



**PERMITTED  
DEVELOPMENT RIGHTS  
FOR NON-HOUSEHOLDER  
DEVELOPMENT  
CONSULTATION PAPER  
RESPONSE FORM**

Once you have completed this form please  
return to

Policy and Legislation Branch  
3<sup>rd</sup> Floor  
Millennium House  
Great Victoria STREET  
Belfast  
BT2 7BN

by fax (marked 'Planning Non-householder PD  
Consultation Response') to:  
028 9041 6960

Or by e-mail to:  
[Planning.nonhouseholderpd@doeni.gov.uk](mailto:Planning.nonhouseholderpd@doeni.gov.uk)

All responses should be submitted to the  
Department no later than 22<sup>nd</sup> January 2010



Department of the  
**Environment**  
[www.doeni.gov.uk](http://www.doeni.gov.uk)



INVESTORS IN PEOPLE

## RESPONDENT INFORMATION

Please Note that this form **must** be returned with your response to ensure that we handle your response appropriately.

In keeping with our policy on openness, the Department will make responses to this consultation paper publically available. When publishing responses received on behalf of organisations the Department will also publish the organisation's name and address. When publishing responses received on behalf of individuals the Department will not publish details of the individual's name and address.

### 1. Name/Organisation

Organisation Name

N I Chief Environmental Health Officers Group

Title

Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

[REDACTED]

Forename

[REDACTED]

### 2. Postal Address

[REDACTED]

Postcode:

[REDACTED]

Phone:

[REDACTED]

Email:

[REDACTED]

**3. Are you responding:**

As an individual

On behalf of a group / organisation

**4. Which of the following best describes the capacity in which you are responding:**

Developer

Agent/Architect

Business

Member of Public

Environment Group

Council / Councillor

MLA, MP, MEP

Other  Please state:

Professional body within Local Government
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**5. Acknowledgment**

Individual responses will not be acknowledged unless specifically requested

**Question 1**

Do you have any views on how the GDO could be made easier to understand and interpret and, if so, what are they?

**We would support the proposed changes to the GDO with a separate consolidated General Permitted Development Order, associated training and supplementary guidance prepared with the input of relevant trade associations. In addition several parts of the existing GDO are poorly drafted and confusing. For example, the wording of Part 6 'Agricultural Buildings & Operations', leaves exclusion from Permitted Development status open to interpretation.**

**Question 2**

Do you agree that Prior Approval provisions should not be a feature of permitted development rights in the new GPDO?

Yes  No

**No comment offered.**

**Question 3**

Should local planning authorities be enabled to extend permitted development rights in specific areas, perhaps through LDOs?

Yes  No

**No comment offered.**

**Question 4**

Should the power for local planning authorities to use Article 4 directions to restrict PD rights be retained?

Yes  No

**We would support the retention of this power, however, the input of relevant consultees will be important in ensuring well-informed decisions are made on their use.**

**Question 5**

Should the provision for Article 4 directions be changed to enable them to be used to also extend PD rights?

Yes  No

**We would support the introduction of this power, however, as with restriction of PD rights, the input of relevant consultees will be important in ensuring well-informed decisions are made on their use.**

**Question 6**

Should the provisions relating to SPZs be retained as a further option for relaxing planning controls in specific areas?

Yes  No

**We would not support the use of SPZs as the 'zones' do not allow adequate scrutiny of potential environmental impacts, particularly in the case of airports, docks and industrial estates etc. As there is no guidance as to the effect a SPZ will have upon planning policies upon its boundary there is no guarantee that sensitive development will not encroach. Therefore it would not be acceptable to allow potentially noisy, odorous etc development without an assessment of the impact on the surrounding area which may include residential.**

**Question 7**

Should a new Class D as suggested to facilitate compliance with the Disability Discrimination Act be introduced into Part 2 of the GDO?

Yes  No

**No comment offered. It is recommended that a response is sought from Building Control representatives.**

**Question 8**

Should the limitation of PD Rights be set differently in different areas depending on the nature of the designation?

Yes  No

**We would support the differential limitation of PD rights depending on the nature of designation as the potential impact on surrounding amenity is likely to vary considerably between the different designation categories.**

**Question 9**

Do you agree with the proposed definition of designated areas? Are there any other types of sensitive areas which should be considered? If so please list and explain why you think they should be considered.

Yes  No

**Planning Service should consider the inclusion of quality 'open spaces' and other high-value amenity areas which are recognised by district councils in Northern Ireland.**

**Question 10**

Should certain types of permitted development be restricted in flood plains where they are vulnerable or most likely to be affected by flooding?

Yes  No

**We would support such measures to minimise the risk associated with flooding.**

**Question 11**

Should the restrictions proposed above be placed upon PD rights in flood plains for development as defined?

Yes  No

**Any PD rights made applicable in flood plains must not conflict with planning policy in relation to flooding risk to ensure that the overall aim of limiting flooding is achieved.**

**We would support the proposed restrictions in order to reduce the risk of flooding, however clarification should be provided as to whether this applies only to sites where the main activity is the storage of hazardous substances or whether it would also apply to any activity involving the storage of significant quantities of such substances. As the risk is related to the potential for flooding and the presence of hazardous substances, better environmental protection will be provided by including all activities involving significant quantities of such substances.**

**Question 12**

Should PD rights for basements located within flood plains be removed?

Yes  No

**We would support the removal of such PD rights where flooding risk exists.**

**Question 13**

Should PD rights for hardstandings over 5m<sup>2</sup> be required to be constructed of permeable (or porous) materials or require that provision is made to direct run-off water from the hardstanding to a permeable or porous area or surface?

Yes  No

**We would support the proposal**

**Question 14**

Should PD rights be restricted where there are likely to be significant impacts on nearby water bodies?

Yes  No

**We would agree in principle, but PD rights should only be restricted in the future after the proposed appropriate review identifies the circumstances requiring this, how they can be categorised, and how this can be implemented.**

**Question 15**

Do you agree with the proposed extension of PD Rights in this sector? If you do not agree please set out what alternative PD rights you would wish to see and explain why.

Yes  No

**We would not support the proposed extension of permitted development rights for non-householder developments where a significant potential may exist for adverse loss of amenity to nearby premises due to noise, odour and air pollution / dust.**

**We feel that the nature of the activities associated with:**

- Industry & Research & Development**
- Waste Management**
- Commercial & Retail (Retail & Town Centre Uses)**
- Institutions, Community Facilities, Leisure & Recreation,**
- Minerals**

**can and frequently do give rise to disturbance due to noise, odour, dust etc and as such should not benefit from permitted development rights without an assessment of the likelihood of such effects causing an adverse loss of amenity to the existing surrounding premises.**

**Furthermore, the consultation paper does not consider the potential for land contamination issues to be present on sites which may wish to avail of permitted development rights. It is necessary to consider the risk to future site users when developing potentially contaminated sites. Developments taking place without appropriate consideration and assessment of these risks could harm the health of future occupiers and site users and may give rise to environmental damage.**

**We support the aim of the Entec Report (September 2009) to "assess the need to control adverse impacts from non-householder developments and identify impact criteria for extending PD rights".**

**The Entec Report then lists a number of key potential impacts (page 20) that include noise, and fumes/dust. With regard to noise (page 21), it acknowledges that, "This (noise) is a key impact considered by planners who would look at the noise generated by the proposed/existing use and noise and nuisance caused by travel to and from the site. In all circumstances this would be assessed against the existing use of the site and its relationship with the surroundings. Noise would also be considered for minor alterations such as a new opening in an existing or proposed business. Similarly noise impact is one of the biggest considerations when assessing plant applications, such as air conditioning units, compressors and extraction systems. As such, it is important that the GDO set appropriate tolerances or controls to adequately protect amenities of adjoining properties and the surroundings from noise disturbance."**

**With regard to fumes/dust, the report acknowledges that, "Some non-householder development has the potential to result in fumes and dust generation that can impact on air quality and adversely affect the amenities of surrounding properties and compromise the quality of the surrounding and wider environment. This can be an important consideration when devising the GDO."**

**The report then advises that an impact-based approach should provide the basis for determining permitted development limits. On pages 22 and 23 it states, "In using an impact**

approach to set permitted development rights, it is necessary to develop general principles about what the thresholds are beyond which a development is considered to have an impact that a proportionate planning system may need to control. Fundamental to the impact approach is the need to provide appropriate controls over permitted development limits to protect neighbours and the wider community from adverse level 2 and level 3 impacts."

Whilst supporting the use of an impact-based approach we cannot support the criteria suggested in the Entec Report and the consultation document. These criteria are largely based on separation distances, for example in relation to industrial sites permitted development would be allowed up to 10m from the boundary of a residential property. Experience of noise control issues would suggest that a much greater distance is often required. The precise level of noise attenuation required is related to the level of the source and the nature of the surrounding area and can only be determined on a site-specific basis. Similarly, we would hold concerns over the use of set separation distances to address odour and other pollution issues. The need for a site-specific assessment to ensure surrounding amenity is not adversely affected would unfortunately be effectively precluding these development types from benefitting from permitted development rights.

In light of the above, Planning Service may wish to consider the option of an additional criterion to these areas along the lines of "The functioning of the development proposed has no reasonable potential to be detrimental to the amenity of neighbouring property arising from noise, odour or dust emissions." It is appreciated that this may be difficult to word and also may raise difficulties in interpretation. However without it, ineffective development control and associated problems will undoubtedly arise.

Furthermore, Planning Service may wish to consider the option of a further additional criterion to address potential land contamination risks. It may be possible to consider sites which are known to have land contamination risks (for example where previous remediation measures have been required or have been incorporated (e.g. a gas-impermeable membrane) into the existing development) whereby "The development is not sited on land known or suspected to be subject to land contamination risks". It is acknowledged that difficulties would exist with the interpretation and use of such a criterion. Furthermore, it would leave an unsatisfactory situation where permitted development may take place on sites where land contamination risks are not known or understood.

Should Part 8 PD rights be restricted as indicated in AONBs, conservation areas, National Parks, and floodplains and be withdrawn in ASSIs and SAIs?

Yes  No

Please refer to justification given in response to Question 15.

**Question 17**

Should a new class be provided in Part 2 allowing the erection of waste storage containers subject to the limitations indicated above? If you do not agree, please set out what alternative PD rights you would wish to see and explain why.

Yes  No

We would not support the current limitations as many types of non-hazardous waste (food stuffs, green wastes etc) have a significant odour potential and bulk storage within 10m of a boundary has the potential to give rise to an adverse loss of amenity. Furthermore, certain waste types (scrap metal, glass etc) often give rise to noise disturbance during their handling and collection. Again a separation distance of 10m is unlikely to be sufficient to address the potential loss of amenity that the use of the waste storage container would cause.

Planning Service may wish to consider introducing further limitations that waste can only be inert and non-biodegradable, and for the case of metal and glass a much larger separation distance must be applied.

**Question 18**

Should a new part be provided for 'Landfill Sites' allowing works on existing landfill sites subject to the limitations indicated above? If you do not agree, please set out what alternative PD rights you would wish to see and explain why.

Yes  No

We would support the proposal for landfill sites subject to the limitations listed. It is noted that the works allowed do not include landfill gas flaring systems and we would support the omission of these works because of potential noise issues.

**Question 19**

Should a new part be provided for 'Waste Processing Facilities' allowing works on existing facilities subject to the limitations indicated above? If you do not agree, please set out what alternative PD rights you would wish to see and explain why.

Yes  No

**We would not support this proposal for the same reasons as provided in response to Question 15.**

**Question 20**

Do you agree with approach set out in paragraph 5.2.3 to Waste Management PD in sensitive areas? If not please explain what differences you propose and explain why.

Yes  No

**Please refer to the responses provided to Questions 15 & 16.**

**Question 21**

Should PD rights allowing minor extensions and alterations to existing telecommunication masts, be added to Part 17 (Development by telecommunications code system operators) of the GDO as outlined above?

Yes  No

**We would support the PD rights subject the requirement to ensure that public exposure is to remain below ICNIRP guidelines.**

**Question 22**

Should the new Part 17 PD rights as outlined above be permitted in AONBs, National Parks, conservation areas, SAls and ASSIs?

Yes  No

**Question 23**

Should:

- A new part be provided for retail and town centre uses permitting extensions/alterations on existing buildings as outlined above?

Yes  No

**We would not support the permitted development as listed given the potential for noise and odour disturbance to arise from bin stores and plant and equipment commonly associated with food retail and catering premises. Planning Service may wish to consider the exclusion of this category.**

- A new part be provided for office premises permitting extensions/alterations on existing buildings as outlined above?

Yes  No

**Question 24**

Do you agree with the proposed approach in relation to PD Rights for Commercial and Retail uses in sensitive areas?

Yes  No

**Question 25**

Should new classes be added to Part 3 of the GDO allowing:

- The change of use of agricultural buildings to production, storage and distribution uses as outlined above;

Yes  No

**No comment offered.**

- Change of use of agricultural land to recreational equestrian uses as outlined above?

Yes  No

**No comment offered.**

**Question 26**

Should the change of use of agricultural buildings to production, storage and distribution uses on an agricultural unit be permitted in conservation areas, AONBs, National Parks, ASSIs and SAIs?

Yes  No

**No comment offered.**

**Question 27**

Should the change of use of agricultural land to recreational equestrian uses be permitted in conservation areas, AONBs and National Parks but not permitted in ASSIs and SAIs?

Yes  No

**No comment offered.**

**Question 28**

Should the site licence exemptions provided for in paragraphs 4 and 5 of the Schedule to the Caravans Act (NI) 1963 be added to the circumstances for which PD rights are given by Part 5?

Yes  No

**Question 29**

Should:

- A new part be provided for Universities and Hospitals permitting new build, extensions and alterations subject to the limitations/ conditions outlined?

Yes  No

- A new part be provided for Schools, Leisure and Community Facilities and other institutions permitting new build, extensions and alterations subject to the limitations/ conditions outlined?

Yes  No

Similar to the justification provided in response to Question 15, we would not support the permitted development rights as proposed given the potential for noise, odour and air quality / dust problems where such premises may be located in close proximity to residential or other sensitive premises.

**Question 30**

Should the proposed PD rights for Universities, Hospitals, Schools, Leisure and Community Facilities and other institutions be permitted in AONBs and National Parks but removed in Conservation Areas, ASSIs and SAIs?

Yes  No

See response to Question 29.

**Question 31**

Should PD rights for classes A, B, C, G and H be extended as outlined above? If not please set out what alternative PD rights you would wish to see and explain why.

Yes  No

**Question 32**

Do you agree with the approach to Part 13 reform in sensitive areas?

Yes  No

No comment offered.

**Question 33**

Should a new Part be provided for 'Development ancillary to mining operations'?

Yes  No

**It is presumed such operations will include surface quarrying activities which can be a significant source of noise and dust disturbance to any surrounding sensitive premises. We would not be in support of the proposed permitted development rights given the potential noise and dust which may arise from the operation of such rights. Furthermore, there is the potential that in exercising these permitted development rights a surface quarry operation with nearby sensitive premises may fail to meet the requirements of its existing planning conditions in relation to noise. Therefore, given the potential for noise and dust from such activities we do not feel it is suitable to apply permitted development rights which could result in a significant loss of amenity to the surrounding premises.**

**Question 34**

Do you agree with the proposed exclusions and conditions for 'Development ancillary to mining operations'? If not please comment and explain why not.

Yes  No

**Please refer to response provided to Question 33.**

**Question 35**

Do you believe a new Class B should be introduced in Northern Ireland (similar to the equivalent Class C in England and Wales) but without prior approval? If not please comment.

Yes  No

**Please refer to response provided to Question 33.**

**Question 36**

Do you agree that PD rights for 'Development ancillary to mineral operations' should be permitted in National Parks and AONBs but removed in ASSIs, SAIs and Conservation Areas? If not please comment

Yes  No

Please refer to response provided to Question 33.

**Question 37**

Of the options outlined above which would be your preferred approach?

Option A: "Do nothing" scenario

Option B: "All recommendations" scenario

Option C: "Phased all recommendations" scenario

No comment offered.