

Review of Permitted Development Rights - Phase 3 (23rd Aug 2023)

Heads of Planning Scotland (HOPS) is the representative organisation for senior planning officers from Scotland's local authorities and national park authorities.

This consultation response summarises key points made by Scottish Planning Authorities, but we note that there will be differences of opinion between authorities and would defer to their own responses on specific local issues.

Domestic Renewables: Solar energy equipment

1. Do you agree with the proposed permitted development rights for solar panels attached to domestic properties in conservation areas?

Yes

In principle. Some concerns have been noted regarding potential impacts on visual amenity and character of conservation areas.

2. Do you agree with the proposed permitted development rights for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse?

Yes

In principle. We note that a rear curtilage in a Conservation Area will be difficult to define without including reference to either a principal elevation or road. Many properties may not have a defined curtilage.

Domestic Renewables: Air source heat pumps

3. Do you agree with the proposed amendments to permitted development rights for air source heat pumps?

Yes

In principle. However, this may become more difficult in flatted developments compared to stand alone houses. Planning authorities have noted cumulative background noise potentially being a significant issue with these installations. In addition, some concerns were raised about maintenance and long term wear and tear of the devices which could be a long term enforcement monitoring issue for planning.

Domestic Renewables: Ground and water source heat pumps

4. Do you agree that classes 6D and 6E should be amended to include reference to the installation etc of pipework and associated connections required to operate a ground or water source heat pump?

Yes

No further comments.

Domestic Renewables: Free-standing wind turbines

5. Do you agree with the proposed amendments to permitted development rights for free-standing domestic wind turbines?

No

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The prior notification process is complicated and where there is scope to remove this the opportunity should be taken as it is confusing to customers.

A uniform colour needs to be clearly defined.

Having a domestic wind turbine 16.5m in any location has potential amenity concerns in terms of cumulative impact. This should need planning permission. Need to add in reference to proximity of the public road (includes the verge) of 1.5m x the height of the turbine. This would safeguard against the collapse of a turbine impacting on public road users.

6. Do you agree with the current list of designated areas where the permitted development rights do not apply, noting that the list does not currently include national parks or National Scenic Areas?

Yes

No further comments.

Domestic Renewables: Wind turbines attached to a dwelling

7. Do you agree with the proposed new permitted development rights for wall or roof-mounted wind turbines attached to a dwellinghouse?

Yes

No further comments.

Domestic Renewables: Flues for certain heating systems

8. Do you have any comments on the potential removal of permitted development rights for flues for wood burning stoves (including wood burners and log burners), biomass boilers and biomass heating systems?

No

9. Noting that current permitted development rights (PDR) cover the installation, alteration or replacement of flues, should any removal of these PDR be limited to installation of new flues, or also prevent existing flues being altered or replaced under PDR?

Limited to the installation of new flues.

However, concerns have been noted regarding air quality issues and that may be better addressed by Public Health Legislation.

Non-Domestic Renewables: Solar panels

10. Do you agree with the proposed amendments to class 6J permitted development rights for solar panels attached to non-domestic buildings?

Yes

In principle, though concerns have been raised regarding the inclusion of other conditions.

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11. Do you have any comments on the potential to amend the current restrictions that apply to solar panels on non-domestic properties (class 6J) and solar canopies in parking areas (class 9M) within 3km of airports and technical sites associated with civilian and military air traffic services?

Yes

In principle, though we note some authorities have concerns about the expertise to advise on issues of solar glare in terms of aviation safety and would advise consultation with airports, military and CAA on this aspect.

12. Do you agree with the proposed new permitted development rights for solar panels within the curtilage of non-domestic buildings?

Yes

No further comments.

Non-Domestic Renewables: Solar canopies in parking areas

13. Do you agree with the proposal to extend the Class 9M permitted development rights to allow these to apply to solar canopies generally, rather than only those for which the primary use is charging of electric vehicle?

Yes

No further comments.

14. Do you agree that any extension of Class 9M permitted development rights to be for the purposes of producing electric power generally, should not have a maximum power generation capacity?

Yes

No further comments.

Non-Domestic Renewables: Air source heat pumps

15. Do you agree with the proposed permitted development right for air source heat pumps on non-domestic buildings?

Yes

No further comments.

Non-Domestic Renewables: Ground source and water source heat pumps

16. Do you agree with our proposed amendments to class 6I permitted development rights for ground and water source heat pumps on non-domestic buildings?

Yes

In principle. Though the maximum heat output will be difficult to measure and/or taken enforcement action on.

Thermal Efficiency: Replacement windows

17. Do you agree with the proposed permitted development rights for replacement windows of domestic buildings located in conservation areas?

Yes.

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Would there be a need to define colour of the frame i.e. brown for timber. What is colour of pane referring to as this would be glass? Replacing pattern with orientation may be simpler for customers to interpret.

We note that planning authorities have very different stances on this issue and would refer to detailed comments within individual authorities' responses on the matter.

18. Do you have any comments on the conditions that we propose the permitted development rights for replacement windows would be subject to?

Yes

The existing window would need to be lawful.

19. Do you agree with the proposal to align non-domestic buildings with domestic buildings, as regards permitted development rights for replacement windows? Are there any types of non-domestic building that should be excluded?

Yes

No further comments.

Electricity Undertakings: Overview

20. Do you agree that class 40 permitted development rights should be amended to clarify that they can be applied by statutory undertakers for the purposes of 'smart meter communications' and the 'distribution' and 'interconnection' of electricity as well as its 'generation', 'transmission' and 'supply'?

Yes

No further comments.

Electricity Undertakings: Class 40

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Electricity Undertakings: Electric Lines

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Electricity Undertakings: Substation Infrastructure

21. Do you agree with the proposed amendments to the provisions of class 40 permitted development rights which relate to new or replacement substations?

Yes

No further comments.

Electricity Undertakings: Communications Lines

22. Do you agree with the proposal to allow the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest under class 40 permitted development rights provided that the design, height or position of the replacement line matches the original?

Yes

There is also a recommendation to remove the need for prior notification.

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23. Do you have any thoughts on the potential to provide for the installation or replacement of communications lines of a greater length than 1,000m under class 40? If so, do you have a view on an appropriate alternative threshold?

No

No further comments.

Electricity Undertakings: Site Investigation Works

24. Do you agree with the proposal to extend the range of site investigation works that can be carried out under class 40?

Yes

No further comments.

25. Do you consider that there are any designated areas where permitted development rights for certain site investigation works should be restricted? Should there be any limitations on the scale of certain intrusive site investigation works permitted, for example, the size of trial pits?

Yes

Area and depth should be restricted. Further considerations around; areas of archaeological interest, special areas of conservation, sites of special scientific interest, national scenic areas, national parks, special protection areas etc.

Electricity Undertakings: Fences, gates, walls and other means of enclosures

26. Do you agree with the proposed introduction of specific permitted development rights enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to 3m in height?

Yes

Clarification of the general limitation on “*development that creates an obstruction to the view of persons using any road used by vehicular traffic*” is required. Assuming this means vehicles travelling along the road and the retention of forward sightlines. A poorly located fence/gates can obstruct the sightlines for servicing vehicles accessing the enclosure and more importantly, if a cycle path is adjacent to the enclosure, forward sightlines for cyclists and pedestrians should also be provided. A broadening of the description or clarification is required.

Clarification should also be provided that gates must open inwards and not obstruct sightlines when open. Another concern raised is that without a process for these types of development, they may be sited where there are proposals for future transport improvements and reduce the available land and/or end up with a diversion of the footway/cycle path behind the enclosure.

Electricity Undertakings: Development of Operational Land

27. Do you agree with the proposed removal of prior approval requirements that apply to certain works under class 40 permitted development rights?

Yes

Controls should remain for archaeological interest, special areas of conservation, sites of special scientific interest, national scenic areas, national parks, and special protection areas.

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Planning authorities are already noting the high demand for substations, the rollout of energy network transmission and distribution will need to be carefully managed.

28. Please provide any further views you may have on the proposals in Chapter 5 on the permitted development rights associated with electricity undertakings.

No further comments.

Reverse vending machines

29. Do you agree with the proposed amendments to permitted development rights for reverse vending machines?

No

1.5m pavement width is not acceptable for safe passage. The reverse vending machine proposals raise concerns about introducing clutter within the public realm and the hazards that present to persons with impaired mobility or vision. We note the clear space of 1.5 metres on a footway. However, if a person is using the reverse vending machine then they will be obstructing the route for other pedestrians. In busy town centre locations this could lead to pedestrians having to step out onto the public road. We would recommend that the Roads Authority is consulted on any proposal within 5 metres of the public road to ensure that the needs of road users and the ability to empty/service the machine are taken into account.

We acknowledge need to amend the permitted development rights for shop frontages in section 6.1.10.

We note that there are many differences in opinions on this matter from planning authorities and would recommend considering individual authorities responses.

Temporary use of land: Shooting ranges

30. Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR (permitted development right)? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

Yes

We would refer to individual issues raised by planning authorities on this matter but are aware that a blunt exclusion may have unintended consequences.

Assessment of Impacts

31. What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

No further comment

32. Do you have any comments on the partial and draft impact assessments undertaken for Phase 3?

No further comment

33. Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

No further comment