

Planning Factsheet – Planning Conditions

The Halewood Shopping Centre, Leathers Lane, Halewood, L26 0AD

InstaVolt's planning permissions often include planning conditions that fail the planning tests and/or have had no regard to the permitted development baseline prior to being formulated and applied.

This factsheet is provided to remind decision makers of the correct approach to applying planning conditions to planning permission for EV charging infrastructure, and the relevant and compelling considerations they should have regard to.

EV charging infrastructure is a Government priority for transport decarbonisation and electrification, as well as climate change and air quality imperatives. Therefore, InstaVolt respectfully request decision makers think carefully before applying 'standard' conditions which unnecessarily inhibit development, because InstaVolt will be compelled to utilise planning mechanisms to remove or amend them.

Purpose of Planning Controls

The purpose of the planning system is to regulate the development and use of land in the public interest, not to control the detailed operation of businesses or activities unless this is necessary to address material planning harm.

Planning permissions may be granted subject to conditions, but these must be justified in planning terms and applied proportionately.

National policy requires that planning controls should only be imposed where they are necessary and justified.

The National Planning Policy Framework – Tests for Planning Conditions

The National Planning Policy Framework (NPPF) states that planning conditions should be kept to a minimum and must meet specific tests. Planning conditions must be:

1. Necessary
2. Relevant to planning
3. Relevant to the development permitted
4. Enforceable
5. Precise
6. Reasonable in all other respects

All six tests must be met. If a condition fails any one of these tests, it should not be imposed.

This principle is reinforced in Planning Practice Guidance (PPG), which states that conditions should be tailored to address specific planning issues rather than used as blanket or precautionary restrictions.



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Precision and Enforceability

Conditions must be drafted clearly so that:

- the developer knows exactly what is required, and
- the local planning authority can enforce the requirement if necessary.

If a condition is ambiguous, unclear, or open to interpretation, it may fail the tests of:

- precision, and
- enforceability.

Courts and inspectors have consistently emphasised that conditions must be clear enough for a reasonable person to understand and comply with.

Necessity and Evidence

Planning conditions must only be imposed where they are necessary to make development acceptable in planning terms. This means:

- conditions must address a specific planning harm, and
- there must be evidence or clear reasoning demonstrating that the harm would occur without the condition.

Conditions should not be imposed simply as a precaution, nor used to control matters that are already regulated through other legislation.

Planning Practice Guidance states that conditions should not be used to impose broad or unnecessary controls over otherwise acceptable development.

Permitted Development Baseline

A fundamental principle of planning decision-making is the need to consider the permitted development fallback position.

Under the Town and Country Planning (General Permitted Development) (England) Order 2015, many forms of development can be carried out without the need for planning permission.

This includes a wide range of minor works, infrastructure, and operational equipment.

When determining applications and conditions, planning authorities should consider:

- what could lawfully occur under permitted development rights, and
- whether a condition would unreasonably restrict development that could otherwise occur without permission.

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If a condition would restrict something that could normally occur through permitted development rights, the authority must demonstrate clear planning justification.

Planning Practice Guidance advises that conditions removing or restricting permitted development rights should only be used in exceptional circumstances.

Alongside this factsheet, InstaVolt may provide its Permitted Development factsheet. That factsheet discusses Schedule 2 Part 2 Class E of the General Permitted Development Order 2015 (as amended). Part 2 of the GPDO deals with what the Government has termed “**Minor Operations**”. The Government considers the installation of EV charging infrastructure to be “minor”. The Government sets out a suite of parameters and conditions for EV charging infrastructure, none of which concern noise or light pollution or limits of hours of operation; that should be compelling to decision makers.

Artificial Lighting and Planning Control

Planning Practice Guidance confirms that artificial lighting can be a material planning consideration where it could create light pollution or harm to amenity.

The National Planning Policy Framework (NPPF) also requires planning decisions to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. However, the guidance emphasises that:

- artificial lighting often provides important functional and safety benefits, and
- the planning system should ensure the right light in the right place at the right time.

User comfort and safety are important considerations for EV charging infrastructure development.

When assessing lighting impacts, authorities should consider:

- where the light shines
- when the light shines
- how much light shines

Controls on lighting should only be imposed where material harm is identified, such as:

- light spill affecting nearby residential properties,
- impacts on protected wildlife sites, or
- effects in areas with intrinsically dark landscapes.

Lighting restrictions should therefore be proportionate to the context of the site and its surroundings and should take into account the permitted development baseline, which does not include conditions on lighting.



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Noise and Planning Control

Noise can also be a material planning consideration where it has the potential to affect health, quality of life or residential amenity.

The National Planning Policy Framework states that planning policies and decisions should:

- mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and
- avoid noise giving rise to significant adverse impacts on health and quality of life.

Planning authorities should therefore consider whether a proposed development would generate noise that could materially affect nearby sensitive receptors.

However, national policy also recognises that planning controls should focus on land-use compatibility, rather than regulating the detailed operational characteristics of development.

Noise arising from activities and equipment is frequently subject to separate regulatory regimes, including environmental protection legislation.

Planning conditions relating to noise should therefore only be imposed where they are necessary to make development acceptable in planning terms, and where the matter is not already adequately controlled through other regulatory systems and should take into account the permitted development baseline, which takes the position that EV charging infrastructure in car parks is acceptable in planning terms, imposing no conditions on noise in doing so.

Hours of Operation and Planning Control

Restrictions on hours of operation are sometimes used by planning authorities to mitigate potential impacts on residential amenity, particularly where activities may generate noise, disturbance, or increased traffic during sensitive periods.

However, as with all planning conditions, any restriction on operating hours must satisfy the tests set out in national policy, including that the condition is:

- necessary,
- relevant to planning,
- relevant to the development permitted,
- enforceable,
- precise, and
- reasonable in all other respects.



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Operational restrictions should therefore only be imposed where there is clear evidence that unrestricted operation would cause material planning harm, such as unacceptable noise, light or disturbance affecting nearby sensitive receptors.

Again, it must be remembered that permitted development rights assume that installing EV charging infrastructure in car parks is a “minor operation” and as such do not impose hours of operation.

Where no clear evidence of harm exists, restrictions on operating hours may fail the national policy tests of necessity and reasonableness, and may therefore be inappropriate.

Key Principle

Planning controls should only be used where they are necessary, proportionate and justified by planning evidence.

The planning system is intended to manage land use impacts, not to regulate the detailed operational characteristics of development unless these give rise to material planning harm.

