
NORTH AYRSHIRE COUNCIL

4th November 2020

Planning Committee

Title: The Scottish Government's Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland – Consultation on Phase 1 Proposals

Purpose: To (1) advise of consultation on proposed changes to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, and (2) seek approval of the response to the consultation on the changes.

Recommendation: It is recommended that Planning Committee:
1) notes the detail of the consultation on proposed policy amendments to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended,
2) approves the submission of the response to the consultation, as set out at Appendix 1.

1. Executive Summary

1.1 Scottish Ministers are consulting on proposed changes and extensions to Permitted Development Rights (PDR). The proposed changes relate to the development types selected as priorities for Phase 1 of their review of PDR. Those development types are:

Digital telecommunications infrastructure;
Agricultural developments;
Peatland restoration;
Developments relating to active travel

1.2 A review of issues such as town centre changes of use, electric vehicle charging, hill tracks and householder developments will be carried out in Phase 2 and beyond, programmed to start in January 2021.

1.3 Appendix 1 would represent the response of the Council, as Planning Authority. In summary the response is broadly in agreement with the proposals except in relation to PDR for changes of use for agriculture buildings.

2. Background

2.1 The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, ("the GPDO") sets out the types of development that can be undertaken without seeking permission from a Planning Authority. Such development

is known as Permitted Development. And the GPDO sets out the Permitted Development Rights (PDR).

- 2.2 **Digital telecommunications infrastructure** – currently PDR allow works including the installation and alteration of masts, antennae and other associated equipment on and under the ground and on buildings, subject to certain conditions.
- 2.3 The proposed changes mainly seek to increase existing size limits for PDR for digital infrastructure, i.e. new masts, extensions to existing masts, antennae and other equipment on buildings, equipment cabinets on the ground and on buildings, other apparatus, and underground equipment; and extend PDR for some types of digital infrastructure into sensitive areas, subject to lower size/height limits than elsewhere.
- 2.4 For example the current PDR allows installation of a ground-based mast up to 25m in height, outside 'designated areas,' subject to a prior approval process. It is proposed to increase this to 30m whilst retaining the prior approval process. Designated areas are: Conservation Areas; Settings of Category A listed buildings and scheduled monuments; World Heritage Sites (WHS); Historic Gardens and Designed Landscapes; Historic Battlefields; Sites of Special Scientific Interest (SSSI); National Parks; National Scenic Areas; European Sites (e.g. special protection areas and special areas of conservation).
- 2.5 The proposed changes seek to strike a balance between connectivity and visual amenity impacts. The Council's Local Development Plan (LDP) agrees with this approach. Policy 26: Digital Infrastructure and New Communications Equipment states that we will support proposals for such equipment so long as they are sited and designed to keep environmental impacts to a minimum. As such the proposed response is broadly in agreement although it is suggested that increases at the higher scale i.e. increases of existing masts of over 50m by up to 20%, should not be PDR due to the potential significant visual impact. It is also suggested that restrictions should remain on designated areas.
- 2.6 **Agricultural developments** – currently PDR allows erection, extension or alteration of agricultural buildings. This is subject to certain limitations. The proposed changes mainly seek to increase the existing limits for PDR on agricultural buildings. For example, increase the proposed footprint of any building from 465sqm to 1000sqm. However, it is also proposed to give PDR to the conversion of agricultural buildings to residential or shop/café/office/storage/creches/public hall use.
- 2.7 The proposed change seeks to support and protect the rural economy and support the provision of new homes in rural areas. The Council's LDP broadly agrees with this approach. Strategic Policy 1: The Countryside Objective states that we in principle support expansions to existing rural businesses. It goes onto state that new housing in the countryside will be supported only in specific circumstances, including conversions. The Council has a record of supporting new housing in the countryside through this and previous LDPs. However, any such residential conversion must be assessed against Strategic Policy 2: Placemaking. A conversion must be a suitable building which provides an appropriate level of amenity and there are other issues such as drainage, access, parking etc. which should be considered. The proposed changes would seek such issues to be considered through a prior approval process and conditions.

- 2.8 The proposed response is broadly in agreement with the extension of permitted development rights for agricultural buildings. However, it does not agree that PDR for converting such buildings to residences or business use should be given. Such development should remain subject to a full planning application. In terms of business use, the Council supports such uses if ancillary to the existing rural business and often such uses do not require planning permission, for example a farm shop at an existing farm.
- 2.9 **Peatland restoration** – new PDR would be introduced in respect of such works. They would essentially make peatland restoration permitted without the need for planning permission. Access tracks or similar to carry out such works would be permitted on a temporary basis.
- 2.10 The proposed changes are due to the recognition by the Scottish Government of the benefit of peatland restoration to climate change and storing carbon. Chapter 2 of the LDP: A Natural, Resilient North Ayrshire sets out the policies for assessing the environmental impact of development including contribution to climate change. As such the proposed response is in agreement with proposals.
- 2.11 **Development related to active travel** – new PDR would be introduced which specifically permits bicycles storage. This would potentially be in front gardens, at flatted properties, at offices, industrial and storage premises, and on streets.
- 2.12 The proposed changes are to support and retain an increase in active travel, particularly cycling. This is in line with the LDP. Policy 27: Sustainable Transport and Active Travel states that we will support development which contributes to an integrated transport network, supports long term sustainability and provides safe and convenient transport options. As such the proposed response is largely in agreement with the proposals. However, the Council does not agree with proposals for PDR within front gardens and streets in Conservation Areas, which could undermine the character and appearance of such areas and it is recommended that such development be restricted to rear areas.

3. Proposals

- 3.1 It is recommended that Planning Committee notes the detail of the consultation on proposed policy amendments to Scottish Planning Policy and approves the response to the consultation, set out at Appendix 1.

4. Implications/Socio-economic Duty

Financial

- 4.1 None

Human Resources

- 4.2 None

Legal

- 4.3 None

Equality/Socio-economic

4.4 None

Environmental and Sustainability

4.5 None

Key Priorities

4.6 The changes to PDR support the Council Plan's Priorities for 'effective infrastructure and digital connectivity' and 'a sustainable environment'.

Community Wealth Building

4.7 None

5. Consultation

5.1 This committee item reports on and outlines a response to proposed changes to The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Following the consultation, Scottish Government will take all responses into account, finalise any changes, and adopt and publish it as an amendment to the Order.

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For further information please contact **Iain Davies, Senior Development Management Officer**, on **01294 324 320**.

Background Papers

<https://www.gov.scot/publications/consultation-proposals-changes-permitted-development-rights-phase-1-priority-development-types/pages/13/>

Appendix 1

Digital communication

Q.1 Do you agree with an increase in permitted height for new ground-based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance?

A1. Yes.

Q.2 Do you agree that existing ground based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)?

A2. Yes

Q.3 Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height?

A3. No as an increase of such dimensions would be excessive. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.4 Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast?

A4. No. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.5 Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)?

A5. No. Given the potential significant visual impact at this scale, it is considered this should remain development requiring a full assessment.

Q.6 Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed?

A6. Yes

Q.7 Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas?

A7. Yes

Q.8 Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained?

A8. Yes

There are existing requirements on PDR for new masts, or for changes to height or location of existing masts, for the operator to notify the relevant body for a safeguarded area (e.g. the Secretary of State for Defence, airport operator, Met Office, NATS) for their comments to ensure the safe and efficient operation around an aerodrome or technical site.

Q.9 We propose to retain the current approach. Do you agree?

A9. Yes

Q.10 Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 below?

A10. Yes

Table 3. Proposed limits on PDR for dish antennas and other antenna systems on buildings

Location of Dish Antenna on Building

Up to a height of 15 metres above ground level

Proposal

Class 67 PDR do not apply if:

- It would exceed 1.3 metres;
- the aggregate size of all dishes would exceed 10 metres; and
- for alteration or replacement, the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made

Location of Dish Antenna on Building

Above a height of 15 metres above ground level

Proposal

No change proposed and current threshold remains in place.

Location of Other Antenna on Building

Below a height of 15 metres above ground level

Proposal

Class 67 PDR do not apply if:

- the number of antenna systems would exceed five
- with alteration or replacement, the number of antenna systems, if greater than five would be greater than the number of existing antenna systems on the building before the change was made.

Location of Other Antenna on Building

Above a height of 15 metres above ground level

Proposal

No change proposed and current threshold remains in place.

Q.11 Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies?

A11. No. It is considered the restrictions should apply to allow the impact on such areas to be fully assessed.

Q.12 What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or

greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc.)?

A12. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.13 Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)?

A13. Yes, outwith designated areas and on listed buildings.

Q.14 What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)?

A14. Any limitations should be in line with the other dwellinghouse PDR in Part 1 of the GPDO.

Q15 In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/ prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)?

A15. It is not considered appropriate to extend PDR for this development until Class 2B of the GPDO, which restricts all other alterations to the appearance of a dwellinghouse in a conservation area.

Q.16 Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground-based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972?

A16. No comment.

Q.17 Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR that you consider necessary to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

A17. No comment.

Q.18 Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume?

A18. No

Q.19 Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts?

A19. Yes

Q.20 If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks?

A20. Yes

Q.21 Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume?

A21. No

Q.22 Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts?

A22. Yes

Q.23 Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies?

A24. No. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.24 Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion?

A24. It is considered the current restrictions should continue to apply to allow all proposals to be considered on their own merits. Each designated area will have its own merits for designation and proposal should be assessed against them.

Q.25 Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts?

A25. Yes. If PDR in such locations is granted, then it should be subject to such a process.

Q.26 In which designated areas do you consider that PDR for underground development could be extended?

A.26 It may be possible for some PDR for underground works in Conservation Areas where such works may already take place. However, it does not appear possible for other types of designated areas.

Q.27 In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)?

A27. Prior approval with a need for archaeological assessment should be sought.

Q.28 Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

A28. No

Agricultural Developments

Q.29 Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDR from 465sqm to 1,000sqm?

A29. Yes, but the proximity limit to classified roads should be revised. The current limit of 25m is too short given the proposed increase

Q.30 Do you agree with our proposal to retain other existing class 18 conditions and limitations?

A30. Yes

Q.31 Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)?

A31. No

Q.32 Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval?

A32. Yes, but not within designated areas.

Q.33 Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years?

A33. Yes.

Q.34 Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building?

A34. No. Such conversions require to be assessed in terms of a whole range of issues. It is not considered appropriate to do this through prior approval.

Q.35 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters?

A.35. No. It is considered this should be a matter for a full planning application.

Q.36 Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process?

A36. No. Prior approval is not considered appropriate.

Q.37 Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR?

A37. No. It is not considered appropriate as each site should be considered on its merits.

Q.38 Do you agree with the proposed protection for listed buildings and scheduled monuments?

A38. Yes

Q.39 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

A39. Yes

Q.40 Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building?

A40. No. Most of the uses proposed, if in connection with the existing farm, would likely not require planning permission where ancillary to the business. Where these are not connected to the existing building, careful assessment should be made of why such a use would be in a rural location. Where farms are in reasonable proximity to settlements it would also appear to undermine the town centre first approach of directing such uses to support town centres. It also undermines active travel aspirations.

Q.41 Do you agree with the proposed cumulative maximum floorspace (500sqm) that may change use?

A41. No. If a shop, for example, was suitable for such a location a floorspace of 500sqm appears excessive.

Q.42 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm?

A42. No. Do not consider it is appropriate PDR.

Q.43 Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval?

A43. Yes

Q.44 Do you agree with the proposed protection for listed buildings and scheduled monuments?

A44. Yes

Q.45 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

A45. Yes

Q.46 Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses?

A46. No, for the reasons outlined in respect of agricultural buildings.

Q.47 Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant?

A47. It is not agreed that the PDR should be implemented.

Q.48 Do you agree with our proposed approach to providing greater clarity as to the planning status of polytunnels?

A48. Yes

Peatland Restoration

Q.49 Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)?

A49. Yes

Q.50 Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland?

A50. Yes

Q.51 Do you agree with this approach to a blanket PDR for 'peatland restoration'?

A51. Yes

Q.52 Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas?

A52. Yes

Q.53 Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects?

A53. Yes

Q.54 What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects?

A54. No comment

Q.55 If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies?

A55. No comment

Q56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site?

A56. No comment

Q57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site?

A57. Yes

Q.58 Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled?

A58. No comment

Q.59 Do you have any other views or points to make about the proposed PDR for peatland restoration?

A59. No comment

Development related to active travel

Q.60 Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth?

A60. Yes

Q.61 Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?

A61. No. The front gardens of houses in conservation areas can be very important to the character or appearance of the area. As such this type of permitted development should be limited to the rear garden. This could be added as a separate class to the already permitted outbuilding.

Q.62 Should such an extension to PDR should be subject to a restriction on materials?

A62. Appropriate materials for one Conservation Area may not be so for others.

Q.63 Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres?

A63. No. There is no guarantee that the extra space would be used for this purpose. However, PDR for a bicycle storage shed could be added as a separate class to the already permitted outbuilding.

Q.64 Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area?

A64. Yes, but only subject to being in a rear garden. There should be safeguards about proximity to neighbouring windows.

Q.65 Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas?

A65. Yes

Q.66 Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses?

A66. Yes. However, such uses have some PDR already that could include such stores.

Q.67 Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets?

A67. Yes

Q.68 If such PDR is introduced, do you agree with the proposed maximum size for the cycle stores, and the proposed restriction on the number allowed in a particular street or block?

A68. Yes

If you disagree please explain why.

Q.69 If such PDR is introduced, do you think it should it be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc?

A69. No. As per front gardens the streetscape is likely to be important in terms of the character or appearance of the area.

Q.70 Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

A70. No