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Planning

By Email: microgenerationpdrights@doeni.gov.uk & Post

Dear Mr Reavie,

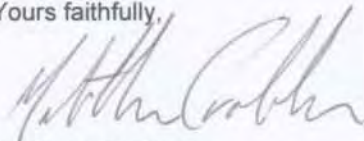
BALLYMONEY BOROUGH COUNCIL - RESPONSE TO PLANNING SERVICE'S CONSULTATION DOCUMENT ON MICROGENERATION PERMITTED DEVELOPMENT RIGHTS

I refer to the above enclose a copy of Ballymoney Borough Council's response to the consultation exercise.

If you have any queries, please feel free to contact me or Mr Michael Graham, Associate Director of this practice.

I trust the enclosed is in order and would be obliged if you could provide written receipt of this submission.

Yours faithfully,



Matthew Crothers
DEVELOPMENT PLANNER

cc. Mr John Dempsey, Chief Executive/Town Clerk, Ballymoney Borough Council.
Mr Michael Graham MRTPI, Associate Director, FMP, Belfast.

Enc.



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RESPONSE
TO
MICROGENERATION PERMITTED
DEVELOPMENT RIGHTS
CONSULTATION DOCUMENT
BY



BALLYMONEY BOROUGH COUNCIL

APRIL 2007

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1.0 INTRODUCTION AND GENERAL COMMENTS

- 1.1 This report has been prepared on behalf of **Ballymoney Borough Council** by the **Farningham McCreadie Partnership Ltd**. It is in response to a Consultation Document, produced by **DoE Planning Service**, on the provision of permitted development rights for small scale renewable energy development, referred to as '**microgeneration**', associated with dwelling houses and within the curtilage of a dwelling house.
- 1.2 Some general initial comments are contained in this section. Thereafter, this response follows the contents and sections of the Consultation Paper, responding to the various issues and questions posed.
- 1.3 Council is aware that there is a requirement to meet the renewable energy target set out by the **Strategic Energy Framework for NI**, which requires 12% of all electricity consumed in Northern Ireland (NI) to be obtained from indigenous renewable energy sources of which at least 15% of this should be produced from non-wind technologies. As such, Council endorses the DETI's opinion and view that more emphasis should be placed on microgeneration initiatives, as well as larger scale projects in order to aid in achieving this target.
- 1.4 Council accepts that as part of these initiatives, easier facilitation of microgeneration is required in order to meet these renewable energy targets and to comprehensively assess the existing framework for authorising electricity production by such means in line with EC Directives. As such, Council welcomes the opportunity to respond and put forward its opinions on the provision of specific permitted development rights (PD) for microgeneration.

2.0 BACKGROUND AND APPROACH

2.1 The Consultation Paper poses a number of questions on a wide range of significant issues relating to PD rights for microgeneration. This representation presents Ballymoney Borough Council's position on each relevant question/issue.

Q1. *Should a simplified regulatory regime of PD rights be provided to facilitate microgeneration development?*

2.2 Considering the somewhat dated nature of current PD rights and their lack of specific reference to microgeneration development, it is contended that a more simplified and regulatory regime is required to give a more concise overview and transparency when considering such development forms. Indeed, it is considered that specific reference is needed in relation to specific types of microgeneration development in order to provide clarity, transparency and certainty to users when considering such development on their properties.

Q2. *Should PD rights for microgeneration associated with a dwelling house or within the curtilage of a dwelling house be provided for separately from existing PD rights for development within the curtilage of a dwelling house?*

2.3 As per the answer above, there is no specific reference to microgeneration development within the current General Development Order (GDO) and, as such, no provision of clear and precise PD rights for such development. Instead, such development falls within the existing classes of Schedule 1 of the GDO, which often requires cross-reference with other legislation and is open to the users' interpretation, often resulting in uncertainty.

2.4 It is therefore supported that the GDO be updated to provide clear and definitive PD rights for microgeneration development so as to avoid cross-reference with other legislation and in order for the GDO to embrace current sustainability trends and be supportive of government aims.

2.5 However, given that the review of PD rights is in relation to microgeneration development for dwelling houses, it is contended that the Department should assure that the links between microgeneration and dwelling houses are maintained and clearly defined.

3.0 SOLAR COLLECTOR DEVELOPMENT

- 3.1 Solar Collector development comprises two main forms. These are Solar Water Heating (SWH's) and Photovoltaics (PVs). Solar water heating systems comprise solar collectors (panels), a heat transfer system (pipes) and a hot water store (hot water cylinder). The panels should ideally face south and be angled towards the sun's elevation. Photovoltaic systems are similar to SWH systems in that they collect solar energy from the sun by means of a collector panel, but instead of heating a fluid, the PV collector produces electricity.
- 3.2 The main issues that arise from installation of such development include the visual impact of the collector panels and transfer pipes against the existing building materials and environment; broken roofscape where the collector panels are mounted above the plane or height of the existing roof; and reduction in light, where free standing panels are placed adjacent to boundaries.

Solar panels fitted to the roof of a dwelling house

Q3. Do you agree that a requirement that the design and external finishes of solar panels fitted to the roof of a dwelling house be in conformity with those of the original dwellinghouse should not apply?

- 3.3 Yes.

Q4. Do you agree that the highest part of the roof constraint should be retained for solar panels fitted to a ridged roof and solar panels fitted to a flat roof should be allowed to project up to 1.5 metres above the plane of the roof?

- 3.4 Council agrees with maintaining the roof constraint for panels on a ridged roof and to solar panels fitted to a flat roof projecting to 1.5 metres.

Q5. Do you agree that solar panels on a roof slope, which faces onto and is visible from a road, should not extend more than 15 centimetres beyond the plane of the existing roof slope?

- 3.5 Yes. This helps to minimise visual impact.

Q6. Do you agree that no maximum area limit should be applied to solar panels fitted to the roof of a dwelling house?

3.6 Yes. The restriction of PD rights would be for domestic use only. Therefore, it is envisaged that the panel area required would be somewhat 'self limiting'.

Q7. Do you agree that in designated areas the fitting of solar panels to a roof should be permitted provided that:

- a. in the case of a ridged roof, the roof slope does not face onto and is not visible from a road; and**
- b. in the case of a flat roof, no part of a solar panel is visible from a road?**

3.7 No. Although the development may not be visible from the road it may still be visible from adjacent properties within the designated area or from properties just outside of it. As such, solar collector development should still be resisted in designated areas given their distinct visual appearance.

Q8. Do you agree that solar panels fitted to the roof of a dwelling house should be limited to the boundaries of the existing roof?

3.8 Yes. This will minimize any visual impact created by the cells.

Solar panels fitted to the wall of a dwelling house

Q9. Do you agree that a requirement that the design and external finishes of solar panels fitted to the wall of a dwelling house be in conformity with those of the original dwelling house should not apply?

3.9 No. Some degree of regulation should be imposed to prevent any detrimental impact, visual or otherwise. Some form of regulatory criteria should be stipulated pertaining to size, location and colour/appearance and finish.

Q10. Do you agree that no maximum area limit should be applied to solar panels fitted to the wall of a dwelling house?

3.10 Yes, provided it is only for domestic use, i.e. thus, it is self regulating.

Q11. Do you agree that solar panels fitted to the wall of a chimney should not be allowed to exceed the highest part of the roof of the existing dwelling house?

3.11 Yes. This will minimise visual impact and negative impacts upon the character of the area.

Q12. Do you agree that a restriction that solar panels fitted to the wall of a dwelling house should be no nearer to any road which bounds its curtilage than the part of the original dwelling house nearest to that road is unnecessary?

3.12 Yes. This restriction is unnecessary in terms of solar collector panels.

Q13. Do you agree that where any part of a solar panel fitted to a wall within 3 metres of the boundary of the curtilage extends above 4 metres in height, the panel should not extend more than 15 centimetres beyond the plane of the wall?

3.13 Yes. This will help to minimise visual impact and guard against any potential loss of amenity through overshadowing and loss of light to adjacent properties.

Q14. Do you agree that solar panels fitted to the wall of a dwelling house can be excluded from any calculation of the total area of buildings within the curtilage (other than the original dwelling house)?

3.14 Yes.

Q15. Do you agree that solar panels fitted to the wall or roof of a dwelling house should not be permitted where the dwelling house is a listed building?

3.15 Yes. However, Council advise that alternative sustainable microgeneration developments which are not as visually intrusive should be promoted in cases like this so that those occupants of listed buildings do not suffer from not being able to facilitate sustainable forms of energy. Possibly a geothermal heat pump or alternatives which can be concealed within the ground and are not visible and will not affect the setting of the listed building should be utilised.

Q16. Do you agree that solar panels fitted to the wall of a dwelling house should not extend beyond the boundaries of the wall?

3.16 Yes. This will help to protect visual amenity.

Q17. Do you agree that solar panels should not be permitted where they are fitted to a wall of a dwelling house which faces onto and is visible from a road?

3.17 Yes. The householder would still have the option of applying for planning permission in such a situation, upon which the impact to amenity can be examined.

Solar panels fitted to other buildings within the curtilage of a dwelling house

Q18. Do you agree that a restriction that solar panels fitted to the wall of a building within the curtilage of a dwelling house should be no nearer to any road which bounds its curtilage than the part of the original dwelling house nearest to that road is unnecessary?

3.18 Yes. This restriction is unnecessary in terms of solar collector panels.

Q19. Do you agree that the proximity of solar panels fitted to the wall or roof of a building within the curtilage of a dwelling house should not be restricted in terms of cubic content or proximity to the dwelling house?

3.19 Yes.

Q20. *Do you agree that it is unnecessary to apply a height restriction to the fitting of solar panels to the roof or wall of an existing building within the curtilage of a dwelling house or to the attachment of solar panels to an existing wall, including that of an enclosure, within the curtilage of a dwelling house?*

3.20 Yes.

Q21. *Do you agree that solar panels fitted to the wall of a building within the curtilage of a dwelling house can be excluded from any calculation of the total area of buildings within the curtilage (other than the dwelling house)?*

3.21 Yes.

Q22. *Do you agree that:*

- a. in a designated area, the fitting of solar panels to a roof slope which faces onto and is visible from a road and the fitting of solar panels to a flat roof where any part of the solar panel would be visible from a road;*
- b. the fitting of solar panels to existing walls or walls of existing buildings which face onto and are visible from a road; and,*
- c. the fitting of solar panels to the roof or walls of a building or an existing wall within the curtilage of a listed building,*

should not be permitted?

3.22 Yes.

Freestanding solar panels within the curtilage of a dwelling house

Q23. *Do you agree that freestanding solar panels should be permitted within the curtilage of a dwelling house subject to suitable restrictions?*

3.23 Yes.

Q24. Do you agree that freestanding solar panels should not be permitted where any part of a solar panel is nearer to any road, which bounds the curtilage than the part of the dwelling house nearest to that road?

3.24 Yes, on the grounds of protecting existing visual amenity.

Q25. Do you agree that the area of freestanding solar panels allowed within the curtilage of a dwelling house should be limited?

3.25 Yes.

Q26. If your answer to question 25 is 'yes', what area do you suggest – the Department proposes 14 square metres?

3.26 A maximum limit should be set. The opinion of the panels being 'self limiting' is not protective enough to ensure that no negative visual impact or impact upon character of the area is caused. Nor will it prevent users installing a detrimental amount of cells. There is nothing to prevent an overly large area of panels being erected which could have a serious visual impact. There should be a maximum upper limit set at 14 square metres, which should be amended in line with household size and available site area. Likewise, detailed figures could and should be provided so that users can work out the most efficient size of panel suitable for their property.

Q27. Do you agree that the height of freestanding solar panels within the curtilage of a dwelling house should be a maximum of 1.5 metres and that this should apply everywhere?

3.27 Yes.

Q28. Do you agree that freestanding solar panels should not be permitted development within the curtilage of a listed building?

3.28 Yes. Such structures could have a detrimental impact upon the setting of a listed building and should be resisted. Alternative sustainable measures should be considered, unless it can be proved via the planning process that minimal detrimental impact occurs.

4.0 BIOMASS DEVELOPMENT

Biomass fuel storage.

Q29. *Do you agree that existing PD rights for the storage of oil are sufficient for bio-heating oil?*

4.1 Yes.

Q30. *Do you agree that:*

- a. *a capacity limit of 6,000 litres should be applied to an above ground solid biomass fuel storage container;*
- b. *no capacity restriction should be applied to below ground solid biomass fuel storage?*

4.2 We would agree that the capacity limit of 6,000 litres for an above ground solid biomass fuel storage container is acceptable. However, a capacity restriction should be imposed on below ground solid biomass fuel storage so that such development can be regulated.

Q31. *Do you agree that a 3 metre height limit is sufficient for above ground solid biomass fuel storage containers?*

4.3 Yes. This provides adequate regulation.

Q32. *Do you agree that no part of a solid biomass fuel storage container, whether above or below ground should be permitted nearer to any road which bounds the curtilage than the part of the dwelling house nearest to that road?*

4.4 Yes. However, if the container is below ground, this should not apply.

Q33. *Do you agree that PD rights for underground solid biomass fuel storage containers should be withdrawn within a site of archaeological interest?*

4.5 Yes. Solid biomass fuel storage containers within a site of archaeological interest should be considered on a case by case basis through the planning system and as such

PD rights should be removed. A planning application should be required for such development in areas of archaeological interest so as to determine the archaeological value of the site through consultation with EHS and relevant bodies and to determine if an archaeological site survey is required before such development can take place.

5.0 HEAT PUMP DEVELOPMENT

Q34. *Do you agree that PD rights for the provision of a ground source heat pump system within the curtilage of a dwelling house should be removed where the underground elements of the heat pump are within a site of archaeological interest?*

5.1 Yes.

Q35. *Do you agree that, in designated areas, an air source heat pump or any external element of the heat pump within the curtilage of a dwelling house should not face onto and be visible from a road?*

5.2 Yes, where possible the locating of such apparatus should not be visible from and face onto a road to prevent impact upon visual amenity and character of the designated area. However, given the nature of the site, available space and other factors, this may be the only suitable location for such elements of the heat pump. As such, it should be stipulated that all reasonable effort should be made to locate such elements of heat pumps in other less visually open locations.

Q36. *Do you agree that within the curtilage of a listed building a heat pump or its housing should be limited to 10 cubic metres?*

5.3 Yes.

Q37. *Do you agree that where an air source heat pump or any part of it is within 3 metres of the boundary of the curtilage of the dwelling house it should not exceed 4 metres in height?*

5.4 Yes.

Q38. *Do you agree that PD rights should be withdrawn where any part of the heat pump or its housing is nearer to any road which bounds the curtilage than the part of the dwelling house nearest to that road?*

5.5 Yes.

Q39. *Do you agree to minimise the risk of a noise nuisance, an air source heat pump should be a minimum distance from the façade of the nearest residential window (not being a window within the curtilage of the dwelling house which it serves)?*

5.6 Yes.

Q40. *If your answer to question 39 is 'yes', what distance do you suggest that should that should be – the Department suggests it could be about 5 metres?*

5.7 On the basis of the Department's dB(A) noise level examples, it is envisaged that 5 metres should be sufficient.

6.0 WIND TURBINE DEVELOPMENT

Q41. *Should tower mounted wind turbines erected within the curtilage of a dwelling house have PD rights?*

6.1 No. There is a clear visual impact issue with regard to tower mounted wind turbines. As such, they could cause serious demonstrable harm through negative visual impact, overshadowing, safety and noise. Planning applications should be required for standalone wind turbines in order to consider the merits of each individual case and assess any potential negative impact.

Q42. *Should wind turbines attached to a dwelling house or other buildings within the curtilage of a dwelling house have PD rights?*

6.2 Yes.

Wind turbines fitted to a dwelling house or other buildings within the curtilage of a dwelling house.

Q43. *Should wind turbines attached to a dwelling house or to a building within the curtilage of a dwelling house be disallowed in designated areas where they face onto and are visible from a road?*

6.3 No. This should depend on an assessment of visual impact.

Q44. *Should the top most part of a wind turbine attached to a dwelling house or to a building within the curtilage of a dwelling house be allowed to project above the highest part of the roof?*

6.4 Yes, however, this should only be allowed, where it can be demonstrated that minimal visual impact occurs.

Q45. *If your answer to question 44 is 'yes', then what should the maximum height be for the topmost part of the wind turbine – the department suggests 3 metres?*

6.5 In terms of the height, it is envisaged, given the Department's example height calculations, that 3 metres should be sufficient.

Q46. Should a maximum rotor diameter be set in any PD rights for building mounted horizontal axis wind turbines?

6.6 Yes.

Q47. If your answer to question 46 is 'yes', then what should the maximum rotor diameter be – the department suggests 2.5 metres?

6.7 It is envisaged, given the Department's example calculations, that 2.5 metres should be sufficient.

Q48. Should a maximum rotor diameter of a building mounted vertical axis wind turbine be set?

6.8 Yes.

Q49. If your answer to question 48 is 'yes', then what should the maximum rotor diameter be?

6.9 Given the lack of information on vertical axis wind turbine rotors, Council would encourage the Department to further assess this aspect. Perhaps, a similar restriction as per the horizontal axis turbine rotors should apply.

Q50. Should one wind turbine be allowed under PD rights with further wind turbines requiring a planning application?

6.10 Yes.

Q51. Do you agree that to minimise the risk of a noise nuisance, a wind turbine should be a minimum distance from the façade of the nearest residential window (not being a window within the curtilage of the dwelling house which it serves)?

6.11 Yes.

Q52. *If your answer to question 51 is 'yes', what distance do you suggest that should that should be – the Department suggests it could be about 10 metres?*

6.12 Council accepts 10 metres, given the noise calculation examples set out in the Department's report.

Q53. *Do you agree that attaching a wind turbine to the wall or roof of an existing dwelling house or to other buildings within the curtilage of a dwelling house which is a listed building should not be permitted development?*

6.13 Yes. This should be tested through the planning process.

Q54. *Do you agree that the potential effects of vibration should be addressed by manufacturers and installers of building mounted wind turbines and householders should seek to ensure that this issue is addressed in their installation?*

6.14 Yes.

Q55. *Do you agree that guidance should be provided highlighting what factors should be taken into account when siting a wind turbine (both building mounted and standalone wind turbines) and, in particular, the potential issues that could affect bats and their existing legal protection?*

6.15 Yes.

Provision of a standalone wind turbine within the curtilage of a dwelling house

Q56. *Should the topmost part of a tower mounted wind turbine – that is, the highest part inclusive of the rotor blades be permitted to project up to 3 metres above the highest part of the roof of the existing dwelling house?*

6.16 See response to Q41 above. The height of standalone wind turbines should be tested through the planning application process.

Q57. Do you agree that the rotor diameter of a tower mounted horizontal axis wind turbine should be restricted to a maximum of 2.5metres?

6.17 Yes.

Q58. Should a maximum rotor diameter of a building mounted vertical axis wind turbine be set?

6.18 Yes.

Q59. If your answer to question 58 is 'yes', then what should the maximum rotor diameter be?

6.19 As no details are available on unit dimensions, Council encourages the Department to assess this further.

Q60. Should one wind turbine be allowed under PD rights with further wind turbines requiring a planning application?

6.20 No. See response to Question 41.

Q61. Do you agree that tower mounted wind turbines should not be permitted where any part of the wind turbine is nearer to the neighbouring curtilage boundary or any road than a distance equal to the overall height of the turbine (measured with the blade of the turbine in its vertical position)?

6.21 Yes. See responses to Questions 41 and 60.

Q62. Do you agree that to minimise the risk of a noise nuisance, a wind turbine should be a minimum distance from the façade of the nearest residential window (not being a window within the curtilage of the dwelling house which it serves)?

6.22 Yes.

Q63. *If your answer to question 62 is 'yes', what distance do you suggest that should be – the Department suggests it could be about 10 metres?*

6.23 See response to Question 52.

Q64. *Do you agree that no part of a tower mounted wind turbine, including any supporting structure, should be nearer to any road which bounds the curtilage than the part of the dwelling house nearest to that road?*

6.24 Yes.

Q65. *Do you agree that provision of a tower mounted wind turbine within the curtilage of a dwelling house should not be permitted development where the dwelling house is a listed building?*

6.25 Yes. This should certainly be assessed through the planning application process.

7.0 HYDRO DEVELOPMENT

Q66. *Do you agree that hydro development should always be considered on a case by case basis through the planning process?*

7.1 Yes. Due to the scale, activities and processes involved with such development it is considered that the best way to deal with such a proposal will be through submission of a planning application so that all concerns and potential impacts can be considered.

8.0 FUEL CELL DEVELOPMENT

Q67. *Do you agree that the need for PD rights for fuel cell development should be considered at some future date?*

- 8.1 Yes. Further examination needs to be undertaken of the technology available. It is currently not developed enough or fully commercially available to make an informed stance on assessing PD rights.

9.0 GENERAL CONDITION

Q68. *Do you agree that conditions should be applied where appropriate to require that the development permitted must be for the purpose of providing heat or energy for use within the curtilage of the dwelling house?*

9.1 Yes.