



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

Once you have completed this form please
return to

Policy and Legislation Branch
3rd 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

All responses should be submitted to the
Department no later than 22nd January 2010



Department of the
Environment
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

RSPB Northern Ireland

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:

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?

The RSPB would support the provision of topic-based user guidance, as indicated in our responses to the concurrent householder and micro-generation PD consultations.

Question 2

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

Yes No

Question 3

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

Yes No

Given the current lack of experience within local authorities, and the uncertainties about the timescales for local authority takeover of planning functions, we do not think this would be appropriate at this stage.

Question 4

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

Yes No

If the definitions of sensitive areas, and the extent to which PD rights are limited in different types of sensitive area, are detailed in a revised GPDO, then there may be no need to retain Article 4 directions as the GPDO will ensure consistency across Northern Ireland. However, if sensitive areas are given blanket protection, Article 4 directions may be useful. See also response to Q9, below.

Question 5

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

Yes No

See Q4.

Question 6

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

Yes No

No comment (n/c)

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

N/c

Question 8

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

Yes No

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

The RSPB welcomes the removal of most PDR from within Areas of Special Scientific Interest (ASSIs), but seeks clarity over its application to Ramsar sites not underpinned by ASSIs. Planning Policy Statement 2 Planning and Nature Conservation (PPS2) paragraph 26 states that the same considerations are applied to Ramsar sites as to European sites designated under the Habitats and Birds Directive (Special Protection Areas (SPAs) and Special Areas of Conservation (SACs)).

PDR on European sites are already governed by regulation 56 of the Conservation (Natural habitats etc) Regulations (1995) (as amended), and the applicant must obtain written approval from the Department of the Environment (Northern Ireland Environment Agency (NIEA)) before commencing development.

We would like confirmation that this applies in practice, for example within the south Lough Neagh Ramsar site, which is not underpinned by an ASSI. Without this clarity, this internationally designated site could be afforded lesser protection than nationally designated sites. We have lobbied for clearer policies on development and Ramsar sites in the revision of PPS2, still outstanding.

Within ASSIs, sections 32 (duties of owners and occupiers) and 38 (duties of public bodies) of the Environment (NI) Order 2002 still apply, so notice should be given to NIEA if the proposed development constituted an operation likely to damage the interests of an ASSI .

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

Question 11

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

Yes No

However, the restrictions should not only be in order to avoid adverse effects on human use of the new development by flooding, but to recognise that all development in floodplains has the potential to exacerbate flood problems elsewhere. This may mean that further restrictions are warranted. This section should be carefully assessed against the requirements of the Water Framework Directive, and the programme of measures being put forward by the government under WFD-related legislation.

Question 12

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

Yes No

Question 13

Should PD rights for hardstandings over 5m² 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

Question 14

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

Yes No

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

Specifically the requirement for porous hardstanding.

Question 16

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

We strongly support the removal of PD rights from ASSIs - this should extend to the other designated wildlife sites mentioned in Q9 above.

However, we believe there should be tighter restrictions within floodplains, compatible with policy FLD1 in PPS15. A 250sqm extension to an industrial site would not necessarily meet the conditions in FLD1, especially where the existing development was constructed prior to the introduction of FLD1 and may, for example, not already be protected by a minimum standard of flood defences.

If permitted development is allowed in flood plains, there is no way to monitor cumulative impacts, and it may not be compatible with WFD programme measures and associated legislation e.g. the Water Environment (Floods Directive) Regulations (Northern Ireland) 2009.

The Water Environment Regulations require flood risk assessments, and until these are carried out it would be precautionary to avoid all development in flood plains. Following publication of the risk assessments, areas of significant flood risk may require greater protection, and therefore restrictions on PD rights in comparison to other areas. Such restrictions could be implemented as part of flood risk management plan measures.

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

N/c

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

N/c

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 note that for waste processing facilities, no permitted development is proposed for floodplains. We would support this - but note that this shows a lack of consistency between proposals in the consultation paper in relation to development on flood plains.

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

See also comments on designated sites Q9.

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

N/c

Question 22

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

Yes No

In principle, the extension of existing masts by 10% should not affect designated site features. However, we would like to understand the process by which this would be done.

There may be construction restrictions required to ensure no impacts on designated site features.

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 have no comment on the proposals, but note that any building work for extensions should comply with the Wildlife (NI) Order 1985 (as amended) to avoid damage or disturbance to nesting birds, their eggs, nests or young.

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

Yes No

N/c

Question 24

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

Yes No

The RSPB is not aware of any licensed street markets within ASSIs, and think it unlikely that any licensed street market would be required within an ASSI, so it would not be appropriate to include this as PD.

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

N/c

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

Yes No

N/c

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

The making of products may result in waste materials, which if not correctly disposed could impact ASSIs, for example through water pollution. Additionally, the selling of produce may increase access to the site, which could cause disturbance to certain ASSI features. While we do not expect these outcomes in all situations, the inclusion of PD rights would not facilitate monitoring of the effects on ASSIs. We would not support the application of PD rights to these forms of development on ASSIs. However, if this is adopted, we would seek reassurance that effects would be monitored and remedial action taken if adverse effects on ASSI features were observed.

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

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

N/c

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

The RSPB has no strong views about the inclusion of these parts, but would support the requirement for porous hardstanding and no development within floodplains.

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 SAls?

Yes No

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

N/c

Question 32

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

Yes No

We support the removal of these proposed PD rights within ASSIs.

Question 33

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

Yes No

Subject to the retention of removal of PD rights within ASSIs

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

The conditions should include removal of PD rights within a buffer zone of ASSIs, or appropriate mitigating conditions, as some operations may result in waste flows that could affect ASSIs outside the mine, for example through waste water disposal into watercourses.

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

N/c

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

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

N/c