

RESPONSE TO THE FOLLOWING CONSULTATION PAPERS

HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS

NON-HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS

**PERMITTED DEVELOPMENT RIGHTS FOR MICROGENERATION
DEVELOPMENT**

**DRAFT ADDENDUM TO PPS7 SAFEGUARDING THE CHARACTER OF
ESTABLISHED RESIDENTIAL AREAS**

1.0 Householder Permitted Development Rights Consultation Paper

Part 1 Class A to I Developments Within The Curtilage of a Dwelling house

General

- 1.1 Questions 1 to 3 deal with the general approach taken to changing the Householder PD rights in regard to an impact based approach and the main concerns being on potential impacts on neighbours plus impacts due to changes to elevations which front a road. It is considered that this is a soundly based approach.
- 1.2 Q.4 Deals with restrictions in Sensitive Areas. The question of restrictions in Sensitive Areas for Householder and Non-Householder PD and Microgeneration are dealt with separately below and will not be referred to further in relation to individual proposals.
- 1.3 Q.5 This proposes that development within a listed building should not be permitted unless listed building consent has previously been granted. This would appear to be a logical way of dealing with proposals for listed buildings and is accepted for both Householder and Non-Householder PD.

Q.6 to Q.29 Extensions, Roof Extensions, Porches, Garden Developments

- 1.4 These are generally increasing the amount of development that a householder can do to their house without need of planning permission whilst ensuring that neighbours and the street scene are not adversely impacted. The proposals appear to be acceptable and welcomed and the method of presentation is much clearer than in the past plus the dropping of the volume based approach is also welcomed. The retention of the requirement that pigeon lofts be subject to planning control is also welcomed.

Questions 29 to 32 Hard Surfaces

- 1.5 Currently a householder can hard surface their gardens front and back without restriction. There are concerns that front garden hard surfacing can detract from the street scene plus too much hard surfacing is increasing surface run-off contributing to flooding.
- 1.6 The proposal is to continue to allow hard surfacing of a residential garden as PD but where the hard surfacing is to the front and exceed 5sq.m. then either the hard surface is to be made of porous or permeable material or if it isn't that the water run-off should be directed to a porous or permeable area within the curtilage of the dwelling house. This is a reasonable proposal. The above area should be extended to 8 sq.m. – enough to accommodate one car.

Questions 33 to 38 PD for Oil/LPG Tanks, Chimneys, Flues and Vent Pipes

- 1.7 The proposal is to increase the size of LPG tank permitted to 3500 litres which is the same as that currently allowed for oil tanks. This is acceptable. The chimneys etc. is a proposed new class dealing with minor developments in a curtilage which normally would not be subject to planning control but which would raise questions as to the

necessity of a planning application being made if they went above ridge height. These additional PD rights are welcomed.

Questions 39 to 41 Decks

- 1.8 This is another proposed new PD Class allowing decks/balconies but not where they are forward of the front or side elevation of the house fronting a road or are above 0.3m. in height above ground level. This is considered acceptable.

Q.42 Basements

- 1.9 This introduces a new restriction that basements do not have PD rights due to concerns re the streetscene plus possible flooding issues. Residential basements are uncommon in Northern Ireland and it is considered that the omission of basements from PD rights is acceptable.

Q.43 Environmental Impact Assessment Regulations

- 1.10 It is accepted that the EIA Regulations do not need amendment in relation to these proposed changes.

Part 2 Minor Operations

- 1.11 These relate to all forms of types of development (that is both householder and non-householder) and deal with fences, access and the painting of the exterior of buildings.

Q.45

- 1.12 This asks should the Part 2 provisions also be detailed in 'Part A' so that all householder developments are addressed together for ease of reference. There is confusion in the wording of the question. Either the Department is asking whether all Part 2 provisions should also be included in the Part 1 householder PD Classes or else it means should the Part 2 also be included in Class A of Part 1. Either way it means having the same PD rights appearing twice and duplication will cause confusion. It is considered that the Part 2 rights for all development householder or otherwise in regard to fences, accesses and painting should continue to stand alone.

Questions 46 to 49

- 1.13 These questions are asking whether overall the proposed changes and a User Guide are the right approach. Overall it is accepted that the proposals and simplifications are an improvement.

2.0 Non-Householder Permitted Development Rights Consultation Paper

General Considerations

Q.1 Do you have any views on how the GDO could be made easier to understand and interpret and, if so, what they are?

- 2.1 The document comments that sometimes planning applications are made for proposals which are in fact PD and this increases work load. It is not unknown for planning officers to stubbornly force people to make planning applications where the proposal is PD or could easily be made PD with minor alterations. This is an abuse of people's rights and of the planning system by the Department's staff and steps should be taken to instruct staff not to do this.
- 2.2 A simple guide to PD rights in booklet and on-line form as with the householder PD illustrations would be the best way to make the rights more accessible.

Q.2 Do you agree that Prior Approval provisions should not be a feature of permitted development rights in the new GPDO?

- 2.3 These were very unpopular when used in regard to mast proposals. They are also confusing even for Departmental staff and should not be used again.

Q.3 Should local planning authorities be enabled to extend permitted development rights in specific areas, perhaps through LDOs?

- 2.4 This should not proceed until studies in the rest of the UK are concluded.

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

Q.5 Should the provision for Article 4 directions be changed to enable them to be used to also extend PD rights?

- 2.5 Article 4 is useful mechanism to protect important environmental assets so long as it is used sparingly. It should be retained and the option that it can also be used to extend PD rights introduced.

Q.6 Should the provisions relating to SPZs be retained as a further option for relaxing planning controls in specific areas?

- 2.6 This is a useful if underused method of simplifying development in industrial areas. It should be retained and more use made of it.

Q.7 Should a new class D as suggested to facilitate compliance with the disability discrimination Act be introduced into Part 2 of the GDO?

- 2.7 This is accepted.

Q.8 Should the limitation of PD Rights be set differently in different areas depending on the nature of the designation?

- 2.8 It is recognised that different criteria are applicable in Sensitive Areas (see below).

Q.9 Do you agree with the proposed definition of designated areas?

- 2.9 The number of these appears to be growing all the time. They should be simplified and amalgamated. Why should there both be AONBs and Special Countryside Areas (SCAs)?, and Sites of Archaeological Interest, and Nature Reserves of all types could amalgamate into Areas of Scientific Interest (ASI and the 'special' dropped).

Q.10 Should certain types of permitted development be restricted in flood plains where they are vulnerable or most likely to be affected by flooding?

Q.11 Should the restrictions proposed above be placed upon PD rights in flood plains for development as defined?

Q.12 Should PD rights for basements located within flood plains be removed?

- 2.10 This doesn't make sense, hospitals etc. will already be in place and minor alterations which are allowed by PD rights will make no significant impact on flooding issues. In addition the definition of flood plains as used by Planning Service and the Rivers Agency has been very broad brush and includes areas where flooding has never been known. Much more accurate definitions of flood plains are needed. We do not agree with this restriction on PD rights apart from restricting basements as already stated above.

Q.13 Should PD rights for hardstandings over 5sq.m. 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?

- 2.11 The use of permeable or porous hard surfaces generally should be encouraged. This is acceptable.

Q.14 Should PD rights be restricted where there are likely to be significant impacts on nearby water bodies?

- 2.12 There is little information supplied to explain or justify this proposal. If there is an identified and clear threat to a water body then an Article 4 Direction can be applied.

Specific Proposals

Industry & Research & Development

Q.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?

- 2.13 The proposed increases appear reasonable.

Waste Management

Q.17 Should a new class be provided in Part 2 allowing the erection of waste storage containers subject to the limitation indicated above? If you do not agree, please set out what alternative PD rights you would wish to see and explain why?

Q.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 etc.

Q.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 etc.

- 2.14 These new PD rights appear to be reasonable subject to the comments on floodplains already made above.

Telecommunications

Q.21 Should PD rights allowing minor extensions and alterations to existing telecommunications masts, be added to Part 17 of the GDO as outlined above?

- 2.15 The addition of apparatus to existing masts without need of planning permission is sensible and welcomed.

Commercial/Retail

Q.23 Should a new part be provided for retail and town centre uses permitting extensions/alterations on existing buildings as outlined above? & Should a new part be provided for office premises permitting extensions/alterations on existing buildings as outlined above?

- 2.16 These new PD rights are welcomed. It is considered that more generous floorspace additions be considered. It is suggested that the PD limit for small independent retailers be increased from 50 to 100 sq.m.

Rural Areas

Q.25 Should new classes be added to Part 3 of the GDO allowing:

- 2.17 The change of use of agricultural buildings to production, storage and distribution uses and change of use of agricultural land to recreational equestrian uses These amendments to agricultural PD are welcomed if of little relevance to Fermanagh.

Caravan Sites

Q.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 in Part 5?

- 2.18 The closing of this anomaly is welcomed.

Institutions, Community Facilities, Leisure & Recreation

Q.29 Should:

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

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?

- 2.19 These new PD rights are welcomed. However it is considered that the floorspace limit for schools, leisure and community facilities etc., be increased to 100 sq.m. to align with that for universities and hospitals.

Utilities

Q.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?

- 2.20 No objections to these.

Minerals

Q.33 Should a new Part be provided for ‘Development ancillary to mining operations’?

Q.34 Do you agree with the proposed exclusions and conditions for ‘Development ancillary to mining operations’? If not please comment and explain why not.

Q.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.

- 2.21 No objection to these changes.

3.0 Permitted Development Rights for Microgeneration Consultation Paper

3.1 These are-

- Solar Panels
- Wind Turbines
- Hydro
- Biomass & combined Heat & Power Plants
- Heat Pumps

The consultation Paper asks 122 questions regarding these and there are a further 10 questions regarding domestic microgeneration permitted development (Annex 1).

3.2 Q1 to 6 are general questions regarding the acceptability or otherwise of having permitted development rights for microgeneration. The proposed permitted development rights appear reasonable. The rest of the questions are for specific forms of microgeneration.

Q.7 to Q.34 Solar Panels

3.3 These questions deal with roof mounted panels, wall mounted panels and free standing panels. These appear reasonable.

Q.35 to Q.71 Wind Turbines

3.4 These are building mounted and free standing turbines. It is not proposed to introduce permitted developments rights for wind turbines either building mounted or free-standing on domestic dwellings until issues regarding noise and aircraft safety are resolved. There are also issues in regard to vibration, safety, electromagnetic interference, harm to bats and birds and visual impact for both domestic and non domestic wind turbines.

3.5 The questions are both in regard to details of size, number, positioning of the turbines and the other issues mentioned above. It is recommended that no permitted development rights for wind turbines be given until all of these various issues are resolved.

Q.72 to Q.76 Hydro

3.6 It is not proposed to have any permitted development rights for hydro in domestic dwellings. The consultation paper proposes that permitted development rights be given for a new or replacement turbine house for an existing hydro microgeneration scheme up to a maximum 3m. height and 10 sq.m. floor area. This appears reasonable.

Q.77 to Q.98 Biomass & Combined Heat & Power Plants

- 3.7 This provides for boiler houses, fuel stores and flues for plants and appears reasonable. Permitted development rights for anaerobic digestion plants on farms are also proposed but only using material from the farm itself in order to limit size and potential odours. If a farmer wants to use material from outside the farm then it would be a commercial digester and would require planning permission. These proposals again appear acceptable.

Q.99 to Q.124 Heat Pumps

- 3.8 Ground source and water source heat pumps are permitted in domestic properties and for non-domestic it is proposed that they also be permitted development up to 0.5ha for the area of excavation and for the equipment housing up to 3m. in height and 75 sq.m. floorspace. Air source heat pumps have issues regarding noise and it is not recommended they be given any permitted development rights until the noise issue is resolved. If they were resolved the limit housing equipment housing permitted development would be the same as above.

4.0 Sensitive Area Restrictions for Householder, Non-Householder & Microgeneration

4.1 The following sensitive areas exist or could exist in Northern Ireland-

- Special Areas for Conservation (SACs), Special Protection Areas (SPAs) & Ramsar Sites (International Designations)
- World Heritage Sites (WHSs)
- National Parks (NPs)
- Areas of Outstanding Natural Beauty (AONBs)
- Special Countryside Areas (SCAs)
- Areas of Special Scientific Interest (ASSIs)
- Sites of Archaeological Interest (SAIs)
- Conservation Areas (CAs)
- Listed Buildings
- National Nature Reserves (NNRs) and Local Nature Reserves
- Local sites and Designations

4.2 There is one World Heritage Site at Giants Causeway and no National Parks in Northern Ireland. Fermanagh has no AONBs or Special Countryside Areas. It has a range of SACs, SPAs, Ramsar Sites ASSIs and SAIs which are basically all forms of nature reserve except the archaeological sites. It also has two conservation areas at Enniskillen and Lisnaskea and listed buildings throughout the council area. It is possible that at some future time designations for AONBs etc. will be proposed for Fermanagh.

4.3 It has been accepted above that all proposals for listed buildings should be required to obtain listed building consent before PD rights can be exercised.

Restrictions on PD Rights in Sensitive Areas

Householder extensions, roof extensions, porches, garden developments, flues/chimneys

4.4 The consultation paper proposes that the cladding of the exterior of a house, extensions over 4 metres and side extensions should not be PD in a Conservation Area (CA), AONB, World Heritage Site (WHS) or National Park (NP).

4.5 It proposes that roof alterations should not be PD in a Conservation Area.

4.6 For garden sheds etc., if the house is in a World Heritage Site, National Park or AONB then any buildings, pools etc. more than 20m. from the house would be restricted to 10

sq.m. Also no sheds etc., would be PD to the front or side of the house in these areas plus Conservation Areas (CAs).

- 4.7 It proposes that in CAs, WHSs, AONBs, NPs flues etc., would not have PD rights where they are proposed to the front or the side elevation of the house where it faces a road.

Minor Operations – Accesses, Fences etc.

- 4.8 It proposes that PD rights for accesses not apply in ASSIs and SAIs.

Non-Householder PD Rights in Sensitive Areas

Industry

- 4.9 Restrict PD rights in AONBs, NPs, and CAs to 500sq.m and no PD rights in ASSIs and SAIs.

Waste Management

- 4.10 No PD rights in CAs, ASSIs and SAIs.

Commercial/Retail

- 4.11 No PD rights (apart from street markets) in ASSIs, SAIs and CAs.

Rural Areas

- 4.12 PD rights for equestrian activities to be removed in ASSIs and SAIs.

Institutions, Community Facilities, Leisure and Recreation

- 4.13 PD rights removed in CAs, ASSIs and SAIs.

Utilities

- 4.14 Restrictions on PD rights for utilities (electricity, post office etc.) in ASSIs and SAIs.

Microgeneration PD Rights in Sensitive Areas

Solar Panels & Wind Turbines

- 4.15 Solar Panels and wind turbines on dwelling houses or within the curtilage must not be visible from a road in CAs, AONBs, ASSIs, or NPs to retain PD rights. In regard to non-domestic buildings the Consultation Paper poses the question whether PD rights for solar panels and wind turbines should be removed in WHSs, NPs, AONBs, SCPAs, CAs, ASSIs and SAIs.

Hydro

- 4.16 No PD rights for turbine houses in CAs, WHSs, ASSIs, and SAIs.

Biomass & Combined Heat & Power

- 4.17 No PD rights for a flue in a dwelling house where it is visible from a road in CAs, ASSIs, AONBs, and NPs. No PD right for underground solid biomass fuel storage in SAIs.

Heat Pumps

- 4.18 No PD rights for domestic ground source heat pumps in SAIs. No PD rights for water source heat pumps in ASSIs and SAIs. Domestic and non-domestic air source heat pumps will not have PD rights in AONBs, NPs, CAs or ASSIs if visible from a road.
- 4.19 All three consultation papers also ask whether further restrictions in Sensitive Areas over and above those outlined above should be imposed. It is considered that the restrictions imposed just about get the balance right and no objection to them is recommended and that no further restrictions over and above those set out be sought. Most of the restrictions are in fact in ASSIs and SAIs which for the most part have very little development and the other impact in terms of Fermanagh will be some restrictions in conservation areas which do not appear overly restrictive and are reasonable in preserving the qualities of these areas.

5.0 Draft Addendum to PPS7 Safeguarding Character of Established Residential Areas

5.1 The Addendum has three draft policies (LC1, LC2 and LC3) plus a definition of what constitutes an "established residential area" plus Space Standards taken from the DSD Housing Association Guide 2009.

Policy LC1(a) &(b)

5.2 LC1(a) states that proposed new housing in established residential areas in the form of redevelopment or infilling of vacant sites including garden areas will have to meet an additional assessment criterion that 'the proposed density is not significantly higher than that found in the locality. LC1(b) adds the assessment criterion that the proposed pattern of development is in keeping with the overall character and environmental quality of the existing neighbourhood.

5.3 Fermanagh Council welcomes the Department's introduction of these new criteria to protect existing established residential areas from being damaged by unsympathetic high density developments. However the draft Addendum relies on distinguishing 'established residential areas' within which to apply the new criteria. These are described as to 'normally' mean 'sub-urban residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens' (Annex E).

5.4 It specifically excludes from established residential areas three stated categories - higher density inner city areas, city and town centres and arterial routes. City and main town centres are well defined in area plans and arterial routes/public transport corridors should be readily identified. However there is a vast range of residential neighbourhoods lying neither in the inner city nor the suburbs and most towns and villages below the main towns do not have defined town centre boundaries in Area Plans. In Fermanagh only Enniskillen, Lisnaskea and Irvinestown have defined town centres. The draft document is thus weak in regard to where the new criteria are or are not to be applied and this will undermine the applicability of the document.

LC1(c)

5.5 This makes use of space standards published by DSD for Housing Associations. These standards are designed for social housing for the specific needs of a range of tenant types

and they are a welcome mechanism for combating the provision of tiny residential units. However private sector housing caters to a much wider range of potential users than social housing such as for students, etc., and is market rather than needs led. There should be some added flexibility in these standards for special market needs.

Policy LC2

- 5.6 This draft Policy deals with flat and HMO conversions. The draft Policy is within a document entitled "Safeguarding the Character of Established Residential Areas" and the document goes on to define established residential areas 'for the purposes of this Addendum...' as 'sub-urban residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens'. These are the areas where a demand for flat conversions and HMOs is practically non-existent. This draft Policy is unrelated to the rest of the document. Either the draft document should be renamed or this policy taken out of it or the whole basis of the document rethought. In terms of its wording LC2 adheres reasonably to previous established guidance for flat conversion. However the 150 sq.m. limit below which flat or HMO conversion will not be acceptable is overly restrictive. Many 3 or even 4 storey terrace houses in town centres would fall below this measurement criterion yet the demand for this form of house for single family occupancy is falling all the time. They are ideal for flat conversion or HMO use. This criterion will result in housing suitable for flat conversion being left to decay and being lost to the housing stock altogether.

Policy LC3

- 5.7 This Policy has no operational purpose in development control. The use of 'favourable consideration' and 'where appropriate' is of no use if the Department cannot insist on the use of permeable paving in planning decisions.