Planning Factsheet – Planning Conditions

McDonald's, Chirk Retail Park, Wrexham, LL14 5AZ



InstaVolt's planning permissions in Wales[1] 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 in Wales, and the relevant and compelling considerations they should have regard to.

EV charging infrastructure is an important component of decarbonisation and sustainable transport policy in Wales. InstaVolt respectfully requests that decision makers think carefully before applying 'standard' conditions which unnecessarily inhibit development, because InstaVolt may be compelled to utilise planning mechanisms to remove or amend them.

Purpose of Planning Controls

The purpose of the planning system in Wales 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 and guidance in Wales require that planning controls should only be imposed where they are necessary and justified.

National Policy and Guidance in Wales – Tests for Planning Conditions

Welsh Government Circular WGC 016/2014 states that planning conditions should only be imposed where they meet the following tests. Planning conditions must be:

- Necessary
- Relevant to planning
- Relevant to the development to be permitted
- Enforceable
- Precise

[1] National planning policy in Wales is set by Planning Policy Wales, supplemented by Technical Advice Notes and Welsh Government Circulars, including WGC 016/2014 on conditions.



- 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.
Welsh guidance also makes clear that conditions should be tailored to address specific planning issues rather than used as blanket or precautionary restrictions.

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.
This is consistent with Welsh Government guidance, which emphasises the need for clear drafting and clear reasons for every condition imposed.

Necessity and Evidence

Planning conditions in Wales 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.
Welsh guidance is clear that if planning permission would not otherwise have to be refused, a condition requires special and precise justification.

Permitted Development Baseline

A fundamental principle of planning decision-making is the need to consider the permitted development fallback position.
In Wales, the **Town and Country Planning (General Permitted Development) Order 1995**, as amended, grants permitted development rights for certain EV charging infrastructure. Part 2 treats these as **minor operations**. Class E permits the installation, alteration or replacement within an area

lawfully used for off-street parking of an upstand with an electrical outlet mounted on it for recharging electric vehicles, subject to stated limitations. Those limitations do not impose controls on operational noise, lighting or hours of operation.

When determining applications and conditions, planning authorities should therefore consider:

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

If a condition would restrict something that could normally occur through permitted development rights, the authority must demonstrate clear planning justification. Welsh guidance also advises that conditions removing or restricting permitted development rights should be used only where justified and not as a routine response.

Artificial Lighting and Planning Control

Artificial lighting can be a material planning consideration in Wales where it could create light pollution or harm to amenity.

However, planning policy in Wales also recognises that lighting can perform important functional and safety roles. Controls on lighting should therefore only be imposed where material harm is identified, such as light spill affecting nearby residential properties, impacts on protected wildlife sites, or effects in sensitive darker environments.

Lighting restrictions should be proportionate to the context of the site and its surroundings and should take into account the permitted development baseline, which does not itself impose conditions on the lighting of EV charging infrastructure.

Noise and Planning Control

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

Welsh Government guidance recognises that noise may justify planning controls in some circumstances, and points decision makers to wider national policy and technical guidance.

However, planning controls should still focus on land-use impacts rather than routine control of operational detail.

Planning Factsheet – Planning Conditions

McDonald's, Chirk Retail Park, Wrexham, LL14 5AZ

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. They should also take into account the permitted development baseline, which treats EV charging infrastructure in parking areas as a minor operation and does not itself impose noise conditions.

Hours of Operation and Planning Control

Restrictions on hours of operation are sometimes used by planning authorities in Wales 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 six tests. Welsh guidance specifically recognises that hours conditions may be appropriate in some cases, but only where they are justified by the planning circumstances of the site.

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 do not impose hours of operation.

Pollution Control and Other Regulatory Regimes

Planning controls in Wales should focus on land-use planning issues rather than duplicating controls that fall more naturally within other regulatory regimes.

Where matters such as pollution, emissions or nuisance are already addressed by separate controls, planning conditions should not be used to duplicate those controls unless there is a clear planning justification for doing so.

Key Principle

Planning controls in Wales 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.