



NJUG Response to the DCMS Consultation on Proposed Changes to Siting Requirements for Broadband Cabinets and Overhead Lines to Facilitate the Deployment of Superfast Broadband Networks

1.0 Executive Summary

1.1 Introduction

The National Joint Utilities Group Ltd (NJUG) is the UK's only trade association representing utilities and their contractors solely on street works matters. We work with national and local governments and key stakeholders to support the development of fair, workable, robust and proportionate regulation, which balances the need to reduce the unfortunate disruption that sometimes arises from essential utility works, as well as driving up standards through a range of voluntary initiatives promoting good practice and quality works.

NJUG's Vision for Street Works includes an objective to make street works in the UK world class. We therefore support much of the Department for Culture Media and Sport's proposals to facilitate the deployment of superfast broadband networks with the aim to 'grow our economy and compete on a global scale.' We believe that improving the UK's communications infrastructure will make a positive difference for UK citizens, and will encourage communications providers and local authorities to work together for the benefit of the communities we all serve.

NJUG welcomes the opportunity to provide comments on the Proposal and agrees with its detailed commentary on the benefit to the UK. Utilities are a major contributor towards economic growth, investing billions of pounds each year to ensure essential utility services, which underpin the UK and local economy, providing gas, water, electricity and telecommunications to local businesses, governments and domestic customers across the UK.

1.2 DCMS Objectives

NJUG welcomes the Government's objectives for delivering superfast broadband throughout the UK, including '*ensuring the policy and regulatory environment is as supportive as possible of investment in broadband infrastructure*', as well as '*a direct subsidy scheme to stimulate investment in the areas of the country that the market will not deliver alone.*' (1.2) However, we are concerned that the availability of broadband may not extend to rural areas. We also agree with the point on reducing cost of civil works in deploying broadband infrastructure as being '*essential to enable commercial broadband deployment to go as far as it can, and ensure that public funds are invested efficiently*' (1.3). NJUG welcomes any initiative that reduces installation costs and hence keeps customer costs to a minimum.

NJUG also welcomes the Government's:

- Proposal for removing the current requirement for communications providers to seek prior approval from local planning authorities before development can go ahead in any location other than a Site of Special Scientific Interest (SSSI), as we believe this will ease the administrative burden and accelerate deployment



- Proposal for removing the requirement to underground telecommunications apparatus everywhere except in SSSIs

Our members support, and our communications members will help develop and implement, the Code of Best Siting Practice. NJUG understands that its communications members will be represented on a working group comprised of utilities, planning authorities and Government, looking at the agreed set of overall principles on sensitive siting, as well as the non-statutory detailed guidance on particular ‘dos and don’ts’ when installing broadband infrastructure. Finally, NJUG notes that *‘the proposed changes will not revoke the statutory consultation requirements placed on operators by the Electronic Communications Code (Conditions & Restrictions) Regulations 2003’* and recognises the continued requirement for consultation prior to installation.

2.0 Response to Consultation Questions

1. Do respondents agree with the proposal to extend the relaxation of the restriction on the deployment of overhead infrastructure to protected areas, and to remove the prior approval requirement for protected areas?

Local authorities already have a myriad of legislation and regulation with which to manage utility street works, and NJUG and its members are driving up standards and reducing disruption. We do this through a range of voluntary measures, including the NJUG Vision for Street Works, and the NJUG (now HAUC UK) Code of Conduct. These have delivered real results:

- **Noticing** – Recognised improvement - 99% of notices submitted on time and to high quality.
- **Publication to public** - Authorities use utility noticing and permitting information to inform the public of current or imminent works using applications, such as roadworks.org
- **Improved Communication** – Increased use of Variable Messaging Signs allowing drivers to take diversions; better signage on site including contact details, when works are due to be completed and the reasons why operatives may not be on site; and improved information sent to affected communities in advance of works taking place
- **First Time Permanent Reinstatement** – 85% to 95% of works are now undertaken on a first time permanent reinstatement basis, negating the need for return visits and more disruption

Therefore, NJUG fully supports any initiatives that relax legislation to improve the UK’s utility infrastructure, whilst acknowledging that it is important for utilities and planning authorities to continue dialogue in areas of environmental importance, and to continue to minimise the unfortunate disruption that sometimes arises from these essential works.

NJUG focuses on street works involving underground apparatus and related above ground apparatus, such as cabinets, and therefore NJUG is not providing specific comment on proposals for overhead infrastructure. However, in terms of deployment of infrastructure, including street cabinets, in protected areas, NJUG supports the proposal to extend the relaxation of restrictions and removal of prior approval requirement. We are confident that the proposed Code of Best Siting Practice and non-statutory guidance for installation, (described above) agreed by Government, planning authorities and utilities, will provide adequate safeguards for local residents and landscape, and should be considered as a



vehicle to long term changes to existing requirements. NJUG supports the removal of prior approval requirements, as it will ultimately lead to reduced customer costs. However, we recognise the need to continue to liaise closely with local authority highway departments to manage the works effectively and minimise disruption.

Furthermore, NJUG supports the approach of *'both supporting investment and implementing policy and regulatory interventions'* in order to enable the *'commercial market to deploy superfast broadband to as many households as is commercially viable, as well as providing support in areas where the commercial investment case is challenging.'* (2.4) NJUG agrees that *'by enabling local authorities to take control of investments in their own areas, we maximise public and private investment whilst ensuring local needs are taken into consideration.'* (2.4.) In addition to this, we believe it is vital that local authorities and communications providers work closely together to ensure a successful superfast broadband roll-out.

NJUG has noted that there are a number of statutory requirements in the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, aimed at ensuring the amount of electronic communications apparatus and its impact on the visual amenity will remain unchanged (2.14). NJUG communications members already comply with the Electronic Communications Code and will continue to do so.

- 2. Approximately how much new network will be built using the overhead line change, in terms of new poles and kilometres of lines. Do you agree with the assumptions and cost savings set out in the consultation stage impact assessment (annex A)? Are there any other costs or benefits that you think should be included in this assessment?**

NJUG understands from its' communications members that major expansion of the overhead network is not anticipated, as there has been a drive in recent years to place utility apparatus underground wherever viable.

- 3. Do respondents agree with the proposed consultation arrangements for the deployment of apparatus in protected areas?**

In particular, NJUG supports the proposal *'to remove the prior approval requirement for fixed broadband cabinets except in SSSIs on a temporary basis for 5 years under the Electronic Communications Code (Conditions & Restrictions) Regulations 2003'* and notes that this does not *'remove the requirement for consultation with planning authorities about their siting.'* (2.27) We support the continued requirement to consult with planning authorities and see this as a sensible balance between the community need for the speedy deployment of superfast broadband and the quality of the environment. In addition, there will also be a need to continue to liaise with local authority highways departments where appropriate.

NJUG agrees that consultation with local planning authorities about the siting of apparatus should continue to apply and that in addition *'under the proposed new arrangements, prior approval will be replaced by the notice requirements under Regulation 5, and will ensure that communications providers notify planning authorities about the deployment of any new apparatus, and take notice of their objections if reasonable and proportionate.'* (2.28) On the latter point, **NJUG believes that it is important to have a formal appeals procedure in place should agreement not be reached, as the validity of an objection is unclear.**



On the proposals '*to extend the range of consultees under regulation 5 to include those that currently exist for protected areas, as set out in Regulation 8 of the Electronic Communications Code (Conditions & Restrictions) Regulations 2003*' (2.29.), NJUG is concerned that an increase in consultees may reduce the benefits achieved by removing the requirement for prior approval. Additionally, many statutory consultees are already struggling to meet existing demands for advice due to resource constraints. Any increase in workload should be appropriately resourced to avoid their ability to provide timely and meaningful responses to request for advice for existing and future projects, including the roll-out of superfast broadband.

Finally, NJUG fully supports the Government's request for '*communication providers, local planning authorities and other partners to work together to broker a code of practice to be agreed between communications providers and local authorities and other stakeholders on best siting practice as a means of ensuring that broadband infrastructure is sited as sensitively and safely as possible.*' (2.33)

4. Do you agree that the duration of the proposed changes being limited to 5 years?

With reference to section 2.24 of the consultation, mentioning the Government's consideration of conflicting views and subsequent decision that '*in order to achieve its broadband targets, the requirement to underground new telecommunications lines in Regulation 4 of the Electronic Communications Code (Conditions & Restrictions) Regulations should be removed for a period of 5 years*' (2.24), NJUG views this as a sensible compromise proposal. **We believe that the Government should thoroughly review the impact, cost and benefits of the changes, prior to the 5 year limitation, to see if the changes can become permanent, need amendment or indeed need to be scrapped.**

5. We would welcome feedback on how any aspect of the proposals outlined in this consultation should be achieved.

NJUG is supportive of the provision of a working group, and the development of a non-statutory Code of Practice should provide strict guidelines to which both planning authorities and utilities are committed, as it will be jointly agreed by representatives from authorities, utilities and Government prior to publication.

In line with the time limits established as part of Government planning reforms to assist in the consultation process, **NJUG believes that there should be time limits for statutory consultee responses, otherwise the process may fail when delayed responses are made after installation. Similarly, NJUG would suggest that a failure to respond by a statutory consultee is deemed as an acceptance, so as not to delay the provision of high speed digital networks.**

As stated above, we also believe that if, during the notification process on the deployment of new apparatus, the planning authorities' objection are not believed to be reasonable or proportionate by the communications provider, there ought to be an independent appeals mechanism.