

21 January 2010

Our ref: C01260

Policy and Legislation Branch  
Planning Service  
3rd Floor  
Millennium House  
Great Victoria Street  
Belfast  
BT2 7BN

Dear Sir/Madam,

**Re: Response to Proposed Changes to Permitted Development Rights for Non-householder Development**

We write on behalf of the Londonderry Ports and Harbour Commission to express their views on the proposed changes to permitted development rights for non-householder development as they relate to Part 13 Development by Statutory and Other Undertakers of the Planning (General Development) Order NI 1993.

Please find attached a copy of the consultation response form which is expanded upon through the following submission. Please acknowledge receipt of this submission in writing.

**Question 14:**

***Should PD rights be restricted where there are likely to be significant impacts on nearby waterbodies?***

Response to Question 14:

At present in Northern Ireland there are a range of additional legislative controls derived from EU directives which ensure a high level of environmental protection is afforded to those types of areas referred to in question 14. These include:

- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999
- The Environment (Northern Ireland) Order 2002
- The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995

Accordingly, there is no need to restrict PD rights in the form proposed under question 14 as this would merely act to duplicate the strict controls already in place which protect such areas from being impacted upon by inappropriate forms of development. Furthermore, the varying scale and nature of waterbodies in Northern Ireland is such

that it would be extremely difficult to accurately identify areas where such restrictions would apply.

**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 wish to see and explain why.***

Response to Question 31:

The changes outlined on pages 34 and 35 of the Departments consultation paper "Review of Non-Household Permitted Development Rights" dated October 2009 are considered deficient in terms of Class B: Development relating to dock, harbour or water undertakings in three specific areas. These are discussed individually below.

1. *The Definition of Operational Land*

The current definition of operational land in the GDO excludes lands acquired post 1973 for operational purposes unless there is a planning permission for use as operational land.

Unlike the other 3 main ports within Northern Ireland (Belfast, Larne and Warrenpoint), the Port of Londonderry was relocated to its present location after 1973 and as a result only lands within its ownership which have express planning permission for port related uses can be considered operational where permitted development rights can be applied. Approximately 34% of lands currently owned by the Port at Lisahally do not have express planning permission and therefore cannot be considered operational (Annex 1).

As a consequence the Port of Londonderry presently has no spare or vacant land within its ownership which can be considered operational upon which it can exercise permitted development rights under the GDO to provide, for example, additional storage in connection to the discharging of goods at times of peak demand. Whilst it is acknowledged that planning permission could be sought for additional facilities when needs arise, the limited notice and short term, sporadic nature of such demand is such that this process is too time consuming to pursue and potentially results in thousands of tonnes having to be turned away on an annual basis.

This not only impacts upon the Port itself, but also upon the economy of the wider North West region. In 2007, the Port handled 1.8million tonnes of imports<sup>1</sup> and employs 50 people (indirectly up to 200 people can be on site at any one time) with additional employment opportunities in the wider economy estimated by the Port at circa 1,500 jobs.

An extension to the definition of operational lands under the GDO is therefore necessary to enable lands within ownership of port authorities acquired since 1973 and without express planning permission to benefit from permitted development under Class B of Part 13. As the Port owns lands surrounding those currently considered operational

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<sup>1</sup> Source: [www.deti.gov.uk](http://www.deti.gov.uk)

which have an industrial zoning under the Derry Area Plan 2011, the definition of operational land should be extended to include such lands. In other words, land which has an industrial zoning under an adopted area plan and is directly adjacent to an existing dock, pier, harbour or water transport undertaking should be incorporated into the definition of operational land where it is within the ownership of that undertaker.

This is entirely consistent with Draft PPS4 which identifies land for storage and distribution as compatible with adjacent industrial development and as a consequence there is no need to identify a separate supply of land for such purposes (paragraph 3.13). PPS4 is silent on these issues and is therefore not relevant. This proposal is also in line with the Regional Development Strategy which acknowledges the Port of Londonderry as a major regional asset which contributes to the growth potential of the North West, identifying it as having the potential to accommodate further development to spread economic activity across the region (pages 58 and 59).

Presently the Port of Londonderry is disadvantaged however such a change would not prejudice the other 3 main ports of Belfast, Larne and Warrenpoint which are also surrounded by industrially zoned lands. Importantly, such a change would also ensure the other land within settlements or the countryside remains protected from these types of development.

## 2. *Permitted Height of Security Fencing*

The consultation paper review proposes to include PD rights for security fencing up to 2.4metres in height (page 34). This level is considered too low as it does not meet the minimum standard set by TRANSEC which is 2.9m. TRANSEC are part of the Department of Transport who are responsible for the security of ports, shipping and cargo across the United Kingdom. The purpose of maritime security, as stipulated on the TRANSEC website<sup>2</sup> is to *“detect and deter security threats and take preventative measures against security incidents affecting ships or port facilities and to protect from harm passengers, crews, ships and their cargoes, port facilities and the people who work and live in port areas”*. It is submitted, therefore, that the proposed height of 2.4m for security fencing be increased to 2.9m in line with TRANSEC requirements.

## 3. *Spreading of Dredged Materials*

In order to bring the GDO in Northern Ireland in line with legislation in England, Wales, Scotland and the Republic of Ireland, the spreading of dredged materials on any land should be included as permitted development. In this regard, a separate class in line with that contained within Class D (Part 17) of the Town and Country Planning (General Permitted Development) Order 1995 for England and Wales is considered suitable:

*“Class D: The use of any land by statutory undertakers in respect of dock, pier, harbour, water transport, canal or inland navigation undertakings for the spreading of any dredged material.”*

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<sup>2</sup> [www.dft.gov.uk/pgr/security/maritime/maritimemsecurityoverview?page=1#a1000](http://www.dft.gov.uk/pgr/security/maritime/maritimemsecurityoverview?page=1#a1000)

**Question 32:**

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

As highlighted under Question 14 above, the level of environmental protection currently afforded to such areas under existing directives and legislation is such that there is no need to restrict PD rights in such areas as proposed.

We look forward to your consideration of this submission.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

cc. Londonderry Port and Harbour Commission





**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

Strategic Planning

Title

Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Larkin

Forename

Adam

### 2. Postal Address

Postcode:

Phone:

Email:

**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:

Response on behalf of Londonderry Port and Harbour Commission
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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?

n/a

**Question 2**

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

Yes  No

n/a

**Question 3**

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

Yes  No

n/a

**Question 4**

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

Yes  No

n/a

**Question 5**

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

Yes  No

n/a

**Question 6**

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

Yes  No

n/a

**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/a

**Question 8**

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

Yes  No

n/a

**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

n/a

**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

n/a

**Question 11**

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

Yes  No

n/a

**Question 12**

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

Yes  No

n/a

**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

n/a

**Question 14**

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

Yes  No

Please refer to attached submission

**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

n/a

**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

n/a

**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/a

**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/a

**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

n/a

**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

n/a

**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/a

**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

n/a

**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

n/a

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

Yes  No

n/a

**Question 24**

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

Yes  No

n/a

**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/a

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

Yes  No

n/a

**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

n/a

**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

n/a

**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/a

**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

n/a

**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

n/a

**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

**Please refer to attached submission**

**Question 32**

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

Yes  No

**Please refer to attached submission**

**Question 33**

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

Yes  No

n/a

**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

n/a

**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/a

**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, SAs and Conservation Areas? If not please comment

Yes  No

n/a

**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/a