

Householder Permitted Development Rights Consultation
Directorate for the Built Environment
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Our Ref: RH/EB
Your Ref:
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Dear Sirs

Householder Permitted Development Rights Consultation Paper

Thank you for the opportunity to comment on this Consultation Paper. May I also thank you for extending the deadline for Highland Council until 20 March 2009.

The Highland Council welcomes the relaxation of permitted development rights for householder development but feels that the draft paper and regulations are still too complex and require simplifying with easy to read graphic illustration. This should be for the benefit of planning staff and our customers. Further efforts to simplify the permitted development rights should involve local authority practitioners. The Scottish Government should consider the production of a national easy to read guide rather than anticipating 34 versions of the document. Any increase in permitted development rights will of course in the long term reduce the number of planning applications submitted to local authorities but it must be borne in mind that the immediate workload could be significant with staff being obliged to advise applicants and agents of the changes to the householder regime.

I shall respond to the questions in turn.

Question 1 – Do you agree with this change from floor area to development footprint/ground floor area?

Response – In principle, yes, as this should make measurement of any additional space simpler.

Question 2 – Do you agree with the new approach to principal side and rear elevations?

Response – I cannot agree to the definition of elevations as these appear to be based on a suburban situation with standard front elevations to a road. The failure to allow permitted development in house curtilage within 20 metres of a road has been a major failing of the GPDO. There is confusion in the definition of the front elevation of a house i.e. that which is designed as the main formal entrance to the house and that containing the principal means of access. In defining front elevation it is imperative that there is protection of the amenity of the street scene.

It could prove difficult for planning staff to determine which is the principal elevation of a property and any debate or disagreement could result in a neighbour and planning dispute.

Question 3 – Do you believe that issues regarding road safety are sufficiently addressed by the restrictions on PDR set out in Article 3 of the Draft Householder Permitted Development Order and the height limit of 1 metre within 5 metres of a road?

Response – Article 3 adds a complication to the determination of PDR. A plan may be required to determine permitted development and indeed a site visit with the involvement of a roads engineer may prove necessary to ensure that road safety is protected. There is an element of subjectivity and this could generate debate and an increase in enforcement activity. A standard form with a plan would assist in the determination of permitted development.

Question 4 – Do you agree with the overall limit on development of the curtilage (excluding the original dwelling) of 40%?

Question 5 – Do you agree with the additional limit on the development of rear curtilage of 40%?

Question 6 – Do you agree with the absolute limit of 60 square metres?

Response – Curtilage of a dwelling house requires clear definition particularly in respect of rural housing. Preserving visibility splays may encroach onto third party land. There needs to be a limit to the definition of “partial demolition”. A substantial increase in permitted development rights within curtilage could be significant in rural areas so the 60% square metre limit is required. Again street scene and public impact must be protected. Any increase in permitted development right could again increase neighbour dispute and there must be strength and resolve in the planning function not being sucked into this.

Question 7 – Do you agree with the additional conditions and restrictions on householder PDR in conservation areas contained in the draft Householder Permitted Development Order?

Question 8 – Do you agree with the additional conditions and restrictions on householder PDR within the curtilage of listed buildings as set out in the draft Householder Permitted Development Order?

Question 9 – Should there be no permitted development in relation to conservation areas or the curtilage of listed buildings?

Response – It is agreed that in principle there needs to be additional restrictions in conservation areas and in the curtilage of listed buildings. It might not be just simpler but better to spell out any permitted development in these areas to safeguard them from inappropriate development.

Question 10 – Should additional statutory restrictions be placed on householder PDR within World Heritage Sites?

Question 11 – If so, what level of control should be applied (e.g. similar to that for conservation areas or total restriction)?

Response – It is felt that some form of restriction would be justified but that perhaps is more of an issue for local authorities with World Heritage Sites to comment upon.

Question 12 – Do you have any comments on the extent of designated areas where restrictions will apply?

Response – It is felt that some consideration should be given to modern forms of development such as Poundbury or The Drum in Bo'ness where development can only be successful with blanket restrictions whether by withdrawing permitted development rights or more securely by an Article 4 Direction. As more planning authorities wish to achieve development of this quality an increase in Article 4 Directions may prove an administrative burden.

Question 13 – In your experience, do planning authorities treat the addition of ramps and handrails to the exterior of houses to assist the elderly or disabled people as requiring an application for planning permission?

Response – No. The Highland Council does not consider these require planning permission but there may be cases in sensitive areas such as conservation areas which require control and Listed Building Consent would be necessary. Thought should also be given to the fast tracking of enquiries and applications for facilities for the disabled or older people.

Question 14 – Do respondents believe that replacement and alteration of existing windows in flats, without altering the overall size of the window openings should be permitted development?

Response – The replacement and alteration of window in flats could lead to a wide range of window styles opening and finishes thus creating disharmony and undermining the integrity of the appearance of a building. It is acknowledged that in some instances this has occurred already but as Scottish Government and Scottish planning authorities are placing greater emphasis on good design and architecture particularly in town centres, it would be regrettable if the unique style and featuring of a building were to be lost. Again, Article 4 Directions could be used to control alterations but these would have to be used too frequently and again prove an administrative burden.

Question 15 – Do respondents believe that there should be specific PDR to allow flagpoles to be erected within the curtilage of a dwelling house?

Question 16 – If so, what control should there be on the height of flagpoles and on their location with particular regard to designated areas?

Response – It is acknowledged that in a number of European countries there is a greater desire to fly the national flag. Mixed views have been expressed and worries have been raised about displays of nationalism and potential incitement. There would also need to be a mechanism for distinguishing between national flags and advertisements as defined in regulations. There should be controls on the height of flagpoles, possibly no higher than the building to which they relate and a limit on the size of the flag to be displayed. Inevitably if national flags are to be displayed the householder will wish to do so with substantial impact.

Question 17 – (Classes 1-12)

For each Class of PDR:

- Are the grant of planning permission and the restrictions and conditions clear?
- Will these controls release a significant number of proposals (see paragraph 1.3) from, the planning application process?
- Will these PDR provide adequate controls on amenity?
- Are there any changes to the controls which might mean significant further reduction in planning applications without undermining amenity?

Class 1 – This Class is similar to existing Class 1 and seems clear at face value but realistically this will only become apparent with test cases. The increased allowance in footprint to 50% will potentially remove some substantial extensions from planning controls particularly between a road and a rear elevation. The definition of a wall in (2)(f) of the Order and a side elevation in (2)(f)(ii) requires to be defined.

Class 2 – The definitions appear to allow dormer windows to be formed without planning permission. This Class is confusing in its terms and is difficult to read in conjunction with Class (1) where an extension involves alterations to a roof. Sub-paragraph (2)(C) is particularly difficult to interpret. The opportunity to install dormer windows without planning permission could have a significant impact on amenity and neighbour privacy. It is felt that this would be a retrograde step.

The permitted development right under Part (3) of Class 2 is questioned. Should the permitted development right also be applicable to a single storey extension and what would be the scenario if the existing dwelling house had a variety of roof pitches?

Class 3 – This Class would potentially allow for a relatively substantial garage/workshop/outbuilding within the curtilage and again there could be potential amenity issues for neighbours given the terms of sub-paragraph (3)(a). The definition of “dwelling” and “maintenance” in this Class requires clarification. Would re-roofing in a different material be classed as maintenance for example or would that be “improvement or other alteration”?

Class 4 – This class is as before but with the clarification of whether replacement of an existing surface is also permitted development.

Question 18 – Do respondents agree with the addition of requirements on drainage to PDR for new and replacement hard surfaces over an area of 5 square metres between the principal elevation and the road?

Response – It may be useful to ask how this has worked in English planning legislation. There is no objection to the requirements in principle provided there is justification for doing so. Planning practitioners and the public will need clear guidance on what constitutes “porous” materials.

Class 5 – Would this Class include the erection of a shed for the storage of peat or a hopper for woodchips?

Class 6 – There may be an opportunity to allow up to two antennae on a dwellinghouse as this appears to be the intention subject to extensions. (2)(a)(iii) is not clear and could be explained more simply without need to sub-paragraph. In (2)(a)(vi) the qualification of a microwave antenna with a cubic capacity in excess of 35 litres may seem simple but how is this measured and how can enforcement staff assess any unauthorised erection from street level? If antennae are to be allowed on the roof with a chimney, then it would be preferable to allow antennae on the chimney of the house only, rather than elsewhere on the roof. In part (d) the expression faces onto and is visible from a road may be difficult to interpret, e.g. does visible mean to the naked eye or at ground level? An antenna might be visible but at a distance to be of no consequence. Planning authorities may be challenged on the issue of visibility and this could generate a lot of officer time checking on the ground. It is suggested that the criteria be made more flexible as microwave antenna are now becoming more common place and it must be acknowledged there are many installations without the benefit of planning permission.

Class 7 – There appears to be anomalies/uncertainties in this Class despite there being no significant changes. The criterion of within the curtilage of a dwelling house is new as previously Class 7 PDR applied to all development. Will this be taken on board when the rest of the GPDO is reviewed? In terms of (2)(a) it is questioned why “means of” has been omitted between other and enclosure. This is repeated in (b) and (d). It must be questioned whether (2)(a) covers the situation in (2)(d)? 2(d) as written seems very restrictive e.g. where there is a big “front” garden. This of course will depend on the interpretation of “fronts a road”.

Class 8 – There is an opportunity to clarify what is meant by a “classified road”. In particular, is a “U” class road classified or not?

Class 9 – No comment

Class 10 – The attempt to clarify the status of decking is welcome although the assessment of height above ground level needs to be clarified. It has been questioned whether there should be a Class limit opportunity for re-modelling ground to create a platform for decking.

Class 11 – There requires to be a definition of a porch. It should be noted that there is no height restriction to a porch in Class 11 on page 29 of the consultation document while there is specification of 3 metres in paragraph 3.34 on page 15.

Class 12 – Under (2)(a) it is suggested that this should read “the height of the chimney, flue or vent pipe would exceed the highest part of the roof excluding any existing chimney at 1 metre or more”.

Question 19 – Do respondents think the changes to permitted development rights as drafted will achieve the Scottish Government’s aim of removing a significant amount of householder development from the planning application process?

Response – This is difficult to say without a detailed analysis of recent cases compared to the draft GPDO. The Scottish Government must also bear in mind that there is a relatively small proportion of householder developments in Highland compared to the rest of Scotland. The Highland Council workload may therefore not be significantly reduced.

Question 20 – If not, what particular alterations to the draft Householder Permitted Development Order might significantly reduce the number of householder planning applications?

Response – There is balance to strike between reducing bureaucracy and regulating the impact on the street scene and amenity. Highland Council planners are not convinced that the format is sufficiently advanced to resolve the criticisms of the current GPDO and that the consultation document misses the opportunity to simplify this.

Question 21 – What effects might any suggested changes have on amenity issues?

Response – It must be acknowledged that amenity will be compromised but most impact will be on rear elevations and not be a matter of public interest. There still requires to be a greater consideration of space standards for new housing to avoid boundary issues and disputes.

Question 22 – Do respondents believe that the provision of the draft Householder Permitted Development Order pays sufficient regard to the impact on local amenity

Response – No, please see above.

Question 23 – If not, what particular alterations to the draft Householder Permitted Development Order might address some or all of these issues?

Response – Consideration should be given to removing permitted development rights from conservation areas and listed buildings and their curtilages. It is felt that these are the areas that really matter in our streetscapes and built heritage. It is also felt that dormer extensions and development in rear gardens bounded by roads should be given further consideration.

Question 24 – What particular issues would you like to see addressed in the guidance accompanying the changes to householder permitted development rights?

Response – It would be of great assistance to have clear worked examples of the interpretation of the various Classes.

Question 25 – Are there any costs or benefits not identified in the draft RIA?

Response – It must be emphasised that there may be savings on workload and resource allocation in the long term but the implementation of any revised GPDO will be time consuming and may raise conflict between neighbouring proprietors into which planning staff may be drawn.

Question 26 – If so, do you have any information or can you suggest sources of relevant information on these costs and/or benefits?

Response – It would be useful if Scottish Government or the Society of Directors of Planning were to liaise with the equivalent organisations in England given that many of the concepts in the Order have already been introduced there with varying degrees of success as identified by the planning press. For example, there has been great uncertainty in the interpretation of “principal elevation”.

It is felt that there should be some analysis between any revised permitted development right and the need, or not, for building warrant. There is an opportunity to unify the two regimes or certainly to bring them closer together in the interests of a customer first service.

Yours faithfully

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