to and can be used to proactively educate.
- Mobile Network operators improve their engagement with the digital infrastructure teams in county councils, unitary and combined authorities to help facilitate and broker understanding to reduce avoidable opposition and issues.
- That the updated ‘Code of Practice for Wireless Network Development’ has real teeth and that failure to adhere to siting, design, consultation requirements etc carries serious implications and problems with non-compliant development can be quickly remedied – particularly when it involves issues around unnecessary visual impact.

4. **Small cell systems and restrictions on size (questions 13-15)**

Many local authorities are seeing an increase in requests to enter into legal access agreements to reutilise street lighting assets for small cell and LoRaWAN deployments.

Local authorities should be supported to take a proportionate, balanced approach to small cell deployment that enables essential digital connectivity while protecting the character of the public realm. Equipment size should be justified by clear operational need, with flexibility where this supports multi-operator use and shared infrastructure. Planning authorities should retain discretion to direct operators toward existing assets where available and to require high-quality design and visual mitigation, particularly in sensitive locations, to minimise unnecessary visual and physical impact. In addition:

- Local authorities should be able to balance the need for improved digital connectivity with the requirement to protect the visual character and amenity of the public realm, particularly where installations could impact the street scene.
- Restrictions on the size and weight of small cell equipment have practical implications for deployment, as larger or heavier equipment may not be compatible with existing local authority–owned infrastructure. Street lighting columns for example, have a maximum load (which will vary according to the nature and age of the column) which cannot be exceeded for public safety. Where existing assets cannot be used, the need for new infrastructure can increase costs and reduce deployment viability.
- Small cell equipment dimensions should be proportionate to operational requirements. Equipment size should be justified by clear functional need rather than being driven by unnecessary housings or cosmetic casings that add bulk without delivering meaningful public benefit.
- There is value in policy or guidance explicitly permitting equipment of a certain size where this supports multi-operator use. Such an approach can enable shared infrastructure, shared costs and reduced overall street-level impact, while providing greater certainty for both operators and planning authorities.
- A proportionate framework could link allowable equipment size to the number of operators supported, ensuring that larger installations are only deployed where they deliver demonstrable operational benefits, such as increased capacity or multi-operator capability.
- Planning authorities should retain discretion to refuse new installations where suitable existing infrastructure is already available, allowing authorities to

guide operators toward more efficient use of existing assets and minimise unnecessary visual and physical impacts.

- Public concern about visual impact can be mitigated through good design, camouflage and the use of sympathetic coverings or shrouds. Making appropriate design and visual mitigation a condition of deployment would support the delivery of essential connectivity while maintaining public confidence and protecting the character of sensitive environments.
- The Wireless Code of Practice should be extended to cover small cells and LoRaWAN deployments in more detail to address the above concerns.

5. Review of Part 16 of Schedule 2 to the GPDO to clarify and simplify the rules (questions 16-19)

There is a need for greater clarity on how Local Authorities can apply Part 12 (Town and Country Planning (General Permitted Development) (England) Order 2015) permitted development rights in tandem with telecommunications suppliers applying Part 16 (Code Operator) rights to accelerate commercial investment in mobile services hosted on public sector-owned assets.

West Sussex County Council recently delivered a DSIT funded BEACH project, part of the Future Fibre Networks programme. 15 multi-purpose street columns were connected to fibre and power to support public services in Worthing town centre, including improved 4G and future 5G public network services. The project highlighted that the current Planning system mandated by the Town and Country Planning (General Permitted Development) (England) Order 2015 lacks clarity on how Local Authorities can apply permitted development rights to support accelerated coverage, despite central government insisting that councils have a central role in enabling and using policy levers proactively to encourage commercial investment.

The current GPDO potentially provided a permitted development route under Part 12 or a prior notification procedure under Part 16. The latter route could have involved 15 different applications by the operator taking up considerable administrative resources which was seen as unnecessary, given that there was an alternative route available that did not require such applications.

The process by which the two authorities agreed to make use of Part 12 permitted development rights to install the multi-purpose columns and enable the hosting of digital telecommunications infrastructure was complex and time consuming. The Local Authorities notified the Planning Authority of the intention to use permitted development rights to site multi-purpose columns in order for the operator to deploy telecoms infrastructure on each as permitted development using code operator rights. It would have been substantially easier and more cost effective if the wording of the relevant section of the GDPO (Part 12 Permitted Development rights) was clear in enabling Local Authorities to use it to support telecoms investment. It would also help the action of the Local Authorities to be better understood by the public.

Without that clarity, authorities are only able to point to government policies supporting digital expansion in communities.

As a result, we would like to see greater clarity within the regulations outlining that 'multi-purpose street columns or furniture capable of hosting digital infrastructure' is permitted development under Part 12 providing a relevant public service as a lawful means of development. Please note that the regulations currently give examples of permitted development as 'horse troughs' and 'telephone boxes' as 'structures or works required in connection with the operation of any public service administered by them' when both are now examples of obsolete infrastructure within our street scenes.

6. **Fibre exchanges (questions 20-23)**

The decision to enable broadband street cabinets to fall under permitted development rights in 2013 made a significant difference to the delivery of the national superfast programme as thousands of cabinets were required, across the country, to achieve the national targets.

However, despite these benefits, there were many examples where operators had installed cabinets in highly inappropriate locations (e.g. in front of war memorials, next to blue heritage plaques, immediately in front of resident's windows etc).

We are aware that fibre exchange structures can be significantly larger in size and footprint and that fewer are required. To date, where we have seen delays in obtaining planning permissions, the planning applications have often been vague and lacking a clear explanation of the strategic purpose of the fibre exchange and what it enables. We are also aware that the timeframes for building fibre exchanges are more frequently held up by delays regarding site acquisition and the associated legal agreements that are required.

Should the Government decide to extend permitted development rights to these structures, we would ask for a dedicated Code of Practice to be developed to provide clear safeguards (particularly around the size, footprint, noise and design).

Updating the Wireless Code of Practice (questions 24-27)

Code of practice for wireless network development in England - GOV.UK

We welcome the proposal to update the Wireless Code of Practice as this remains a useful document in setting out expected standards and respective responsibilities. Many councils continue to receive complaints about wireless infrastructure deployments and the Wireless Code of Practice has proven to be a useful document in helping to manage these concerns.

Whilst we believe that the format and scope works well, it would be strengthened by including the following:

- Page 6 – we would welcome an explicit reference regarding the importance of consulting digital infrastructure teams within strategic & upper tier authorities. Currently, there is insufficient engagement with these teams who can support and help facilitate specific proposals – but only where these are known about.

- Section 28: Design – mitigating the visual impacts of mast infrastructure is very important for neighbouring communities. We are concerned that there are many examples of monopoles, deployed by different operators on the same site/locality which have been painted different colours e.g. one dark green, one bare metal/pale colour etc (see figure 1 below). Such deployments are not sympathetic to their surroundings and such inconsistency creates unnecessary visual impact. Masts should be coloured to match their backdrop to minimise contrast in an urban or rural setting, including a consistency of approach across operators.

Figure 1: Example of mobile monopole deployments at Chilham. Chilham is within the Kent Downs National Landscape area.

- School Playing Fields – given the legislative constraints in place to protect school playing fields and the former Secretary of State for Education decision not to support the disposal of school playing land for a replacement mast in Westgate-on-Sea, we would ask that the updated code reminds operators to avoid such locations and highlights the associated legislation protecting these sites.

- Mobile infrastructure located immediately adjacent to school sites tend to attract considerably more opposition than most other locations. Kent County Council has received multiple complaints where operators have decided to carry out the required two week consultation with schools during the Christmas holiday period. This is unacceptable and we would request that the updated Code prohibits this practice and requires a consultation of at least two weeks during term times.
- We would also ask that the Code of Practice is extended to include small cells and LoRaWAN deployments (see sections 4 and 5 above) as there is a need for best practice to be adhered to minimise the visual impact of these deployments.

We agree that it would be beneficial for the Government to convene a working group to review this guidance and would ask that it includes representation from the ADEPT Digital Connectivity Working Group.

New build connectivity – mobile (questions 28-30)

We agree that it is vital that developers consider mobile coverage and digital connectivity from the outset for proposed new developments. Not only does failure to plan frequently create issues for new residents and business occupants, but the additional demand can also significantly degrade and reduce mobile coverage for the wider locality. This is unacceptable.

We believe that there are lessons to be learned from the previous measures that were introduced to ensure that broadband connections were installed into new housing schemes. Until the recent changes to building regulations were introduced, thousands of homes were built, under the ‘voluntary arrangements’ between developers and telecoms providers without FTTC or FTTP broadband connectivity. This was despite many telecoms providers having dedicated new sites teams and free connectivity offers for developers. Furthermore, many local authority broadband teams made considerable effort to supply telecoms providers with details of new housing schemes and broker conversations with developers. Yet despite all of these measures being in place, local authorities would routinely find new housing developments being completed without the necessary FTTC or FTTP connections

To prevent new development not having the necessary mobile connectivity, or further degrading existing connectivity, we believe that there should be a mandatory requirement for developers to consider the impact of new development on local mobile connectivity – and to consult with mobile network operators as part of the planning process. In our experience, unless this is mandatory, it simply won’t happen.

This would require mobile network operators to ensure that they have dedicated resource and capacity to engage with local authorities and developers – and have dedicated contacts who are responsive and able to supply the necessary

information. However, given that fixed broadband providers have, for many years, had new sites teams, we do not believe that this is an unreasonable ask.

New housing schemes and developments should also provide an opportunity to upgrade mobile coverage in areas where the existing coverage or capacity is poor. Yet, unfortunately, this appears to rarely be the case. For example, Shropshire Council has highlighted the example of a new 1000 home development at the former Iron Bridge Power Station on the edge of Telford. Despite repeatedly flagging the poor connectivity issues that exist in the area, no additional mobile provision is being made.

Rail connectivity (questions 31-33)

We are not aware of any specific examples of where planning legislation or guidance has been a barrier to deployment of digital infrastructure along the rail network. However, we are aware that this remains an area of considerable frustration, particularly given that performance of many train wi-fi services remains poor. We would urge DSIT to continue to pursue solutions regarding this issue.