

National Assembly for Wales
Environment and Sustainability Committee
PB 13
Planning (Wales) Bill
Response from Mobile Operators Association (MOA)



The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay,
CF99 1NA

6th November 2014

Dear Sir,

Planning (Wales) Bill

1. The Mobile Operators Association (MOA) represents the four UK mobile network operators – EE (including Orange and T-Mobile), Telefónica UK, Three UK, and Vodafone – on radio frequency, health and safety, and related town planning issues associated with the use of mobile phone technology.
2. We responded earlier this year to the Welsh Government's 'Positive Planning' consultation which closed on 26th February¹. In general terms, we broadly supported most of the proposals in that consultation, and are similarly broadly content with the Bill as now published. Where we proposed, in our response to the draft Bill, a different approach from that set out in the consultation, the vast bulk of those issues would be addressed in secondary legislation and/or in the various consultation papers that were published alongside the Bill, rather than on the face of the Bill itself. We have, however, comments on two issues in the Bill, both of which relate to Part 6 – Enforcement, Appeals Etc. as set out below.

Clause 42 – Variation after Appeal

3. As we understand it, Clause 42 of the Bill would prevent the variation or amendment of a planning application after an appeal has been made; and only allows new matters to be raised during an appeal in 'exceptional circumstances'. We believe that such an approach may be unduly inflexible; rather, we believe that an appeal inspector should

¹ Consultation reference: WG20088

have more discretion and flexibility as to whether changes to an application can be considered during the course of an appeal.

4. If the appeal inspector does not have the authority or flexibility to allow any changes, this would prevent the scenario where the developer would be willing to make some modification to a proposal in a way that would be acceptable to the local planning authority. In such a case, if the appeal is refused, the developer will then need to make another application, incorporating changes that the local planning authority (LPA) would have accepted at appeal. That will entail additional costs and other resources, both to developers and to LPAs and add significant delay to the planning process. Furthermore, we do think it reasonable that it should be possible to include new evidence that relates to the existing grounds or reasons for an appeal to enable a more flexible approach and reduce potential delays in the planning system

Clause 44 – Costs

5. Clause 44 of the Bill makes provision for costs to be awarded resulting from an application, appeal or reference to the Welsh Ministers. We would welcome clarification that a) subsection (6) means that costs may be awarded by ministers to any party to the appeal etc; and clarification that each party should be able to apply for costs in appeals etc, rather than simply relying on the discretion of ministers to award costs.

Yours faithfully

John Cooke
Executive Director
Mobile Operators Association