

The Scottish Government's Proposed Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland

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Scottish Government
Riaghaltas na h-Alba
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SCOTTISH GOVERNMENT'S PROPOSED PROGRAMME FOR REVIEWING AND EXTENDING PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND

Introduction

1. This document sets out the Scottish Government's proposed programme for substantially reviewing and extending Permitted Development Rights (PDR) in Scotland ('the proposed work programme'). It is accompanied by a Sustainability Appraisal (SA) report that was undertaken by consultants commissioned by the Scottish Government to inform this work.
2. We are seeking feedback on both the proposed work programme and the SA report. Annex A, attached, provides details of the specific questions we are seeking views on and how to respond. Responses are due by 28 January 2020.
3. Following this initial stage, we will undertake further stakeholder engagement and public consultation on specific changes we may propose to PDR for particular development types.

Background

Permitted development rights

4. PDR remove the need to apply for planning permission and typically relate to minor or uncontroversial developments or changes associated with an existing development. They are designed to cover situations where it would be very unlikely for an application for planning permission to be refused, where standardised conditions are likely to be used, and, therefore, where consideration on the principle of the development by a planning authority, on a case by case basis, is unlikely to add value. PDR can therefore help to remove unnecessary applications for planning permission from the system, reducing burdens on applicants and planning authorities

The Planning Review and PDR

5. The Independent Panel which reviewed the planning system recommended exploring extensions to PDR in their report, *Empowering Planning to Deliver Great Places*¹. The Scottish Government subsequently asked Heads of Planning Scotland to consider this issue and make recommendations for changes to PDR. Having considered the recommendations of the Independent Panel, the views from Heads of Planning Scotland² and responses to the consultations on *Places*,

¹ Empowering Planning to Deliver Great Places:

<https://beta.gov.scot/publications/empowering-planning-to-deliver-great-places/>

²Heads of Planning Scotland Permitted Development Report:

<https://beta.gov.scot/publications/planning-review-extension-permitted-development-rights-report/>

*People and Planning*³, the Scottish Government identified 16 development types for further consideration of extensions or changes to PDR.

Strategic Environmental Assessment/ Sustainability Appraisal

6. Strategic Environmental Assessment (SEA) considers the likely significant impacts of a potential change on the environment. In this instance, a wider SA report has been undertaken which includes the statutory requirements of SEA, as well as consideration of social and economic impacts. The SA report has informed the prioritisation of future changes to PDR. As the detailed changes to PDR are progressed, we will give consideration as to whether any further assessment is required.

Changing Permitted Development Rights

7. When proposing changes to PDR for a particular development type the Scottish Government has to consider what is granted planning permission, what limitations (if any) should be placed on that permission, and what conditions (if any) should apply to its use.

The grant of planning permission

8. PDR effectively grant planning permission for particular types of development. This may be narrowly defined for a very specific type of development (for example, house extensions), or it may be very broadly defined, granting wide ranging planning permission for development in a particular sector (for example operational activities within airports or ports)

Limitations

9. PDR may be subject to certain limitations. The limitation on the grant of planning permission may, for example, be geographical – such as not allowing or limiting PDR in certain designated areas (such as conservation areas or national scenic areas). Or, alternatively, PDR may be limited by applying only to the works of certain designated developers (such as public gas transporters or licensed electronic communications code operators). More commonly limitations may apply to the size or scale of the development (for example, limiting the height or the total area of a building).

³ Analysis of responses to Places, People and Planning: <https://beta.gov.scot/publications/planning-review-analysis-of-consultation-responses-june-2017/>

Conditions

10. Where development is granted planning permission under PDR (including permission subject to any limitations) there may still be conditions placed on that development or the manner in which it is carried out, similar to conditions which may be attached to any individual planning permission. For example, several classes of PDR contain conditions regarding the restoration of land and the removal of equipment or structures after work has been completed.

Other Assessments

11. In considering changes to legislation, the Scottish Government carries out certain assessments (or screens proposals to see if such assessment is required) either as a matter of good practice or in line with statutory requirements. In addition to SEA (see paragraph 6 above), we will consider a range of assessments to inform the development of any proposed changes, including, but not limited to:

- Business and Regulatory Impact Assessment (BRIA) considers the costs and benefits, particularly with regard to business, of the proposed changes.
- Fairer Scotland Duty Assessment considers how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.
- Equality Impact Assessment (EqIA) considers the impact on various equalities groups defined by characteristics such as age, sex, religious or other belief, race or sexual orientation.
- Children's Rights and Wellbeing Impact Assessment (CRWIA) considers any impacts of the changes on children.
- Island Communities Impact Assessment (ICIA) considers the impact of new laws, policies, strategies or services on Scotland's islands.
- Data Protection Impact Assessment (DPIA) identifies and mitigates risk to privacy to effectively comply with data protection regulations.
- Habitats Regulation Appraisal (HRA) considers whether any plan or project will have a likely significant effect on a Natura site.

Consultations

12. This current document seeks views on our proposed work programme and the related SA report for the whole package of potential changes to PDR. We will also consult publicly on any specific, proposed changes for each development type, according to the phased timetable set out in the proposed work programme.

13. This will usually involve consulting on a proposal for change for a particular type of development and/or draft orders, and any partial or draft assessments where relevant. We will analyse and carefully consider the responses to each consultation before any proposals for change are finalised and laid before the Scottish Parliament for consideration.

Sustainability Appraisal Findings

14. The SA report concludes that there are a range of likely significant economic, social, and environmental impacts – both positive and negative – associated with both the cumulative expansion of PDR and specific options for changes to individual development types. The options assessed within the SA report were developed in discussion with a ‘virtual review group’ set up to inform the SA process.

15. The appointed consultants have made some recommendations in the SA report to avoid or reduce likely significant adverse impacts where these were identified. We will take these into account when developing detailed proposals for changes to PDR for specific development types.

The Proposed Work Programme

16. Having considered the conclusions of the SA report alongside priorities in our 2019-20 Programme for Government ‘Protecting Scotland’s Future’, we have identified a proposed phased programme for considering potential changes to PDR for the different development types.

17. Planning has a key role to play in addressing global climate change. Together with our work we are undertaking on Scotland’s fourth National Planning Framework (NPF4), extending PDR for certain types of development (such as micro-renewable technologies and peatland restoration) can help to ensure that the planning system helps to radically accelerate the reduction of emissions and support the Government’s aims and objectives in addressing the global climate emergency.

18. Rural Scotland makes a vital contribution to our national economy. Brexit will have a significant impact on all of Scotland, not least to rural economies, so we are taking action to secure the long term sustainability of rural businesses and communities. We know that more young people want to stay in the areas where they grew up, but we need to do more to stem rural depopulation and attract more people to live and work in rural and island communities. We are therefore prioritising consultation on expanding PDR to further support the rural economy, the long term future of Scotland’s farming sector, and the delivery of affordable homes in rural areas.

19. Other early priorities for the first phase of the work programme will include a review of how existing PDR for hill tracks are operating following previous changes in 2014, and whether further changes are needed. We will also consider, as a priority, potential amendments and extensions to PDR for digital communications technology to help support Scotland's digital economy.
20. Table 1 below sets out further detail on the phasing of our work on PDR for the different development types and we would welcome feedback on what we propose. For each phase we have indicated when detailed work and stakeholder engagement will begin to develop proposals for change, with work on the development types identified in Phase 1 beginning immediately. In practice, there are unlikely to be rigid distinctions between one phase and another, as work on future development types will be picked up when opportunities and resources permit.
21. Furthermore, the list of development types in Table 1 is not intended to be definitive and we will consider whether changes to PDR for other types of development not included here might be appropriate if circumstances change. However, additional work may be required to consider the likely impact of any proposals that were not considered as part of the SA.

Table 1: Development types and groupings for staged changes to PDR

Development Type/ Grouping	Rationale
Phase 1 – from Autumn 2019	
Digital communications infrastructure	Will help deliver network improvements which underpin Scotland’s digital economy as outlined in our recently published 5G Strategy – Forging our Digital Future with 5G: A Strategy for Scotland
Agricultural developments – including measures which could further support the delivery of affordable homes in rural areas (for example, the conversion of agricultural buildings to residential uses)	Will help support Scotland’s rural and farming economy and potentially helps contribute to rural repopulation priority to be addressed in NPF4.
Micro-renewables (including a range of domestic and non-domestic renewable energy developments, such as solar panels, biomass, free-standing wind turbines and air source heat pumps)	Helps address the global climate emergency. (N.B. This grouping comprises a number of sub-categories and early consideration will be given to which should be prioritised within this strand of work. Consideration of all sub-categories may extend significantly beyond phase 1.)
Peatland restoration	Helps address the global climate emergency
Hill tracks (private ways)	Subject of significant public concern and meets a commitment made during the Planning (Scotland) Bill process
Phase 2 – from Spring 2020	
Electric vehicle charging infrastructure	Helps address the global climate emergency
Developments relating to active travel	Help address the global climate emergency and positive human health impacts
Phase 3 – from Autumn 2020	
Town centre changes of use	Mixed findings in the SA report. Potential to support our work on town centre regeneration but further work required to develop the detailed specification for what development types could be given PDR, and to consider how Masterplan Consent Areas could be used as an alternative means for providing consent in particular town centres.
Householder developments	Mixed findings in the SA report but has scope for significant positive effects in relation to efficient operation of planning system

Phase 4 – from Spring 2021	
District heating and supporting infrastructure	Helps address the global climate emergency but specification and detail dependent on outcome of wider legislation on such systems
Energy storage (non-domestic & domestic)	Detailed specification is dependent on emerging technologies
Defibrillator cabinets	Positive human health effects but many already considered <i>de minimis</i> by some local authorities
Phase 5 – from Autumn 2021	
Habitat pond creation	Potential positive biodiversity effects but detailed specification linked to future agricultural support programme
Allotments and community growing schemes	Potential significant long term positive effects in terms of social, population and human health
Phase 6 – no specific timescale proposed	
Snow Sports	Low priority as no significant positive or negative effects identified.

The PDR Review Process

22. For each development type where potential changes to PDR are proposed there are a number of steps involved as follows:

- Determine whether change is desirable and define the detailed specification of what should be granted PDR – this step will involve detailed collaboration with relevant local authority and sector stakeholders;
- Public consultation on the proposals for change and/or draft orders amending PDR;
- Analysis of consultation responses, preparation/revision of the draft orders and finalisation of any relevant assessments – this step may involve detailed consultation and collaboration with relevant local authority and sector stakeholders;
- Laying of orders before Parliament for consideration – this step provides a minimum of 40 laying days for Parliamentary consideration.

23. Following this process (unless the orders are voted down by Parliament) the new orders would come into force.

Conclusion

24. The SA has clearly shown that changes and extensions to PDR for a range of different development types have the potential to deliver significant positive impacts on Scotland's environment, economy and society and to contribute to the delivery of a range of Scottish Government priorities. In particular, extensions to PDR for several of the development types has the potential to contribute to the achievement of our emissions reductions targets and thereby help address the global climate emergency. On the other hand, the SA report has also identified a number of potential negative impacts that will need to be mitigated if certain changes are taken forward.

25. We now propose to take forward a phased work programme that will consider and then propose changes to PDR for a range of development types. We would welcome comments on the proposed work programme and the accompanying SA report. **Annex A** sets out the specific questions that we are seeking views on and explains how you can submit your response.

ANNEX A

Questions

Proposed Work Programme

Q1. Do you have any comments on the proposed Work Programme, including the proposed phasing and groupings?

Sustainability Appraisal

Responses can be made to the SA report in general or with regard to specific development types. Please make clear where your comments are specific to a particular development type or types.

Q2. What are your views on the accuracy and scope of the information described in the SA report as regards:

- a) environmental baseline?
- b) social baseline?
- c) economic baseline?

(Please give details of additional relevant sources.)

Q3. What are your views on the predicted effects set out in the SA report as regards:

- a) environmental effects?
- b) social effects?
- c) economic effects?

Q4. What are your views on the findings and the proposals for mitigation and monitoring of effects set out in the SA report with regard to:

- a) environmental matters?
- b) social matters?
- c) economic matters?

Q5. Do you have any other comments on the SA report?

Responding to this Consultation

We are inviting responses to this consultation by Tuesday 28 January 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at

[\[https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/\]](https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of Tuesday 28 January 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Planning Development Delivery Team
(PDR Review)
Scottish Government
Area 2F South
Victoria Quay
EDINBURGH
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at Planning.PDR@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

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RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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