

EXECUTIVE NOTE

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2007 SSI/2007/209

The above instrument is made in exercise of powers conferred by Sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to a negative resolution procedure.

Policy Objectives

Introduction

The purpose of this instrument is to revise provisions within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO), which control the number, size and siting of antennas that can be installed on a property without planning permission. The principal aim of the instrument is to facilitate access to digital and broadband services, whilst safeguarding visual amenity.

Background

The UK Government is committed to switching off analogue terrestrial transmissions by 2012, commencing in Scotland by 2008. However, some households may never be able to receive terrestrial digital services (by aerial or cable) of acceptable quality and will have to rely on satellite broadcasts. Similarly, the demand for broadband services for business, consumer and public services applications will require antenna-based services to ensure wide access in all regions. Government policy is that people should have a choice, as far as possible, as to the manner in which they receive digital or broadband services – or to put it another way, the type of technological platform used – cable, radio communications etc.

At present, the number, size and siting of antennas that can be installed on a property without applying for planning permission is controlled under the GPDO. Since the current provisions were last revised, a wide range of equipment has become available, which does not fall within these existing permitted development rights, including the multiple antennas that can be required for digital and broadband services in some areas. To facilitate take-up of the new technology, it is, therefore, important that the planning system reviews current permitted development rights in relation to antennas and ensures that an appropriate level of control is in place. In so doing, planning should not create unnecessary barriers to the take up of new services, especially where some people, particularly in rural areas, will be left without access to digital television and / or broadband unless they apply for, and receive, planning permission.

Planning is a devolved matter, whilst telecommunication policy is reserved. The following amendments relate only to planning policy. There are already established arrangements at UK level and within the Executive for promoting increased uptake of digital and broadband services. These amendments will facilitate additional access to services and choice of technology, but are not intended, in themselves, to promote take-up of any specific technology (eg. antenna or cable).

Policy Objectives

The Instrument amends the GPDO with regard to permitted development rights in relation to the installation of antennas on dwelling houses (Part 1, Class 6) and other buildings (Part 21, Class 68) as follows:

- Introduces the term ‘microwave antenna’, which refers to both microwave and satellite antennas. By extending permitted development rights to microwave antennas, the instrument ensures that all antennas are treated the same way, irrespective of what is being transmitted, e.g. satellite / digital television services or wireless broadband services.
- Redundant equipment should be removed from a building as soon as is reasonably practical.
- To provide for antennas that have a more pronounced three-dimensional profile than, for example, satellite dishes, antenna should be defined by cubic capacity as well as length. The maximum permitted cubic capacity should be 35 litres.
- In the interests of streamlining provisions relating to designated areas, the Instrument removes certain categories from the list of designated areas included within Class 68, which relate primarily to the natural, rather than the built environment. In the interests of consistency, the Instrument also substitutes the list of designated areas included within Class 6 (dwelling houses) with the revised list from Class 68 (other buildings).
- Provides that an antenna installed on the front of a building in a designated area would require planning permission if it is both fronting (situated on a wall which is facing a road) **and** can be seen from the road it faces. This is a slight relaxation of current provisions within Class 6, which prohibit the installation of an antenna on any part of a dwelling house which faces on to a road in a designated area. Allowing sufficient flexibility for antennas to be either fronting or non-fronting is important as all antennas in Scotland must face south in order to have line of sight to a satellite.

The Instrument also slightly increases current permitted development rights in relation to the specific number, size and siting of antennas that can be installed on dwelling houses and other buildings. These amendments are detailed in **Annex A**.

Consultation

The consultation paper, *Satellite Dishes and Other Antennas*, was issued in April 2004. Fifty-three responses were received from community councils, government departments, heritage bodies, industry, planning authorities and others. A consultation report, summarising the comments received during the consultation will be published shortly. A copy of the Executive Summary of this Report is attached at **Annex B**. A seminar was also held in September 2006 for relevant stakeholders, including representatives from industry and planning authorities, to ensure the proposed amendments are up-to-date and technically relevant. Comments received from the consultation and seminar have informed the preparation of the final statutory instrument.

Financial Implications

A regulatory Impact Assessment is attached at **Annex C**. A draft partial Regulatory Impact Assessment, was included as part of the consultation. It concluded that the various options consulted upon were essentially deregulatory, with a progressive reduction in costs for users as the number of antennas permitted before planning permission is required is increased. The application of the extended list of designated areas in Class 68 (other buildings) to Class 6 (dwelling houses) is contrary to the general deregulatory aim of the recommendations. However, we consider that this is justified in ensuring consistency with Class 68.

Scottish Executive Development Department
March 2007

ANNEX A

EXECUTIVE NOTE

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2007

Amendments on the number and size of antennas permitted under the GPDO

	Current provisions	New provisions
<p>Dwelling Houses</p> <p><i>Number</i></p> <p><i>Size</i></p>	<p>1 satellite antenna</p> <p>90cm</p>	<p>2 antennas maximum (fronting and non-fronting (these terms are not specifically used in the Order))</p> <p>1 antenna: up to 100cm and 35 litres cubic capacity. Other antennas: up to 60cm and 35 litres cubic capacity. Chimney-mounted antenna: up to 60cm and 35 litres cubic capacity.</p>
<p>Dwelling Houses in Designated Areas</p> <p><i>Number</i></p> <p><i>Size</i></p>	<p>1 satellite antenna (non-fronting)</p> <p>90cm maximum</p>	<p>0 fronting antenna 2 non-fronting antennas</p> <p>1 antenna: up to 100cm and 35 litres cubic capacity. Other antennas: up to 60cm and 35 litres cubic capacity. Chimney-mounted antenna: up to 60cm and 35 litres cubic capacity.</p>
<p>Other buildings outwith designated areas</p> <p><i>Number</i></p> <p><i>Size</i></p>	<p>2 satellite antennas</p> <p>130 cm maximum per satellite antenna</p>	<p>2 fronting antennas 4 antennas maximum</p> <p>2 antennas: up to 130cm and 35 litres cc. Other antennas: up to 60cm and 35 litres cc. Chimney-mounted antennas: up to 60cm and 35 litres cc.</p>

<p>Other buildings in designated areas</p> <p><i>Number</i></p> <p><i>Size</i></p>	<p>None permitted</p>	<p>0 fronting antenna 2 non-fronting antennas</p> <p>1 antenna: up to 100cm and 35 litres cc. Other antennas: up to 60cm and 35 litres cc. Chimney-mounted antennas: up to 60cm and 35 litres cc.</p>

Siting restrictions

The Instrument modifies provisions relating to the siting of antennas to comply with airport safeguarding requirements, including introducing conditions for other buildings over and under 15 metres for Class 68 only.

To further protect the environment, for dwelling houses and all other buildings in designated areas, an antenna is not permitted on a chimney, roof slope or wall where it is both fronting **and** visible from the road it faces.

Scottish Executive Development Department
March 2007

ANNEX B

EXECUTIVE SUMMARY OF CONSULTATION REPORT

1 The consultation on ‘Satellite Dishes and Other Antennas’ was initiated by the Scottish Executive in a letter dated 8 April 2004. The letter sought a response to the consultation document by Friday 9 July 2004.

2 The document attracted replies from 53 respondents. These were from community councils (4), government departments/agencies (4), heritage bodies (3), industry (10), local authorities (21), private individuals (6) and others (5). Twenty-two of these responses were received on the standard pro-forma issued with the consultation paper.

3 The vast majority of respondents agreed that the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO) requires to be updated so that the provisions are flexible enough to cope with future technological developments. There was, however, a wide range of opinion as to the extent of re-drafting that should be permitted to achieve the take-up of technological advances being encouraged by the government.

4 Some 93% agreed that all antennae should be treated in the same manner irrespective of what was being transmitted and the majority agreed that the existing two conditions, with respect to minimising visual impact and removing redundant equipment, should be retained. Of the remainder, some felt that all equipment should be treated as ‘de minimis’ whilst others expressed concern regarding the visual effect that satellite dishes have on buildings, particularly flatted properties.

5 There was general agreement that, owing to Scotland’s topography and population distribution, larger antennae may be required for technological reasons.

6 A range of opinions was expressed concerning the options for change with local authorities, heritage groups and private individuals preferring less relaxation compared with what was suggested by the industry.

7 There was a high proportion of agreement that tougher restrictions were appropriate for properties within designated areas, although there were differing opinions as to whether the number of designated areas should be increased or decreased.

8 Some responses suggested that there should be a distinction between permitted development rights for purpose built flats and commercial properties and it was also advocated that the use of Integrated Reception Systems (IRS) should become mandatory.

9 The analysis shows that there is broad support for changes to the GPDO with respect to the Provision of Satellite Dishes and Other Antennae, although clearly a balance has to be achieved in satisfying the freedoms of individual householders and safeguarding amenity.

ANNEX C

FINAL

Regulatory Impact Assessment

Title of proposed measure: Amendment to the Town & Country Planning (General Permitted Development) (Scotland) Order 1992

Purpose and intended effect:

To reform the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GPDO) as it pertains to the permitted number, size, and location of satellite dishes and other antennae on dwelling houses and other buildings (Classes 6 and 68 of the GPDO respectively). The principal intention is to balance the need for increasing permitted development in relation to antennae, whilst minimising their environmental impact. The amendments also remove the distinctions that currently exist within the GPDO between types of antennae, including satellite dishes and mesh antennae.

Background: The Scottish Planning system is concerned with regulating the use of land in the public interest. The GPDO is intended to be a deregulatory mechanism that works by lessening the regulatory requirements of the planning system. It allows relatively uncontentious development to be undertaken without the requirement for planning permission. Such deregulatory mechanisms allow planning system resources to be deployed more efficiently.

From time to time, it is important to review those permitted development rights to ensure they remain up to date and relevant. The current GPDO provisions relating to satellite dishes were introduced in 1992, with amendments made in 1998 (SI1998/1226) and 2001 (SSI2001/266). However, significant technological advances have been made since that time, particularly in the development of broadband delivery. There is now a wide range of equipment used to deliver satellite and broadband services, much of which does not fall within the existing permitted development rights for satellite dishes. It is necessary, therefore, to review whether the existing provisions are still appropriate and also whether permitted development rights should be applied to additional types of equipment.

Most conventional TV aerials have not generally been regarded as being development, either because they were not considered to have a material effect on the appearance of a building, or because they were treated by the courts as *de minimis*. In consequence, TV aerials have not been subject to the GPDO and will not, therefore, be affected by any changes to it.

In setting the limits for permitted development, it is necessary to strike a balance between freedom to allow people to develop property and safeguarding amenity, especially in sensitive areas such as Conservation Areas, the National Parks and National Scenic Areas. Scotland is renowned for its outstanding natural heritage and it is important that this principle continues to be applied irrespective of the type of equipment to be installed.

In taking forward this review and considering any possible changes to the provisions, it also makes sense to take into account existing policies on digital TV and broadband and to look at the issues that surround the rollout of these systems.

This full Regulatory Impact Assessment follows wide public consultation from 8 April 2004 to 9 July 2004 and a seminar with relevant stakeholders on 21 September 2006.

Rationale for government intervention

Television and Digital Switchover

Television is watched by the vast majority of the UK population. The number of digital television viewers continues to grow strong with over 70.2% of households having switched from analogue services. Demand is expected to remain strong, particularly as the UK Government's proposals for the switch-over to digital TV (analogue switch-off) becomes more widely known.

Analogue 'switch-off' (2008-2012)

The UK Government is committed to switching off analogue terrestrial transmissions. This will free up significant radio spectrum for new services. However, some households may never be able to receive terrestrial digital services (by aerial or cable) of acceptable quality, and will have to rely on satellite broadcasts to receive the public services (BBC, ITV1, Channel 4, Five, Teletext). Alternative technologies have emerged (eg. wireless, satellite and power line) which may help prevent the creation of a new 'digital divide' so everyone may access these services, which offer economic and social benefits for the UK.

However, antennae can be an emotive issue. The subject of how such services are transmitted to the home often polarises opinion between those who advocate unrestricted use of antennae and those who would prefer such equipment to be completely hidden from view.

For many reasons, adopting the 'no change' option is unsatisfactory. Such a solution maintains a differentiation between antennae types, which is unnecessarily restrictive and difficult to defend, given the UK Government's commitment, reflected in the Communications Act 2003 (see below), to having equivalent treatment for different modes of television reception. In addition, doing nothing restricts choice resulting in an artificial constraint on digital TV and broadband take-up, particularly in households with multiple equipment, as those users who require antennae to access services could be dissuaded from obtaining them by the requirement for, and expense of, planning permission.

Communications Act 2003

The Communications Act 2003 reforms the regulatory framework for the industry with the intention of bringing about greater flexibility to the market.

The main points of the Act are:

- The transfer of functions from the five former regulators to a single new communications regulator, OFCOM (Office of Communications), allowing for all regulatory decisions affecting the communications sector to be made within a single, over-arching strategic body;
- Removal of the requirement for licensing of telecommunications systems; removing about 400 licenses and replacing them with a new regulatory regime for electronic communications networks, services and associated facilities – in line with EC Directives.;
- Removal of the requirement for licensing of telecommunications systems and the introduction of a new regulatory regime for electronic communications networks, electronic communications services and associated facilities;
- Provision to allow spectrum trading which will lead to better use of the available radio spectrum; and
- A new, more coherent, structure for broadcasting regulation that is specifically geared to dealing with the digital age, making more use of self-regulation where appropriate.

Broadband

There will be an increasing demand for a multitude of electronic communications services for business, consumer and public service applications that cannot be delivered universally across the UK by traditional means (i.e. telephone lines or TV aerials). Whilst large businesses could afford to invest in fibre optic technology to overcome this, small businesses and domestic consumers cannot. Immediate and medium term pressures exist that require Scottish Ministers to review planning regulations for satellite and other antennae:

- **Immediate, Broadband** - The demand for broadband access across the UK is accelerating (currently 150,000 connections per month) and for technical and economic reasons this demand cannot be satisfied solely by using ADSL (Advanced Digital Subscriber Line) technology (via telephone exchanges) or cable TV;
- **Medium-term, Broadband** – the increasing demand for higher speed services will reduce the catchment areas that may be served over ADSL. As the broadband speed increases, it significantly shortens the distance from a telephone exchange that a subscriber may be served acceptably.

UK Government Target

The UK Government had a target for the UK to have the most extensive and competitive broadband market within the G7 countries by 2005. The UK is currently third in terms of the former and joint third in terms of the latter measure.

Availability now covers 99.6% of the UK population. The vast majority of this is provided by ADSL connectivity, with some cable, satellite and wireless connectivity. To reach ubiquity, it is almost certain that wireless technologies, including satellite, will have to be used as it remains non-commercial for providers to reach the most remote parts of the UK without such technologies.

Adoption of broadband has reached in excess of 10 million broadband connections across the UK.

What the Scottish Executive is doing to achieve its target for broadband?

- **Broadband Aggregation Project**

The Scottish Executive is providing funding of £90M over 7 years for two major broadband aggregation projects, one in the Highlands and Islands and the other in the South of Scotland. This will connect over 1,200 sites across these two regions, including every school, library and council site, allowing full rollout of the new GLOW schools intranet across the region and enabling the partner councils to increase the range and scope of services delivered electronically. These projects are amongst the largest of their kind in Europe and it is hoped that they will bring wider benefits to communities in some of the remotest areas of the UK.

- **Broadband and rural areas**

The Executive has invested significantly in improving access to broadband across Scotland, helping to increase broadband availability from 43% of the population in 2002 (at that time 20% behind the rest of the UK) to 99.6% today. This programme included a specific initiative entitled, 'Broadband for Scotland's Remote and Rural Areas', which resulted in the enablement of 378 of the UK's c 600 non-commercial exchanges to receive broadband services. This was by far the largest project of its kind in the UK, helping to achieve the goal of enabling every community across the country to have access to such services.

- **Addressing the New Digital Divide**

The Executive's Digital Inclusion Strategy was established to address potential issues about a 'digital divide' due to socio-economic and / or geographic factors. The Strategy has assisted access to the internet through public locations, including libraries. The Strategy is currently being reviewed.

- **Broadband availability**

In December 2002, the Scottish Executive announced investment of £24M to increase broadband availability from 43% of households to 70% by March 2004. This was achieved through a range of projects under the Broadband Access Programme. The programme encouraged private sector providers, notably BT, to accelerate their rollout plans. The Executive also invested

directly, alongside European Regional development Funds, in uneconomical exchanges in remote and rural areas, helping to establish the very high levels of access now available. Work is being undertaken to examine the options available to further increase access.

Consultation

Within government: In preparing the above amending Order the following government departments and agencies were consulted: professional planners, colleagues within broadband and digital roll-out, Environment and Rural Affairs Department, Historic Scotland and Scottish Natural Heritage.

Public consultation: The consultation paper, *Satellite Dishes and Other Antennae*, was issued on 8 April 2004. We received 53 responses from community councils, government departments / agencies, heritage bodies, industry, local authorities, and the public.

The vast majority of respondents agreed that the GPDO requires to be updated so that the provisions are flexible enough to cope with future technological developments. A range of opinions was expressed concerning the options for change with local authorities, heritage groups and private individuals preferring less relaxation compared with what was suggested by the industry.

There was a high proportion of agreement that additional restrictions were appropriate for properties within designated areas, although there were differing opinions as to whether the number of designated areas should be increased or decreased.

The consultation responses demonstrate that there is broad support for changes to the GPDO with respect to the provision of satellite dishes and other antennae, although it was considered that a balance has to be achieved in satisfying the freedoms of individual householders and safeguarding amenity.

A seminar was also held for relevant stakeholders, including representatives from industry and local government, to ensure the proposed amendments reflected up-to-date technological and policy considerations. Comments received from the consultation and seminar have informed the preparation of the final statutory instrument.

Consultation Document – Options

The consultation paper, *Satellite dishes and Other Antennas*, issued on 8 April 2004, set out a range of options for changes to the GPDO provisions. The consultation paper did not advocate a preferred choice since we wanted to encourage comments on the options available. Our decision would then be based on genuine views of those options, rather than comments on a declared government preference.

Each of the options set out in the consultation paper is considered below. In all cases, special conditions would apply to designated areas.

Additional Option – Airport Safeguarding

In addition to the following options, due to concerns raised about aviation safeguarding during a similar consultation in England, we have modified our proposals to take account of this issue (subsequently referred to in Option 2A, below) and have taken on board changes agreed as a result of the safeguarding concerns raised by the Ministry of Defence (MoD) and the Civil Aviation Authority (CAA).

Option 1: Retention of the existing GPDO.

This option maintains the status quo. This would mean that those residing in dwelling houses, who wish to access both digital TV and broadband via dishes would need planning permission for the second dish. In addition, the existing GPDO specifies certain limits on the size of satellite dishes, measured across the width of the dish. Other antennae, including future technological innovations, not conforming to this method of measurement, would conceivably not be considered as permitted development and might result in householders having to make planning applications for non-contentious installations.

Option 2 – moderate deregulation:

This option is a moderate deregulatory change. It is intended to offer a balance between increased access to satellite and other telecommunication services, whilst maintaining a high level of protection for the environment. It offers technological neutrality, in that it treats all antennae (except conventional TV aerials) the same way within the GPDO, irrespective of what is being transmitted. The number of permitted antennae on dwelling houses and other buildings outwith designated areas is increased to a maximum of 3 and 4 respectively, with additional siting requirements in relation to fronting and non-fronting antennae. Dwelling houses and other buildings in designated areas are allowed 3 and 2 non-fronting antennae respectively. There are additional restrictions on the size and siting of antennae, particularly in designated areas.

Option 3 – increased deregulation:

This option maintains the flexibility offered by Option 2 as to the type of antennae permitted and offers an increased level of deregulation. The number of permitted antennae on dwelling houses and other buildings outwith designated areas is increased to a maximum of 4 and 6 respectively. Fronting and non-fronting antennae are permitted on both dwelling houses and other buildings in designated areas. However, some restrictions on the size and siting of antennae are retained in order to protect the environment.

Option 4 – further deregulation:

This option increases the deregulation still further. The number of permitted antennae on dwelling houses outwith designated areas is increased to 3 fronting and unlimited non-fronting, whilst other buildings can have up to 8 antennae. Under this option, dwelling houses and other buildings in designated areas can have a

maximum of 4 and 5 antennae respectively made up of fronting, non-fronting and roof-mounted antennae. Some of the restrictions on size and siting are also relaxed. This option is highly flexible in terms of facilitating increased access to TV and broadband services; although some restrictions are retained to protect visual amenity.

Option 5 – maximum deregulation:

This option offers the maximum level of access to satellite and other telecommunication services, with virtually no restrictions as to the numbers or size of the antennae or their siting on the property, but does so at the likely cost of greater visual and environmental impact. Designated areas are subject to a low level of regulation.

Option 2A – moderate deregulation

This option is a modified option 2 which takes into account aviation safeguarding issues, and has met with MoD and CAA approval. Like option 2, it is a modified deregulatory change, which offers technological neutrality. It is also fundamentally similar in terms of the numbers and sizes of antennae permitted. However, as a result of safeguarding concerns, there is a slight increase in siting restrictions, as compared with option 2, although still more relaxed than the current regulations (option 1).

These changes will mean that some householders will require planning permission before installing an antenna if their properties are all of the following:

- Do not have a chimney protruding above the roofline;
- Require fronting antennae; and
- Are in a designated area.

Consultation Document options – costs:

Option 1:

Under this option, dwelling houses are limited to a single satellite dish and the use of other antennae is restricted. This policy does not, therefore, facilitate access to TV, voice, and data transmission services; the consumer would be required to choose one of these services. Designated areas are further restricted as antennae should not be 'fronting' a road.

The restrictions governing other antennae types may inhibit the take-up of non-dish technology, leaving only satellite dishes, which would be limited in number to 2 and zero for other buildings in non-designated and designated areas respectively.

Businesses requiring additional dishes or other antennae not currently permitted would have to obtain planning permission. Local authorities, particularly those in designated areas, could be subject to significant increases in the numbers of

planning permission applications for antennae as the need or desire for access to digital, broadband or other services increases.

Option 2

This option is a moderate deregulatory change and achieves technological neutrality. It offers a slight relaxation in the regulations on siting and an increase in the number of permitted antennae on dwelling houses and other buildings in non-designated areas from 1 to 3 and from 2 to 4 respectively. However, the prohibition on fronting antennae for designated areas would remain. Householders in these areas would therefore need to obtain planning permission before installing a fronting antenna, or pay for the likely increased costs of a roof-mounted antenna, thus potentially inhibiting access in such areas. Furthermore, allowing dishes to protrude above the roofline would mean that, in certain circumstances, it would not be appropriate within safeguarded areas.

Option 2A

This option is very close to option 2 in its level of deregulation. It achieves technological neutrality and offers a slight relaxation in the regulations on siting over the current permitted development rights. Like option 2, this option also provides an increase in the maximum number of permitted antennae for dwelling houses in non-designated areas from 1 to 3, while the prohibition on fronting antennae for designated areas is maintained. Householders in these areas who require a fronting antenna would need planning permission, or pay the likely greater costs for a roof-mounted antenna, thus potentially inhibiting access in such areas. However, in order to accommodate safeguarding concerns, antennae which protrude above the roof would only be permitted where there was a chimney stack present and where the antennae did not protrude above it. Householders whose premises do not have a chimney stack would require planning permission for a fronting or protruding antenna.

Option 3

This option offers an increased level of deregulation, allowing a maximum of 4 antennae for dwelling houses outwith designated areas and a single fronting antenna for those in designated areas. The technical advantages for ordinary dwelling houses under this option are limited, and although by permitting a single fronting antenna, dwellings in designated areas would benefit from enhanced access to services, this could have an adverse impact on the visual amenity of sensitive areas.

Option 4

This option increases the deregulation still further. It is highly flexible in terms of facilitating increased access to TV and broadband services and provides significant modifications to the numbers and size of antennae permitted. For designated areas, it allows 2 fronting antennae for both dwelling houses and other buildings, although the lack of protection for visual amenity means that the environment could suffer as a consequence.

As antennae deregulation increases, local authorities are likely to be subject to proportionately less antennae planning applications, but would have less opportunity to influence the siting or proliferation of antennae.

Option 5

This option offers the maximum level of access to satellite and other telecommunication services, with virtually no restrictions as to the numbers or size of antennae, or their siting on property. However, this open-ended option has the greatest potential for visual and environmental impact as an increasing number of antennae could be insensitively located on premises and could unnecessarily contribute to antennae proliferation

Other costs

Why ADSL from local exchanges cannot be the only solution

Broadband is defined as high-speed data communications in an 'always-on' mode and is available through a range of means: ADSL, cable, fixed wireless and satellite. Coverage via ADSL (adaptation of telephone exchange lines) currently stands at more than 90%, although there are technical limitations that mean that the last 1-2% of the population cannot be served by this technology. Coverage via cable stands at 45%, however, the economics of providing cable mean that broadband is unlikely to be provided to the remaining population by those means. Fixed wireless access presently covers only 13%, although BT, and others, are trialling alternative radio-based technologies to complement an ADSL based service to extend this coverage. Satellite-based services can offer 100% coverage.

Identification of benefits

Option 1:

Option 1 is the most restrictive option, offering the likelihood of the lowest impact of satellite dish/antenna development work on the environment.

Option 2:

This option is a moderate deregulatory change. It offers technological neutrality and enhanced flexibility as to the type of antennae permitted. It is intended to offer a balance between increased access to satellite and other services whilst maintaining a high level of protection for the environment, particularly in respect of Designated Areas.

Option 2A:

Like option 2, this option is a moderate deregulatory change, offering technological neutrality and enhanced flexibility as to the type of antennae permitted. It offers a balance between increased access to satellite and other services whilst maintaining

a high level of protection for the environment, particularly in respect of designated areas. Its principal benefit over option 2 is that it is compliant with safeguarding procedures.

Option 3:

This option offers an increased level of deregulation. It also offers technological neutrality, permits a greater number of antennae and offers increased flexibility as to their siting. This option allows a single fronting antenna for dwelling houses and other buildings in designated areas, thus ensuring a degree of access to services where an external antenna is required.

Option 4:

This option increases the deregulation still further. The number of antennae is increased again, and some of the restrictions on size and siting are further relaxed. This option is highly flexible in terms of facilitating increased access to TV and broadband services.

Option 5:

This option offers the maximum level of access to satellite and other telecommunication services, with virtually no restrictions as to the numbers or size of the antennae, or their siting on the property. Designated areas are subject to a low level of regulation.

The roll-out of digital and the switching off of the analogue signal is likely to increase significantly demand for access to the new technologies. All options for change (options 2-5) are likely to show a reduction (increasing incrementally) in the number of planning applications for the installation of dishes and other antennae, as those who require antennae for DTV or broadband access will not need planning permission to access these services. The advantages of not having the additional administrative burden of the planning permission application would be apparent to both consumers and local authorities. However, this advantage cannot be quantified as it is unknown whether those who would make use of permitted development rights to install antennae would still do so (and apply for planning permission) had those rights not existed.

Other Benefits

Why broadband is important to the UK

The UK Government's target is for the UK to have the most extensive and competitive broadband market in the G7 countries by 2005. This target was set to help deliver the following policy outcomes:

- Improved productivity amongst business and improved efficiency in the delivery of public services;

- Support regional regeneration, encourage inward investment and help SME's (small and medium enterprises) in rural areas to operate as effectively as if they were located in urban areas;
- Enable increasing scope for flexible working using teleworking practices – offering productivity benefits and flexibility for individuals;
- Teleworking may also contribute to reduced transport congestion especially at 'pinch points' in peak usage times;
- Offer access to educational content for schools, supports life-long learning and is an important component of a digitally inclusive society.

Evidence for broadband linkage with productivity

Broadband is a potentially process-changing technology, in that it enables companies, organisations and consumers to do things differently. It disrupts existing business models and industry value chains. This provides opportunities for cost reduction, streamlined processes and re-configured organisations. Broadband also reduces the importance of geography and creates export opportunities for businesses.

- There is a growing body of evidence that demonstrates the positive linkage between productivity improvements in business and public services and the adoption and usage of Information Communication Technology (ICT) including broadband. Broadband Stakeholder group Annual Report 2004 called for government to set a new target for next generation broadband to realise the economic and social benefits it offers.
- Between £12bn and £22bn improvement in GDP by 2015 with a 2.5% improvement in productivity over the same period associated with broadband adoptions and usage.

The economic impact of broadband, Douglas Williams, for the Broadband Industry group, November 2003.

- 46% of BCC members perceived productivity improvements and 45% cost reductions as a result of broadband.

British Chambers of Commerce Broadband survey 2003

- ICT investment accounted for 25% of total output growth between 1992 and 2000 and 47% of total labour productivity growth over the same period.

A London Economics survey commissioned by Cisco, building on work done by Nick Oulton at the bank of England

- Strong correlation between the investment in ICT generally with productivity improvements.

Net Impact Study – The projected Economic Benefits of the Internet in the United States, United Kingdom, France and German, Cisco Systems (January 2002).

- Township economic impact; 62 jobs created, 207 person years of employment, \$2.8m commercial expansion, \$25m increase in local GDP. Economic Impact Study of the South Dundas Township Fibre Network (Ontario Canada), strategic Networks Group, 27 June 2003

- New research on ICT Investments, workforce Skills and industrial Performance in the UK

Key findings and Policy Implications, Geoff Mason and Mary O'Mahony, National Institute of Economic and Social research, London, January 2004 report for the DTI economics series

- Teachers report improvements in pupil achievement, greater attention levels, confidence and self esteem

Cambridgeshire Schools Broadband project, November 2002 / January 2003. www.elhict.co.uk

In addition, recent research from an early report of broadband project from a South-West RDA (Regional Development Agency) partnership reveals the value of broadband take-up to businesses. (The survey was based on comparing over 250 broadband-enabled businesses with a similar number of comparative businesses without broadband.) All the results have yet to be processed, however, analysis of the 10.5% of results already surveyed can, via extrapolation, be used representatively. Some highlights from the statistics include:

Increases in turnover attributed to Broadband (survey findings)

- 36% of businesses (97 in number) stated that turnover had increased. (4% stated a decrease; the remainder identified no change.)
- Of these businesses, only 48 were able to give detailed financial information.
- Among the 48, turnover had increased by £22.2million
- Deducting the (three) very large businesses from this figure, the average increase among the remaining businesses was £104,000.
- Among the 48, the businesses attributed an average of 9.2% of their increase in turnover to Broadband.
- This equates to an average of £9,500 per business or to a total of £0.43 million for all of them.

Jobs created due to broadband (after extrapolation)

- The 9% of interviewed businesses who had increased staff since connecting to broadband equates to 247 businesses (from 2,500+ in the survey)
- The 60 employees taken on equates to 570 employees, after extrapolation
- Of the 247 businesses who had taken on more staff, approximately 19 businesses would attribute the increase entirely to broadband; approximately 85 would attribute the increase partially to broadband; the remainder would not attribute the increase to broadband.
- Of the 85 (approximated) who partially attributed their increase in staff to Broadband said that, on average, 30% of the increase could be attributed to Broadband.

- Thus of the 570 jobs created, 86 can be directly and solely attributed to Broadband.

It should be remembered that broadband is a relatively new technology that has only recently been deployed and so there are few firm statistics.

Small Firms impact test

The options do not affect small businesses unduly. The proposed measures are based on property type and location. However, in cases where there is a single building with a number of smaller businesses located in single units within it, there may be issues regarding access to antennae, particularly if the building is not equipped with an integrated reception system. (This allows a number of users to feed off a single antenna.)

Although Options 2-4 are all deregulatory, and restrictions are relaxed incrementally, they are all restrictive to some extent regarding the numbers of antennae permitted per building. In non-Integrated Reception Service (IRS) served buildings, the restrictions would prevent additional antennae being installed without planning permission. In some cases, but particularly options 1-3, this could have an adverse effect on take-up and availability of broadband services in those areas where DSL and Cable are not available, and wireless broadband is the only option.

The Federation of Small Businesses and Local Economic Forums, which include representatives from small businesses, were consulted but did not comment. Since the amendments are essentially deregulatory, there is no indication that there will be any significant or disproportionate impact for small businesses.

Competition Assessment

Supply and Demand:

It is difficult to accurately determine how the proposed change would affect supply and demand in this technologically-driven area. The proposals will affect all providers, both existing and new entrants. However, as the proposals are essentially deregulatory, they are unlikely to affect the demand for satellite dishes or other antennae adversely. Indeed, technological neutrality ensures that different technologies (including new and emerging ones) are afforded the same treatment within the GPDO as existing ones, such as satellite dishes. In addition, the planning regulations for all antennae are relaxed, thus facilitating easier access to antennae-based services. However, it is thought that planning restrictions could limit potential growth (for all types of antennae) in this area.

As the changes are largely in line with current technological practice, it is not thought that any section of the communications or broadcasting industry would either be impaired or favoured by the proposals. The proposed changes are not intended to bring about any market advantage or disadvantage for any specific sector of the industry. The proposals do not change the way service industries can market or

price their products and services. However, some existing companies (eg Sky) who have current market-share advantages could use these changes to increase their sales and /or market share.

Market Outcomes

The proposed changes are not intended to specify or otherwise ensure any market outcome. The aim of technological neutrality is to reduce the effect of one technology being afforded preferential treatment over another.

Whilst the proposed changes should facilitate easier access to digital TV and /or broadband, which may lead to a greater or quicker take-up of these services, these changes do not, in themselves, affect the marketability of these services, or advocate the take-up of one platform over another.

Direct Impact:

It is not considered that any of the options for change would have a direct impact on the ease with which firms can enter the market and /or change the nature of their businesses to reflect the needs of the market.

Enforcement, sanctions and monitoring

The existing planning enforcement provisions would apply to the new arrangements as they do to the current procedures. Any 'development' which did not comply with the requirements of the new GPDO, and did not enjoy planning permission, would be open to enforcement action by the planning authority. Similarly, in areas where there may be concern about the effect deregulation may have on visual amenity, planning authorities may promote an Article 4 Direction which would revoke the provisions of GPDO.

We will continue to monitor the effectiveness of any introduced changes. We intend to review any new measures within 3 years of them coming into force, particularly in view of the rapid changes in technology and the UK Government's plans for digital switchover.

Implementation and delivery plan

As noted above, responsibility for enforcing the revised planning requirements will rest with local authority planning departments. Guidance will be issued to local authorities explaining the amendments in detail. Local authorities will be expected to ensure that the amendments are reflected in the advice that they provide to members of the public about planning requirements. However, it is a matter for planning authorities, in the first instance, to interpret and apply planning legislation and guidance.

Post-implementation review

We intend to review the effectiveness of these amendments within 3 years of them coming into force.

Summary and Recommendations

Reasons for relaxation of planning restrictions on satellite and other antennae to support broadband and DTV rollout:

- To extend the availability of key services (broadband and DTV)

For some businesses and households, satellite or wireless technologies may be the only means of receiving these services;

- To offer an increase in service choice.

By enabling more than one dish or antenna to be sited on a single property and so receive different services from different providers, over different technology platforms.

- To offer increased flexibility in the siting of dishes and antennae.

To receive a satellite transmission in the UK, an antenna typically needs to face south. This has the potential to create a 'lottery' as to whether a building might fall within any front facing restrictions on such siting. The increase in the level of protrusion above the roofline, proposed in option 2 of the consultation, goes some way towards alleviating this problem.

For the reasons outlined in this paper, it is desirable that clear guidance from the Executive should be given to planning authorities to emphasise the need for a sympathetic approach to be adopted where applications are made outside the standard regulations in the various options.

The Options

Option 1: is considered to be unnecessarily restrictive of non-dish antennae and does not support Government objectives for the roll-out of digital TV and broadband.

Option 2: is de-regulatory, achieves technological neutrality but is among the most restrictive of the options for change. Nevertheless, this option should achieve access to both digital TV and broadband for most of the country, whilst minimising, as far as possible, the environmental effects of these changes.

In designated areas, where the visual impact on amenity is thought to be more acute, the prohibition on fronting antennae remains. However, this policy does restrict the access to services for householders in designated areas. In consequence, those needing a fronting antenna will need to obtain planning permission or pay the costs for a rear roof-mounted antenna which protrudes above

the ridge tiles. Technological neutrality means that the numbers of antennae on other buildings outwith designated areas is effectively doubled under this option. (Previously, residents of other buildings were limited to 2 antennae.) However, although this increases the potential for access to services, the difficulties of building-wide access in non-IRS equipped other buildings go beyond the remit of planning.

Option 2A: is a very similar option to 2 in that it is de-regulatory and achieves technological neutrality, although there will be certain siting controls which result in 2A being the most restrictive of the options for change. Like option 2, this option should achieve access to both digital TV and broadband for most of the country, whilst minimising, as far as possible, the environmental effects of these changes. This option also takes into account the safeguarding requirements of aerodrome and gains the approval of MoD and CAA.

Options 3 and 4: are increasingly de-regulatory. They achieve technological neutrality, and, like all the options for change, planning regulations are relaxed in incremental steps. It is not considered that these changes would be significantly advantageous to ordinary householders in obtaining access to digital TV and broadband. However, for designated areas, where a fronting antenna was necessary for line-of-sight to a satellite, these options would facilitate access to digital TV or broadband: option 3, allowing one fronting antenna on dwelling houses and other buildings (a second fronting antenna would require planning permission); option 4 permitting two fronting antennae, thus facilitating access to both services. These options would, therefore, obviate the need for an expensive roof-mounted antenna or for planning permission. However, this level of deregulation will inevitably have a concomitant effect on the environment of designated areas which may be thought to be too significant.

Option 5: is highly de-regulatory. Other than for designated areas, it offers unlimited numbers of antennae, with no size restrictions and no siting regulations. Whilst this option would permit enthusiasts to install large or multiple antennae on their properties, for ordinary householders, even those in designated areas (3 fronting antennae permitted), it is not thought that this option would contribute positively to digital TV or broadband access, and the impact on amenity could be potentially significant. The main advantage of this option is for other buildings, which would be permitted unlimited antennae. However, in non-IRS equipped buildings, practical considerations would prevent access to services on a building-wide basis. Overall, the environmental impact alone makes this option unsatisfactory.

Recommendations

The consultation exercise and stakeholder seminar did not identify overwhelming support for any one of the individual options. However, there was broad support for a relaxation of current provisions regarding the number, size and siting of antennae on properties, provided the impact on visual amenity is minimised. With this in mind, our recommendations are based upon Option 2A.

Number of antennae: We specifically recommend that dwelling houses outwith designated areas should have a maximum of 2 antennae (fronting and non-fronting).

This will enable a dwelling house to access broadband and digital TV via antennae as necessary. To safeguard visual amenity, other buildings in non-designated areas can have up to 2 fronting and a maximum of 4 antennae on a building. To further protect the environment, we recommend that fronting antennae are not permitted on dwelling houses and other buildings in designated areas. However, these categories are each entitled to 2 non-fronting antennae.

Size of antennae

For dwelling houses within both designated and non-designated areas, we recommend that a single antenna, when measured in any linear direction, can be up to 100cm. Any other antennae must not exceed 60cm. All antennae should be no greater than 35 litres cubic capacity. Furthermore, chimney-mounted antennae should not exceed 60cm in any linear dimension and 35 litres cubic capacity.

For other buildings outwith designated areas, in-keeping with current provisions, we recommend that 2 antennae, when measured in any linear direction, can be up to 130cm. Other antennae must not exceed 60cm. For other buildings in designated areas, a single antenna, when measured in any linear dimension, can be up to 100cm. All other antennae must not exceed 60cm. All antennae should be no greater than 35 litres cubic capacity. In addition, chimney-mounted antennae should not exceed 60cm in any linear dimension and 35 litres cubic capacity.

Siting of antennae

We recommend that the siting of antennae should comply with airport safeguarding measures as detailed for Option 2A above. To protect the environment, we also recommend that an antenna is not permitted on a chimney, roof slope or wall of a dwelling house or other building in a designated area where it is both fronting and can be seen from the road it faces. We further recommend that antennae should not be installed above the highest part of the roof on other buildings over 15 metres in height in designated areas.

Other recommendations

In the interests of streamlining provisions relating to designated areas and in-keeping with consultation responses, we further recommend that Natural Heritage Areas, Sites of Special Scientific Interest and European Sites are removed from the list of designated areas included within Class 68 of the GPDO, since it is considered that these relate entirely to the natural, rather than the built environment.

We also propose that the list of designated areas included at Class 6 (dwelling houses) of the GPDO, which currently relates only to Conservation Areas and National Scenic Areas, be substituted with the revised list from Class 68, which should include: National Scenic Area, National Park, Conservation Area, Historic Garden or Designed Landscape and Category A Listed Building or a Scheduled Monument or within the setting of such a building or monument. This measure is contrary to the general deregulatory aim of the amendments. However, we consider that this is justified in ensuring consistency with Class 68. Furthermore, the impact is off-set, in part, by the increase in the number of permitted antennae within

designated areas. It should also be noted that, although these new provisions will subject all dwelling houses in national parks to increased controls for the installation of antennae, many of these properties are currently classed as being within National Scenic Areas and are, therefore, already subject to additional controls.

We are content that the above recommendations provide an appropriate balance between providing access to the new technology whilst safeguarding visual amenity.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Des McNulty MSP
Deputy Minister for Communities
Scottish Executive