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Document Revisions

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<tr>
<th>No.</th>
<th>Details</th>
<th>Date</th>
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<tr>
<td>V1</td>
<td>Draft to Planning Service</td>
<td>13.02.2009</td>
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<tr>
<td>V2</td>
<td>2nd draft to Planning Service</td>
<td>24.03.2009</td>
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<td>Final to Planning Service</td>
<td>10.07.2009</td>
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<td>14.09.2009</td>
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Executive Summary

Introduction and Approach

In June 2008 the Department of the Environment Planning Service commissioned Entec UK Ltd to undertake research to inform the review of the Permitted Development (PD) rights provided by the Planning (General Development) (Northern Ireland) Order 1993 (the GDO) in relation to non-householder development. The review forms part of a wider reform of the Northern Ireland planning system which has been a key objective of the Department of the Environment since devolution in 2007.

This review takes as its starting point those parts of the GDO which offer the greatest potential for extending PD rights and the related constraints and conditions which then might apply. This is opposed to considering each individual part of the GDO in detail. Recommendations are therefore made for parts of the GDO, or in some cases new parts, where demand for change was identified through a combination of the following factors:

- A saving in planning application numbers;
- PD rights significantly differ in the rest of the UK & the Republic of Ireland;
- Stakeholder responses indicate significant demand; and/or
- Previous reviews in Northern Ireland or the rest of the UK suggest demand for change.

The review is drawn from strong evidence based on previous reviews of PD rights; interviews, written comments and workshops with organisations with an interest in permitted development; and an analysis of a sample of nearly 400 planning applications.

This review outlines a series of Cross Cutting Themes which will affect all users of the GDO, it then moves on to Topic Based Themes which are related to specific development types.
Cross Cutting Themes – Recommendations

Communicating the GDO

At present the GDO is not easily available to the public and is not available online. The nature of the legal language of the document can make it confusing and new parts have been added incrementally without a full review. These factors often lead to the GDO being difficult to interpret; as a result a number of applications have been submitted that are actually subject to PD. This has the potential to result in an increased workload for the Planning Service and those having to submit planning applications.

As part of Planning Reform the current GDO will be split into two; a General Development Procedures Order (GDPO) and a General Permitted Development Order (GPDO).

Entec’s review suggested a number of improvements to the new GPDO including preparing topic based user guidance with the help of trade associations and a programme of awareness rising for the new GPDO with planners, agents, developers and other stakeholders.

Prior Approvals

In England and Wales a system of Prior Approval operates for certain types of development. It works by requiring the developer to seek prior approval for the permitted development before going ahead with the proposed works. If the local planning authority does not respond to the developer’s application for prior approval within the specified time limit then the development can go ahead. In essence, Prior Approval lies somewhere between the need to
apply for full planning permission and permitted development rights. The principle of the development is considered acceptable, however, the siting and design of the development is the matter for consideration by the local planning authority. This means that in theory, the local planning authority should be able to deal with the application faster than a planning application because there are fewer issues to consider.

Entec have considered several options relating to prior approval. However given there is no prior approval in Northern Ireland at present, introducing such a system is likely to be confusing and require substantial investment in the education of planners and stakeholders. This does not sit well with the objective of streamlining the process and reducing the regulatory burden and Entec therefore conclude that such a system should not be introduced.

**Local Development Orders**

Whilst provision for Local Development Orders (LDOs) does not exist in Northern Ireland, these were introduced in England & Wales in 2004 to extend PD rights for certain types of development (specified in the order) within a certain area (also specified in the order). They could provide a way of making permitted development more locally specific.

To date LDOs have not been widely used and their value has therefore been a matter for debate. There are also likely to be a number of obstacles to the successful application of LDOs, especially with regard to developing expertise in the use of the new powers and willingness of a Local Planning Authority to relinquish their existing regulatory powers.

Entec have considered that in light of the lack of experience of LDOs elsewhere in the UK it not appropriate to make any decisions as yet regarding LDOs, Entec recommend that Planning Service monitor the progress of LDOs in the UK and make a decision in the longer term as to their suitable application in Northern Ireland.

**Article 4 Directions**

Article 4 directions are issued by planning authorities to remove permitted development rights. Although not restricted to these areas, they have been most regularly applied to add extra protection for Conservation Areas or to protect the setting of Listed Buildings.

Article 4 powers are infrequently used in Northern Ireland, however, Entec recommend that Planning Service retain their powers to introduce Article 4 directions as there is a benefit in controlling permitted development in sensitive areas. However, tensions will remain between this objective and the concerns of developers for policy consistency across the country and for less regulation generally.

One option and a potential alternative to LDOs would be to allow Article 4 directions to be used to extend PD rights as well as restrict them. This would require primary legislation.
**Simplified Planning Zones**

A Simplified Planning Zone (SPZ) is an area in which planning permission is automatically granted for particular types of specified development. Planning permission under a SPZ scheme may be unconditional or subject to such conditions or exceptions as may be specified in the scheme. In Northern Ireland, SPZs can be made under the Planning (NI) Order 1991 although none have yet been established and very few have been established in England and Wales.

Clearly the provision for SPZs already exists in Northern Ireland and therefore could be evoked in a particular area if it was felt justified. The powers to create SPZs will transfer to local planning authorities. However, the lack of uptake in SPZs both in Northern Ireland and the rest of the UK leads Entec to consider that there is an insufficient case for actively promoting SPZs further as a means of relaxing permitted development rights.

**Disability Access**

Since October 2004 service providers have had to make reasonable adjustments to their premises to overcome physical barriers to access to ensure that as far as possible disabled customers are treated in the same ways as non-disabled customers, under the Disability Discrimination Act (DDA). As far as the planning implications of the DDA are concerned, the most significant requirement relates to making reasonable adjustments where a physical feature makes it impossible or unreasonably difficult for a disabled person to access a service. The GDO offers no specific PD rights to allow service providers to carry out works to comply with the DDA, although those use classes included in the GDO, naturally may be able to carry out adjustments to their premises without the need for planning permission.

Entec propose a new Class within Part 2 (Minor operations) of the GDO to enable all service providers to carry out external works to create disability access points, subject to their being no adverse third party impacts.

**Sensitive Areas**

Under the existing GDO in Northern Ireland, permitted development rights are withdrawn or modified in relation to certain sensitive areas and sites, such as Areas of Outstanding Natural Beauty or Conservation Areas. There is generally no consistent limitation on permitted development rights across all types of sensitive areas with each part of the GDO setting limits in a targeted manner depending on the type of development.

Entec believe that in order to allow permitted development in as many non-householder situations as possible it will be necessary to set different limits to permitted development in different sensitive areas. This will depend on the function and purpose of the designation and how this relates to the potential impact of the development. It is concluded that there are inherent differences between what is appropriate in large scale protected areas such as National Parks and AONBs compared to more localised sites such as Conservation Areas and ASSIs.
Climate Change & Sustainability

A sustainability agenda has increasingly come to the forefront of Government planning policy. A number of sustainability aspects are considered in other sections the review e.g. waste management and protection of environmentally sensitive areas. Through consultation with stakeholders, two further issues were raised which potentially relate to all non-householder PD rights; flooding and the implications of the Water Framework Directive.

Flooding

Planning Policy Statement 15: Planning and Flood Risk sets out a general presumption against development in flood plains. At present most of the development allowed under the PD rights in the GDO could take place on flood plains as there are currently no restrictions in place in such areas. Of particular note is the threat of PD rights that individually may seem of little consequence but cumulatively have adverse effects.

Entec suggest that, in line with PPS 15, certain types of permitted development should be restricted in flood plains where vulnerable uses exist or are most likely to be affected by flooding, i.e. essential civil infrastructure (e.g. hospitals, fire stations etc), facilities for vulnerable groups (e.g. schools, care homes), hazardous substances storage. As part of this study Entec have therefore recommended that PD rights be withdrawn in Flood Plains in respect of the new parts of the GDO which will deal with institutions and waste management facilities and the amended Part 13 Class A (Railway Undertakers) and Class H (water and sewerage undertakings). For all other topics areas considered as part of this review we do not recommend that PD rights are restricted in Flood Plains as to do so would not be consistent with PPS15.

In addition we do not believe that PD rights should extend to basements in flood plains. The hazard involved is such that the closer scrutiny of a planning application is justified.

It is proposed that to reduce cumulative effects of surface water run-off, any hardstanding created or replaced that exceeds 5m² in surface area must either be constructed of permeable (or porous) materials or any run-off from the surface is to be directed onto a permeable area within the curtilage.

Water Framework Directive

The potential effects that a relaxation of permitted development rights for non-domestic land uses could have on Northern Ireland’s water bodies’ ability to meet some of the requirements for the Water Framework Directive has been raised as a concern. Examples of potential effects on the ecological quality of surface water bodies include habitat loss, sediment input, changes to flow regimes and the migration of biota. The current GDO presents very few limitations or conditions regarding water bodies, even in those parts directly related to undertakers associated with water bodies.

Entec believe that the concerns regarding permitted development rights impacting on the ecological quality of surface water bodies are a wider issue relating to permitted development rights generally (i.e. not just a non-
householder issue). As such, how and whether these concerns can be addressed in relation to proposed and existing permitted development rights requires a wider and more in depth consideration by the Department taking into account policy development throughout the UK in relation to implementation of the Directive. Consequently, Entec are not proposing to make any changes at this early stage.
### Topic Based Themes – Recommendations

#### Table 2  Industry & Research & Development

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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<tbody>
<tr>
<td>Part 8, Class A permits the extension or alteration of an industrial building or a warehouse. Development is not permitted if the floorspace of the original building is exceeded by more than 750 sq m or the cubic content of the original building is exceeded by more than 20%. This right is subject to certain other conditions regarding the buildings use; the extension’s height; its external appearance; proximity to the premises curtilage; whether the developments’ premises adjoins the curtilage of a dwellinghouse or flat; its impact on parking spaces or turning areas; location in the conservation area, AONB or National Park and the time of day its to be used.</td>
<td><strong>Revised Part 8 – Industrial, research/development &amp; storage uses</strong></td>
<td><strong>Extended Part 8 PD rights are to be provided in Conservation Areas (CAs), Areas of Outstanding Natural Beauty (AONBs) &amp; National Parks (NPs) up to a restrained floorspace limit of 500 sq m. Further they are permitted up to a floorspace of 250 sq m on floodplains.</strong></td>
</tr>
<tr>
<td>Revised Part 8 – Industrial, research/development &amp; storage uses</td>
<td>Permitting a maximum of 1,000 sq m floorspace for extensions and alterations per building (500 sq m in AONBs, CAs &amp; National Parks, 250 sq m in floodplains) and up to max of 25 per cent extra floorspace; Height no greater than existing building, if within 10m of a boundary max height of 5m; A maximum floorspace of 100 sq m per new building; Not within 5m of a boundary or facing a highway; Materials to match existing building; Not within 10m of a boundary of a residential property; Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted; Max 50 per cent ground coverage; Permeable (or porous) hardstanding up to 100 sq m (impermeable (or non-porous) where risk of contamination); and No basements in floodplains. Delete the test of ‘material effect on external appearance’, and replace with a test similar to that for householder development. This takes into account development facing a highway and distance from boundary (as used in revised Part 8).</td>
<td>Development and excavation on sites of natural, archaeological or geological value offers the potential to destroy such characteristics and therefore conditions to take away PD rights in ASSIs &amp; SAIs are proposed for Class A of Part 8 (permitting extensions, alterations &amp; new build). Specifically exclude incineration operations from Part 8 rights – only large scale incineration processes should be excluded.</td>
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### Table 3 Waste Management

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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</table>
| At present there are no PD rights provided for waste management in Northern Ireland. | A new Class D in Part 2 (Minor operations) of the GDO permitting the erection of a waste storage container (for non-hazardous waste) subject to:  
- A maximum floor area of 20 sq m;  
- Maximum height of 2.5m;  
- Not within 10m of boundary;  
- Maximum 25 cu m of waste to be stored; and  
- Not applicable to dwellinghouses or flats. | New Class D in Part 2 PD rights to be permitted in National Parks & AONBs. Rights removed however in CAs, ASSIs and SAIs. |
|                              | A new part to the Order for ‘Landfill Sites’ allowing the following works on existing waste sites:  
- Installation of boreholes for environmental monitoring;  
- Installation of odour control systems;  
- Erection of litter fencing up to 6m above made ground level;  
- Provision of sewers, mains, cables, pipes or other;  
- Installation of environmental monitoring equipment for gas, surface water and groundwater; and  
- Storage of topsoil and restoration materials up to 3m high. | New part for ‘Landfill Sites’ to be permitted in National Parks and AONBs but removed in CAs, ASSIs & SAIs. |
|                              | A new part to the Order for ‘Waste Management Facilities’ allowing works to existing facilities subject to the following limitations:  
- Max 100 sq m floorspace for new buildings;  
- Max 100 sq m for extensions and alterations to buildings up to a max of 25 per cent additional floorspace;  
- Extensions to be no higher than existing building, and max 5m if within 10m of a boundary;  
- New buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building;  
- Not within 10m of a boundary of a residential property;  
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
- No loss of turning/manoeuvring space for vehicles;  
- Maximum 50 per cent ground coverage;  
- Materials to match; | New part for ‘Waste Management Facilities’ to be permitted in National Parks and AONBs but removed in CAs, ASSIs & SAIs. |

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1 Non-hazardous waste is waste which does not feature on the list of hazardous waste in the European Waste Catalogue (EWC) 2002
### Table 3 (continued)  Waste Management

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
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<th>Restricted PD Rights / Approach in Sensitive Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Amend Class A of Part 4 to clarify that ‘moveable structures, works, plant and machinery’ includes concrete crushers and other plant and equipment for the recovery of materials from wastes.</td>
</tr>
</tbody>
</table>

- New permeable (or porous) hardstanding up to 50 sq m (provided not used for waste processing);
- No basements in flood plains; Not permitted development within flood plains;
- New storage bays up to 4m high; and
- Installation of boreholes for environmental monitoring.
Table 4  Telecommunications

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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</thead>
<tbody>
<tr>
<td><strong>PART 17 - DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS</strong></td>
<td><strong>Part 17 to be changed to apply to development by Electronic Communications Code Operators</strong></td>
<td><strong>All the proposed PD rights are to be permitted in AONBs, National Parks, conservation areas, ASSIs and SAIs.</strong></td>
</tr>
<tr>
<td>Class A - Development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunications system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of the installation, alteration or replacement of any telecommunications apparatus or development ancillary to equipment housing.</td>
<td>Replacement of an existing mast (which was previously erected under permitted development rights or with express planning permission and replacement of apparatus on an existing mast.</td>
<td></td>
</tr>
<tr>
<td>Extension of an existing mast by 10% above its original permitted height.</td>
<td>Addition of new apparatus on an existing mast providing it does not extend the mast above 10% of its original permitted height (this extension of Part 17 rights to be subject to the same conditions as Part 32 C.3).</td>
<td></td>
</tr>
<tr>
<td>The requirement for an ICNIRP statement for any development involving the installation of one or more antennas to be made a condition in Part 17.</td>
<td>“Appropriate notice” procedure to be used in Part 17 to ensure that the LPA’s remain aware of all electronic communications development undertaken under the new Part 17.</td>
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<tr>
<td>Similar provisions to be made in Part 17 of the GDO as in Part 32 in relation to development necessary in the case of an emergency.</td>
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### Table 5  Commercial & Retail

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<tr>
<th>Summary Of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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</table>
| Part 3 (Changes of use) grants a number of PD rights for the change of use between a number of commercial & retail operations. Minor developments in town centres are also permitted under Parts 12-17 when undertaken by Local Authorities, Highways Agencies and other Statutory Undertakers. | **New Part – Retail & Town Centre Uses** PD rights for extensions, and external alterations in the form of new door or window openings, shutters and other surface fittings, subject to:  
- Max 50 sq m of floor space per building;  
- A maximum of 5m in height;  
- Not within 2m of boundary;  
- Materials to match existing building;  
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
- Not in front of the existing building;  
- New permeable (or porous) hardstandings up to 50 sq m; and  
- No basements in flood plains.  
This part permits development on the uses set out in the definition section at the start of the chapter. | PD rights for extensions & alterations to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs. |
| Construction of trolley & bin stores away from the main building providing:  
- Not within 20m of residential property boundary;  
- Not more than 2.5m in height; and  
- Not more than 20 sq m in floor area. | **Erection of trolley stores to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs.** | |
| Permitted development for licensed street markets for the number of days specified in the licence. | | Permitted in all sensitive areas. |
| Parts 21, 22, 26, 27 & 32 of the GDO provide permitted development rights for CCTV cameras. | **PD rights to allow CCTV cameras to be erected not only on buildings but also on existing poles and other structures, subject to conditions.** | CCTV cameras to be permitted in National Parks, AONBs, & ASSIs but removed in CAs & SAIs. |
| PD rights to allow CCTV cameras to be erected not only on buildings but also on existing poles and other structures, subject to conditions. | A new part for offices permitting a maximum of 50 sq m of extensions or alterations per existing building up to 25% extra floorspace:  
- Height no greater than existing building, if within 10m of a boundary max height of 5m;  
- Not within 5m of a boundary, or facing a highway;  
- Materials to match existing building;  
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
- No loss of turning / manœuvreing space for vehicles;  
- New permeable (or porous) hardstandings up to 50 sq m; and  
- No basements in flood plains. | PD rights for extensions & alterations to offices to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs. |
### Table 6  Rural Areas

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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</thead>
<tbody>
<tr>
<td><strong>PART 6 - AGRICULTURAL BUILDINGS AND OPERATIONS</strong></td>
<td>Amendment to Part 3 to allow change of use of an agricultural building to:</td>
<td>Amended PD rights in Part 3 to be permitted in AONBs, National Parks, CAs, ASSIs &amp; SAIs.</td>
</tr>
<tr>
<td><strong>Class A</strong> - The carrying out on agricultural land comprised in an agricultural unit of: (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations; reasonably necessary for the purposes of agriculture within that unit.</td>
<td>- The making of products from produce/materials grown or reared on the farm; - The selling of produce/products grown within a 10 mile radius, and other products which account for no more than 20% of the sales area; - Storage and distribution uses (but no subsequent change to B1 or B2).</td>
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</tr>
<tr>
<td><strong>Class B</strong> - The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.</td>
<td>The following limitations are proposed for these three rights: - Farm unit to be larger than 0.5 hectares; - The total amount of land or buildings used for farm diversification purposes shall not exceed 235m² per agricultural unit, of which no more than 120m² shall comprise a farm shop; - At least 80 per cent of the sales area in farm shops shall be given over to produce/products grown within a 10 mile radius; - The buildings have been in an agricultural use for 5 or more years and are of permanent construction; - Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted; - the building shall continue to be part of the agricultural unit; and - If the building is no longer needed for one of these uses it shall revert to an agricultural use.</td>
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<tr>
<td><strong>Class C</strong> - The construction, formation, laying out or alteration of a means of access to a road.</td>
<td>Proposed PD rights to be permitted in NPs, AONBs &amp; CAs but removed in ASSIs &amp; SAIs.</td>
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**Equestrian Uses**

Further the following extended PD rights regarding equestrian use are recommended:

- Change of use of land to recreational equestrian use subject to the area being no smaller than 1 ha, subject to:
  - No more than two horses at any one time being kept on any 1ha plot;
  - The 1ha site not being subdivided in anyway and all the land being kept available for the grazing and keeping of horses at all times; and
  - No equestrian business to be carried out.

- The erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land, subject to:
  - No fences, walls or structures of any kind shall be erected if these subdivide the 1ha site area; and
  - No fence, walls or structures of any kind shall be erected if these exceed 1.4m in height.
### Table 6 (continued)  
#### Rural Areas

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
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<tbody>
<tr>
<td><strong>The erection of a field shelter solely to be used for the keeping of horses for recreational use, subject to:</strong></td>
<td>Proposed PD rights to be permitted in NPs, AONBs &amp; CAs but removed in ASSIs &amp; SAIs.</td>
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<tr>
<td>- The building shall not exceed 3.0m in height;</td>
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<tr>
<td>- The building shall have a footprint no greater than 36m²;</td>
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<tr>
<td>- Only one building shall be constructed per 1ha plot of land;</td>
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<tr>
<td>- If the shelter is no longer required for the keeping of horses it shall be removed within one calendar month;</td>
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<td>- The building shall be a minimum of 5m from any boundary with a public highway or a neighbouring residential property;</td>
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<td>- The field shelter shall be positioned on permeable (or porous) hardstanding of no more than 50 sq m;</td>
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<td>- No internal subdivisions, lighting or electricity to be fitted; and</td>
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<tr>
<td>- Completely open fronted.</td>
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<tr>
<td><strong>The use of temporary jumps, subject to:</strong></td>
<td>Proposed PD rights to be permitted in NPs, AONBs &amp; CAs but removed in ASSIs &amp; SAIs.</td>
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<tr>
<td>- No more than eight may be positioned on any 1ha plot at any one time; and</td>
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<td>- The jumps shall only be in place on the site for no more than 52 days per calendar year.</td>
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<td><strong>PD rights to be altered to ensure that the erection of any first building on an agricultural unit has planning permission to ensure that future development can be controlled.</strong></td>
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<tr>
<td><strong>PD rights in Part 6 Classes B and C to be removed within ASSIs &amp; SAIs (already removed within SAIs in Class C).</strong></td>
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### Rural Areas

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<thead>
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<tbody>
<tr>
<td><strong>Caravan Sites</strong></td>
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<tr>
<td>Class A</td>
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<tr>
<td>Permitted development</td>
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<tr>
<td>A. The use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2.</td>
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<tr>
<td>Condition</td>
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<tr>
<td>A.1 Development is permitted by Class A subject to the condition that the use shall be discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site shall be removed as soon as reasonably practicable.</td>
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<td>Interpretation of Class A</td>
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</tr>
<tr>
<td>A.2 The circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of the Schedule to the Caravans Act (Northern Ireland) 1963(a) (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters.</td>
<td></td>
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</tbody>
</table>
### Table 7 Institutions, Community Facilities, Leisure & Recreation

<table>
<thead>
<tr>
<th>Summary Of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 4 (Temporary buildings &amp; uses), Class B permits the use of land for any purpose for no more than 28 days of the year. This PD right could be used in providing a leisure or recreational use.</td>
<td>A new Part in the GDO for ‘Universities and Hospitals’ permitting extensions, new build and alterations:</td>
<td>PD rights for new Part regarding universities and hospitals to be permitted in AONBs &amp; National Parks but removed in CAs, ASSIs &amp; SAIs.</td>
</tr>
<tr>
<td>Part 2 (Minor Operations) which relate to ‘minor operations’ involving means of enclosure, creation of accesses to roads and painting.</td>
<td>• Max 100 sq m floorspace and max height of 5 m for new buildings;</td>
<td></td>
</tr>
<tr>
<td>Part 12 (Development by District Councils) of the GDO confers the right for district councils to erect or alter small ancillary buildings for the purpose of any function exercised by them subject to maximum heights and volumes.</td>
<td>• Max 100 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace at the size of the original building;</td>
<td></td>
</tr>
<tr>
<td>Part 25 (Development by the Department of Culture, Arts &amp; Leisure) grants the Department of Culture, Arts and Leisure PD rights involving a range of developments including the maintenance of canals and the provision of facilities relating to fishing.</td>
<td>• Extensions to be no higher than existing building, and max of 5 m of within 10 m of a boundary;</td>
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<tr>
<td></td>
<td>• New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;</td>
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<tr>
<td></td>
<td>• Not on playing fields;</td>
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<tr>
<td></td>
<td>• Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;</td>
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<tr>
<td></td>
<td>• Max 50 per cent ground coverage;</td>
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<td></td>
<td>• Materials to match;</td>
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<tr>
<td></td>
<td>• New permeable (or porous) hardstanding up to 50 sq m</td>
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</tr>
<tr>
<td></td>
<td>• Not permitted development within flood plains; and</td>
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<tr>
<td></td>
<td>• No basements in flood plains.</td>
<td></td>
</tr>
<tr>
<td>Summary Of Current PD Rights</td>
<td>Extended PD Rights</td>
<td>Restricted PD Rights / Approach in Sensitive Areas</td>
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<tr>
<td>An additional new part to the GDO for 'Schools, Leisure &amp; Community Facilities &amp; Other Institutions' should be produced, this would include all the uses set out in Table 12.4. The new Part for other institutions would permit extensions, new build and alterations:</td>
<td>PD rights for new Part regarding other institutions to be permitted in AONBs &amp; National Parks but removed in CAs, ASSIs &amp; SAIs.</td>
<td></td>
</tr>
<tr>
<td>Max 50 sq m floorspace and max height of 5 m for new buildings;</td>
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<tr>
<td>Max 50 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace;</td>
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<td></td>
</tr>
<tr>
<td>Extensions to be no higher than existing building, and max 5 m high if within 10 m of boundary;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;</td>
<td></td>
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</tr>
<tr>
<td>Not on playing fields;</td>
<td></td>
<td></td>
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<tr>
<td>Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;</td>
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<tr>
<td>Max 50 per cent ground coverage;</td>
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<tr>
<td>No loss of turning/manoeuvring space for vehicles;</td>
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<tr>
<td>Materials to match;</td>
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<td></td>
</tr>
<tr>
<td>New permeable (or porous) hardstanding up to 50 sq m</td>
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<tr>
<td>Not permitted development within flood plains; and</td>
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</tbody>
</table>
### Utilities

<table>
<thead>
<tr>
<th>Class C (Electricity Undertakings)</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development by electricity undertakers for the generation, transmission, distribution and supply of electricity for the purposes of the undertaking consisting of a number of operations including; 'the installation of service lines for individual consumers from an electric line'.</td>
<td>The extension of Class C (Electricity Undertakings) PD Rights for single user overhead lines up to a permitted length of 400m.</td>
<td>At present Class C PD rights are removed in SAIs, CAs, NPs &amp; AONBs but are permitted in ASSIs. Entec propose to permit the extended Class C PD rights in AONBs, National Parks &amp; CAs but remove them in ASSIs and SAIs. Overhead lines to be restricted to 100m in Special Countryside Areas.</td>
</tr>
<tr>
<td>Class A (Railway undertakings)</td>
<td>Addition to Part 13, Class A Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.</td>
<td>All Class A (Railway Undertakings), Class B (Dock, pier, harbour or water transport undertakings), Class C (Electricity Undertakings) &amp; Class G (Post Office) PD rights to be removed in Areas of Special Scientific Interest (ASSIs).</td>
</tr>
</tbody>
</table>
### Utilities

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
</tr>
</thead>
</table>
| **Class B (Dock, pier, harbour or water transport undertakings)**  
Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour or water transport undertakings, required:  
(a) for the purposes of shipping; or  
(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or the movement of traffic by any railway forming part of the undertaking. | Class B (Dock, pier, harbour or water transport undertakings) to include PD rights for security fencing of up to 2.4 metres in height should be included but removed where the operational boundary is shared with a residential dwelling. |  |
| **Class G (Post Office)**  
Development required for the purpose of the Post Office consisting of:  
(a) the installation of posting boxes or self-service machines;  
(b) any other development carried out in, on, over or under the operational land of the undertaking. | Class B (Dock, pier, harbour or water transport undertakings) to include PD rights for security CCTV cameras with suitable height restrictions.  
Provide PD rights for universal postal service pouch boxes, except in conservation areas and subject to the condition that they be sited to minimise their effect on pedestrian flow and visual impact. | Replace ‘Post Office’ with ‘universal service provider’ wherever it occurs within Class G (Post Office).  
Provide interpretation provision stating that ‘universal service provider’ and universal postal pouch-box’ are defined in the Postal Services Act 2000. |
| **Class H (Water and Sewerage Undertakings)**  
H (f) gives PD rights for the installation in a water distribution system of a booster station, valve house, meter or switch gear house | Add “control kiosk” to the list of PD under this paragraph |  |
### Utilities

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights / Approach in Sensitive Areas</th>
</tr>
</thead>
</table>
| H (h) gives PD for any other development in, on over, or under operational land other than the provision of a building but including the extension or alteration of a building | New point (j) under Class H (Water and Sewerage Undertakings):  
(i) the erection of a building for the housing of essential equipment necessary for the function of the operational site in the delivery of the water and sewerage undertaker’s statutory duties’.  
Subject to:  
- A maximum floorspace of 30 sq m per new building;  
- Not within 5m of a boundary or facing a highway;  
- No loss of turning/manoeuvring space for vehicles;  
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
- Max 50 per cent ground coverage;  
- Max height of 4m;  
- The first above ground development should require planning permission;  
- Not permitted development if the building is to serve proposed operations below ground in floodplains;  
- Not permitted development within flood plains; or  
- The land is within a Site of Archaeological Interest or Area of Special Scientific Interest. | PD rights withdrawn in ASSIs and SAs.                                                                                                                        |
| H (b) gives PD for development not above ground level required in connection with supply of water or conserving, redistributing or augmenting water resources or for the conveyance of water treatment sludge. | Amend paragraph (b) to include additional wording in the clause… ‘…..supply and distribution of water or for…’                                                                                                   |                                                                                                                                 |

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September 2009
### Part 16 – Mineral Exploration

Development on any land during a period not exceeding 4 months consisting of:

- (a) the drilling of boreholes
- (b) the carrying out of seismic surveys; or
- (c) the making of other excavations.

for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.

### New Part - Development Ancillary to Mining Operations

**Class A** - The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any:

- Plant or machinery;
- Buildings;
- Private ways or private railways or sidings; or
- Sewers, mains, pipes, cables or other similar apparatus,
- on land used as a mine.

However development is not permitted by Class A if:

- In relation to land at an underground mine on land which is not an approved site;
- The principal purpose of development would be any purpose other than the purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that miner; or the treatment, storage or removal from the mine of such minerals or waste materials derived from them;
- The external appearance of the mine would be materially affected;
- The height of any building, plant or machinery, if any, which is not in an excavation would exceed 15m above ground level; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greater;
- The height of any building, plant or machinery in an excavation would exceed 15m above the excavated ground level; or 15m above the lowest point of the unexcavated ground immediately adjacent to the excavation; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greatest;
- Any building erected (other than a replacement building) would have a floorspace exceeding 1,000 square metres; or
- The floorspace of any replaced, extended or altered building would exceed 25% of that of the existing building or the floorspace would exceed by more than 1,000 sq m the floorspace of the existing building.

This would be subject to the conditions:

- All buildings, plant and machinery permitted by Class A shall be removed from the land unless the mineral planning authority have otherwise agreed in writing; and
- The land shall be restored, so far as practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the mineral planning authority and the developer.

The PD rights offered under the new Part regarding ‘Development Ancillary to Mining Operations’ are to be permitted in National Parks & AONBs but removed in SAls, CAs & ASSIs.

### Table 9  Minerals

<table>
<thead>
<tr>
<th>Summary of Current PD Rights</th>
<th>Extended PD Rights</th>
<th>Restricted PD Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 16 – Mineral Exploration</strong></td>
<td><strong>New Part - Development Ancillary to Mining Operations</strong></td>
<td><strong>The PD rights offered under the new Part regarding ‘Development Ancillary to Mining Operations’ are to be permitted in National Parks &amp; AONBs but removed in SAls, CAs &amp; ASSIs.</strong></td>
</tr>
</tbody>
</table>

- **Class A** - The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any:
  - Plant or machinery;
  - Buildings;
  - Private ways or private railways or sidings; or
  - Sewers, mains, pipes, cables or other similar apparatus,
  - on land used as a mine.

However development is not permitted by Class A if:

- In relation to land at an underground mine on land which is not an approved site;
- The principal purpose of development would be any purpose other than the purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that miner; or the treatment, storage or removal from the mine of such minerals or waste materials derived from them;
- The external appearance of the mine would be materially affected;
- The height of any building, plant or machinery, if any, which is not in an excavation would exceed 15m above ground level; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greater;
- The height of any building, plant or machinery in an excavation would exceed 15m above the excavated ground level; or 15m above the lowest point of the unexcavated ground immediately adjacent to the excavation; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greatest;
- Any building erected (other than a replacement building) would have a floorspace exceeding 1,000 square metres; or
- The floorspace of any replaced, extended or altered building would exceed 25% of that of the existing building or the floorspace would exceed by more than 1,000 sq m the floorspace of the existing building.

This would be subject to the conditions:

- All buildings, plant and machinery permitted by Class A shall be removed from the land unless the mineral planning authority have otherwise agreed in writing; and
- The land shall be restored, so far as practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the mineral planning authority and the developer.
### Minerals

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<tr>
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<td>The PD rights offered under the new Part regarding 'Development Ancillary to Mining Operations' are to be permitted in National Parks &amp; AONBs but removed in SAIs, CAs &amp; ASSIs.</td>
<td></td>
</tr>
</tbody>
</table>

**Class C** - Development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

However development is not permitted by Class C where:

- the external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would be materially affected;

- any building, plant, machinery, structure or erection:
  - would exceed a height of 15 metres above ground level; or
  - any building, plant, machinery, structure or erection rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was rearranged, replaced or repaired, whichever is the greater;

- the development consists of the extension, alteration or replacement of an existing building and
  - if the floorspace of any replaced, extended or altered building would exceed by more than 25% the floorspace of the building replaced, extended or altered; and
  - the floor space of the building as extended, altered or replaced exceeds that of the existing building by more than 1,000 square metres.

There is a need to make it clear in the GDO that Part 8 regarding (Industrial and Warehouse development) does not apply to mining operations.
## Contents

1. **Introduction and Background**  
   1.1 Background to Study  
   1.2 Aims of the Project  
   1.3 Scope of the Study  
   
2. **Approach to the Study**  
   2.1 Stage 1 – Data Collection and Analysis  
   2.2 Stakeholder Consultation  
   2.3 Stage 2 – Developing and Testing Options for Change  
   2.4 Stage 3 – Final Recommendations  
   2.5 Report Structure  
   
3. **Existing Permitted Development Rights**  
   3.1 Introduction  
   3.2 The Current System  
   3.3 How the System Performs in Practice  
   3.4 Planning Reform  
   3.5 The Volume and Structure of Planning Applications  
   
4. **The Impacts Based Approach**  
   4.1 Impacts Based Approach  
   
5. **Literature Review**  
   5.1 Introduction  
   5.2 Review of Permitted Development in Northern Ireland  
   5.3 Reform of Permitted Development Other Parts of the UK  
   
6. **Cross-Cutting Themes**  
   6.1 Introduction  
   6.2 Communicating the GDO  
   6.3 Potential Planning Mechanisms to Supplement the GDO  
   6.4 Disability Access  
   6.5 Sensitive Areas  

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September 2009
6.6 Stakeholder Views on Current System/Possible Areas for Change
6.7 Options for Change
6.8 Preferred Option
6.9 Sustainability and Climate Change
6.10 Flooding
6.11 Water Framework Directive

7. Industry & Research & Development
7.1 Definitions
7.2 Background
7.3 PD Rights in Other Nations
7.4 Current Volume of Applications for Industry
7.5 Planning Policies
7.6 Previous PD Reviews and Possible Areas for Change
7.7 Stakeholder views on Current System and Possible Areas for Change
7.8 Options for Change
7.9 Other Potential Changes

8. Waste Management
8.1 Definitions
8.2 Background
8.3 PD Rights in Other Nations
8.4 Current Volume of Applications for Waste Management
8.5 Planning Policies
8.6 Previous PD Reviews and Possible Areas for Change
8.7 Stakeholder Views on Current System and Possible Areas for Change
8.8 Options for Change
8.9 Other Potential Changes
8.10 Recommendations for Change
8.11 Estimated Potential Savings in Planning Application Numbers
8.12 Approach to Sensitive Areas

9. Telecommunications
9.1 Definitions
9.2 Background
9.3 PD Rights in Other Nations
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.4</td>
<td>Current Volume of Applications for Telecommunications</td>
<td>108</td>
</tr>
<tr>
<td>9.5</td>
<td>Planning Policies</td>
<td>109</td>
</tr>
<tr>
<td>9.6</td>
<td>Previous PD Reviews and Possible Areas for Change</td>
<td>109</td>
</tr>
<tr>
<td>9.7</td>
<td>Stakeholder Views on Current System and Possible Areas for Change</td>
<td>110</td>
</tr>
<tr>
<td>9.8</td>
<td>Options for Change</td>
<td>112</td>
</tr>
<tr>
<td>9.9</td>
<td>Recommendations for Change</td>
<td>116</td>
</tr>
<tr>
<td>9.10</td>
<td>Estimated Potential Savings in Planning Application Numbers</td>
<td>117</td>
</tr>
<tr>
<td>9.11</td>
<td>Approach to Sensitive Areas</td>
<td>117</td>
</tr>
<tr>
<td>10.</td>
<td>Commercial/Retail</td>
<td>119</td>
</tr>
<tr>
<td>10.1</td>
<td>Definitions</td>
<td>119</td>
</tr>
<tr>
<td>10.2</td>
<td>Background</td>
<td>120</td>
</tr>
<tr>
<td>10.3</td>
<td>PD Rights in Other Nations</td>
<td>121</td>
</tr>
<tr>
<td>10.4</td>
<td>Current Volume of Applications for Commercial &amp; Retail Use</td>
<td>121</td>
</tr>
<tr>
<td>10.5</td>
<td>Planning Policies</td>
<td>121</td>
</tr>
<tr>
<td>10.6</td>
<td>Previous PD reviews and Possible Areas for change</td>
<td>122</td>
</tr>
<tr>
<td>10.7</td>
<td>Stakeholder Views on Current System/Possible Areas for Change</td>
<td>124</td>
</tr>
<tr>
<td>10.8</td>
<td>Options for Change</td>
<td>124</td>
</tr>
<tr>
<td>10.9</td>
<td>Other Potential Changes</td>
<td>129</td>
</tr>
<tr>
<td>10.10</td>
<td>Recommendations for Change</td>
<td>129</td>
</tr>
<tr>
<td>10.11</td>
<td>Estimated Potential Savings in Planning Application Numbers</td>
<td>131</td>
</tr>
<tr>
<td>10.12</td>
<td>Approach to Sensitive Areas</td>
<td>131</td>
</tr>
<tr>
<td>11.</td>
<td>Rural Areas</td>
<td>133</td>
</tr>
<tr>
<td>11.1</td>
<td>Definitions</td>
<td>133</td>
</tr>
<tr>
<td>11.2</td>
<td>Background</td>
<td>133</td>
</tr>
<tr>
<td>11.3</td>
<td>PD Rights in Surrounding Nations</td>
<td>133</td>
</tr>
<tr>
<td>11.4</td>
<td>Current Volumes of Applications for Rural Areas</td>
<td>133</td>
</tr>
<tr>
<td>11.5</td>
<td>Planning Policies</td>
<td>134</td>
</tr>
<tr>
<td>11.6</td>
<td>Previous PD Reviews and Possible Areas for Change</td>
<td>134</td>
</tr>
<tr>
<td>11.7</td>
<td>Stakeholder Views on Current System and Possible Areas for Change</td>
<td>139</td>
</tr>
<tr>
<td>11.8</td>
<td>Options for Change</td>
<td>141</td>
</tr>
<tr>
<td>11.9</td>
<td>Recommendations for Change</td>
<td>147</td>
</tr>
<tr>
<td>11.10</td>
<td>Estimated Potential Savings in Planning Application Numbers</td>
<td>150</td>
</tr>
<tr>
<td>11.11</td>
<td>Approach to Sensitive Areas</td>
<td>150</td>
</tr>
<tr>
<td>11.12</td>
<td>Caravan Sites</td>
<td>151</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>------</td>
</tr>
<tr>
<td>12.1</td>
<td>Definitions</td>
<td>155</td>
</tr>
<tr>
<td>12.2</td>
<td>Background</td>
<td>156</td>
</tr>
<tr>
<td>12.3</td>
<td>PD Rights in Surrounding Nations</td>
<td>156</td>
</tr>
<tr>
<td>12.4</td>
<td>Current Volume of Minor Applications for Institutions, Community Facilities, Leisure &amp; Recreation</td>
<td>157</td>
</tr>
<tr>
<td>12.5</td>
<td>Planning Policies</td>
<td>157</td>
</tr>
<tr>
<td>12.6</td>
<td>Previous PD reviews and Possible Areas for Change</td>
<td>158</td>
</tr>
<tr>
<td>12.7</td>
<td>Stakeholder Views on Current System/Possible Areas for Change</td>
<td>160</td>
</tr>
<tr>
<td>12.8</td>
<td>Options for Change</td>
<td>162</td>
</tr>
<tr>
<td>12.9</td>
<td>Recommendations for Change</td>
<td>167</td>
</tr>
<tr>
<td>12.10</td>
<td>Approach to Sensitive Areas</td>
<td>170</td>
</tr>
<tr>
<td>12.11</td>
<td>Temporary Uses</td>
<td>170</td>
</tr>
<tr>
<td>13.1</td>
<td>Definitions</td>
<td>173</td>
</tr>
<tr>
<td>13.2</td>
<td>Background</td>
<td>173</td>
</tr>
<tr>
<td>13.3</td>
<td>PD Rights in Other Nations</td>
<td>175</td>
</tr>
<tr>
<td>13.4</td>
<td>Current Volume of Applications for Utilities</td>
<td>176</td>
</tr>
<tr>
<td>13.5</td>
<td>Planning Policies</td>
<td>176</td>
</tr>
<tr>
<td>13.6</td>
<td>Previous PD Reviews and Possible Areas for Change</td>
<td>176</td>
</tr>
<tr>
<td>13.7</td>
<td>Stakeholder Views on Current System/Possible Areas for Change</td>
<td>180</td>
</tr>
<tr>
<td>13.8</td>
<td>Summary</td>
<td>182</td>
</tr>
<tr>
<td>13.9</td>
<td>Options for Change</td>
<td>183</td>
</tr>
<tr>
<td>13.10</td>
<td>Other Potential Changes</td>
<td>186</td>
</tr>
<tr>
<td>13.11</td>
<td>Recommendations for Change</td>
<td>188</td>
</tr>
<tr>
<td>13.12</td>
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<td>Approach to Sensitive Areas</td>
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</tr>
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<td>14.1</td>
<td>Definitions</td>
<td>193</td>
</tr>
<tr>
<td>14.2</td>
<td>Background</td>
<td>193</td>
</tr>
<tr>
<td>14.3</td>
<td>PD Rights in Other Nations</td>
<td>194</td>
</tr>
<tr>
<td>14.4</td>
<td>Current Volume of Applications for Minerals</td>
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<td>14.5</td>
<td>Planning Policies</td>
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<td>14.6</td>
<td>Previous PD Reviews and Possible Areas for Change</td>
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<tr>
<td>14.7</td>
<td>England &amp; Wales Lichfield Report</td>
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1. **Introduction and Background**

1.1 **Background to Study**

In June 2008 the Department of the Environment Planning Service commissioned Entec UK Ltd to undertake research to inform the review of the Permitted Development (PD) rights provided by the Planning (General Development)(Northern Ireland) Order 1993 (the GDO) in relation to non-householder development.

Following devolution in 2007, there have been a number of calls for reform of the Northern Ireland planning system with the key aim of bringing forward proposals that would enable the planning system to play its part in delivering on the programme for government priorities and, in particular, by contributing to growing a dynamic innovative and sustainable economy. The key driver for this review is therefore the reform of the Northern Ireland planning system.

In the Planning Reform: Emerging Proposals paper, the Minister for the Environment has set out the anticipated outcomes of the reform as including:

- A more effective development control system, which would work better as it would be reshaped to manage the different categories of development in ways that are proportionate to the significance of each application, with a greater focus given to economically and socially important developments;
- Improved efficiency of processing and greater certainty about timescales for developers;
- A change in the culture of the planning system: seeking to facilitate and manage development applications rather than merely controlling undesirable forms of development, and stronger collaborative working across a range of stakeholders; and
- A better match of resources and processes to priorities and improved value for money for all users of the planning system through more proportionate decision-making mechanisms.

Paragraph 25 of the paper recognises that the key focus for development control is proportionality and developing ways to deal with different types of development in different ways. This includes reducing bureaucracy for local and minor developments through simpler and more streamlined processes for planning applications for minor development and by extending the range of minor developments for which planning permission is given without the need for a planning application, i.e. permitted development rights.

1.2 **Aims of the Project**

The primary aim of the study is to undertake research to enable the Department to consider the deregulation of controls over certain types of non-householder development by the provision of new permitted development rights.
(“PD rights”). This is based on an approach which considers the potential impacts of development as a basis for setting limits for permitted development (“the impact based approach”).

Within this context the review undertakes to do the following:

1. Assess the need to control adverse impacts from non-householder developments and identify impact criteria for extending PD rights;

2. Establish which types of non-householder development offer the greatest potential for change;

3. Show which parts of the GDO are not fit for purpose and be in sufficient detail to draft revised provisions for the GDO;

4. Include recommendations as to the means by which permitted development rights may be made more accessible and easier to understand;

5. Assess the scope for additional permitted development rights and be in sufficient detail to draft new provisions for the GDO;

6. Pay particular attention to non-householder developments in sensitive areas;

7. Assess emerging developments elsewhere in the UK and Ireland in relation to permitted development rights and their relevance to Northern Ireland.

1.3 Scope of the Study

Our instruction was to focus on those parts of the GDO which offered the greatest potential for extending PD rights. Our emphasis has therefore been to focus on looking at those topics where change might lead to a greater saving in planning application numbers. We have not therefore considered every individual part of the GDO in detail.

Within the context of looking for potential to extend PD rights we have examined the earlier reviews of PD rights carried out in Northern Ireland, England, Wales and Scotland. Taking account of this previous research, the evidence base of planning application data and stakeholder views, some categories offer the greatest potential for beneficial change, in terms of reducing the regulatory burden and simplifying the system. We therefore looked to identify and prioritise those PD categories.

We have also examined the scope for additional PD rights above and beyond the current GDO classes which has included new and emerging land uses. This has involved examining the number and type of applications currently being submitted and the time taken to process them. If they were minor in nature and generally approved we considered there was a case for extending PD rights to include them.
In identifying those PD categories, we have sought to identify common characteristics and themes to avoid duplication of effort, but we have also needed to evaluate each category as a separate entity to ensure that our recommendations for change take account of the unique characteristics of each land use and of their impacts in different contexts.

Entec also considered the means by which PD rights may be made more accessible and easier to understand, reviewing the recommendations made in previous reviews of PD rights and having considered the views of stakeholders including users of the system.

In undertaking the research we have also taken account of the proposed transfer of planning powers whereby in 2011, it is proposed that 11 new district councils will be created and a range of functions will be transferred from central government including development plans, development control and enforcement. More information on this is set out in a later chapter.
2. Approach to the Study

Our work was broken down into three stages. Stage 1 involves data collection and analysis. Stage 2 involves the development and testing of options for change and Stage 3 covers the drafting of final recommendations.

2.1 Stage 1 – Data Collection and Analysis

Stage 1 of the project was the data collection and analysis section of the project.

It was agreed with the Planning Service that Entec would review/collect the following sources of data:

a. Examine previous reviews into aspects of permitted development rights that have been undertaken in Northern Ireland, England, Wales and Scotland as these provide an important context for the review of non-householder development in The Planning (General Development) Order (Northern Ireland) 1993;

b. Review of the existing GDO and of other permitted development rights in England and Wales, Scotland, Northern Ireland and Exempted Development provisions in the Republic of Ireland;

c. Planning Application Data – using a representative sample of planning applications;

d. Stakeholder Engagement – seeking views from organisations with an interest in PD rights.

2.1.1 Review of Existing Reviews into Aspects of Permitted Development Rights

Entec undertook a review of relevant literature relating to permitted development rights across the UK in order to inform the study and the potential options for change. No relevant reviews were identified in the Republic of Ireland.

The following key documents were identified and reviewed:


- Policy Assessment Papers – Review of Permitted Development Rights, Planning Service (2007) (these papers reflected an analysis of the responses to the public consultation pointing to recommendations but not subjected to the wider consideration and scrutiny which would have led to decisions on the way forward);


• Householder Development Consents Review, ODPM (2005);

• Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders, ODPM (2007);

• Review of Permitted Development Rights for Householder Micro generation, Department of Communities and Local Government (2007);

• Review of Permitted Development Rights for Small Scale Renewable Energy Development, Planning Service (2008);

• The Non Householder Minor Development Consents Review, CLG & WAG (June 2008).

Particular consideration was given to two of these reviews which are most relevant, namely The Non Householder Minor Development Consents Review in England and Wales prepared by White Young Green (WYG) for Communities and Local Government (CLG) and Welsh Assembly Government (WAG), and The Review of Permitted Development Rights: A Consultation Paper (2003) Planning Service and subsequent Policy Assessment Papers – Review of Permitted Development Rights, Planning Service (2007).

The review of these documents and conclusions drawn from them is set out in Chapter 4.

2.1.2 Review of the GDO

Entec also reviewed the GDO itself to assess whether there were any parts which were not fit for purpose or were redundant and could therefore be removed, and also to assess whether there were any areas where the GDO could be extended to cover areas that do not currently benefit from permitted development rights.

Entec were also mindful of the changes to the system of Governance in Northern Ireland (as outlined in Chapter 3).

A review was also carried out of the General Permitted Development Orders (GPDOS) in England and Wales and Scotland and also the Exempted Development provisions in the Republic of Ireland (ROI).

2.1.3 Examination of Planning Application Data

Planning Service provided planning application data which was used to identify which non-householder planning applications were submitted on a regular basis.

In order to ensure that we were looking at a representative sample of planning applications submitted in Northern Ireland, Entec decided to review planning application data from all districts in Northern Ireland and from the first 2 weeks in March and the first 2 weeks in October. The first 2 weeks in March and the first 2 weeks in October were
chosen to try and pick times of the year when people are most likely to be considering altering their premises. Applications are often submitted in spring to enable work to be carried out in the summer months and October to enable work to be carried out in the spring. Summer and winter are also periods of time when people tend to take holidays, which may affect application numbers.

The information received included application type, description of proposed works, land use and development type codes, district, decision, floorspace.

All the non-householder planning applications submitted to each district in the sample period were assessed which totalled 388 planning applications. As all the planning applications submitted were assessed only a proportion of these would be for more minor development which might be affected by changes to PD rights. Entec were looking to see if there were any applications that were routinely submitted and routinely approved that were minor in nature and could therefore potentially be permitted development. The topics identified as a result of this analysis are set out in Chapter 7 onwards.

Entec has reviewed the planning application data supplied by Planning Service. The key objective of this exercise was to determine the extent to which proposed relaxation in PD rights for non-householder development will reduce application numbers across Northern Ireland. We wanted to identify any applications that were routinely submitted, that were minor in nature and therefore may offer potential for increased PD rights. This data would assist us in identifying areas for relaxation and then calculate potential savings that could result.

The sample was taken for the whole of Northern Ireland and therefore covered a range of towns, cities and rural areas to provide a broad range of data. The sample was collected from all 26 Local Government Districts (LGDs).

Our sample only excluded all those applications which were not for planning permission e.g. advertisement consents, listed building and conservation area consent as these fall outside the scope of this review. Applications seeking access to dwellings were considered to be householder development and were also therefore excluded.

The applications in the sample were analysed for their application type by using the Planning Services’ definitions of development type and land use for each application. This stage is quantified in the figure below.
Table 2.1 Initial Analysis of NI Planning Services' Application Sample Table incl. Approved & Rejected (in Brackets)

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Table 2.2  Breakdown of Miscellaneous Category

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As outlined above, this analysis provided the springboard for breaking the application sample down into specific topic sections, as seen in subsequent sections. Following this hard copies of the samples applications were collected from the relevant Planning Service Divisional Offices. This allowed for more detailed appraisal of the application sample and the analysis recommendations for each topic to establish potential application savings as % of the total for each topic and overall. Subsequently using these percentages a total saving over the entire year has also been estimated within the tables contained in the respective topic sections. This figure is determined from the total of 5,986 non-residential planning applications received by the Planning Service in 2007/08 (April 07-March 08).

2.2  Stakeholder Consultation

Entec undertook a series of workshops and interviews with users of the current General Development Order in Northern Ireland. Consultees included Development Managers within the Northern Ireland Planning Service; statutory agencies, sector-specific users (or potential users) of Permitted Development e.g. waste, minerals, institutions, communications, infrastructure, agriculture, etc; alongside organisations with a remit to protect and enhance the natural and historic environment.

Our aim was to engage with a broad cross-section of organisations and sectors affected by Permitted Development rights across Northern Ireland. The specific objectives of stakeholder consultation were:

- To find out how stakeholders view the operation of the GDO currently in Northern Ireland;
- To identify any suggestions for amending the GDO of benefit to stakeholders;
- To seek stakeholders view on options for change;
- To identify any differences of approach suggested for designated areas.
The stakeholder engagement programme engaged with key consultees through the following key steps:

1. A brief questionnaire sent largely by email to 94 current and potential users of the GDO (including District Councils, utility companies etc). Questions asked included:
   - Do you have any views on the operation of the GDO in relation to your organisations interests?
   - Do you think there are any changes to PD rights that would be beneficial to your organisation?
   - Do you think there should be any difference to PD rights in particular areas (e.g. conservation areas etc)?

   The response rate to the questionnaire was 23% with 22 respondents.

   A further series of telephone interviews were held with key consultees who did not respond to the questionnaire in the timeframe set but who responded to the consultation carried out by Planning Service in 2003, or where it was felt to be important to get the views of the organisation concerned.

2. A more detailed questionnaire was sent to the 8 divisional managers to obtain their views and this was followed up by a telephone interview to try and pick up on any points mentioned in the questionnaire.

3. A workshop was held with the Planning Service Development Management Working Group on 17th October 2008. At the workshop, Entec conducted a presentation to the principal planning officers on the project, progress to date and sought their views on the findings so far.

4. A workshop was also held with current and potential users of the GDO on 9th December 2008. This included representatives from industry, public bodies, agriculture, statutory agencies and other organisations.

   The responses received have been reviewed and analysed and have informed the detailed consideration of the options as set out in chapter 6 onwards. A list of the organisations consulted and a summary of the responses received is provided in Appendix A.

2.3 Stage 2 – Developing and Testing Options for Change

Stage 2 of the review process was developing and testing the options for change. Our approach considered two potential types of change which could be made. Firstly we consider cross cutting themes, in other words topics or issues which potentially affect the GDO as a whole or apply equally to all its component parts. Secondly we have considered those individual development types which offer the greatest potential for change in terms of extending permitted development rights.

The topics and options for change were identified through the review process previously outlined, but summarised here:
Identify areas offering the most potential for extending permitted development rights and developing new permitted development rights, and areas where there are opportunities to reform the GDO from:

- Literature reviews (pulling out recommendations for extending permitted development rights and for making the GDO more accessible and user friendly from previous reviews);
- Stakeholder engagement (gathering together all the views expressed by stakeholders, either by questionnaire, telephone interview or at one of the workshops);
- Planning application data (analysing the planning application data looking for applications which are routinely submitted and approved and are minor in nature that could have potential for being permitted development).

For the cross cutting themes we considered each topic and where appropriate developed options for change. The aim was to agree an overall approach which could then be applied to the GDO in detail where appropriate. These were the subject of consultation with stakeholders. Where options were identified we set out key advantages and disadvantages with each option and then identified a preferred option.

As regards the individual development topics the process we adopted is set out in the diagram below. Essentially this is based on asking three questions for each development type:

- Are there significant numbers of applications in the sample?
- Do other reviews or PD rights support extending PD rights in Northern Ireland?
- Do stakeholder comments support extending PD rights for this topic?

In general where the answer to at least two of these three questions was yes we included the development topic for review. The department also asked us to look at two specific topics, caravans and temporary uses, which did not meet the general criteria but had been the subject of recent correspondence. In addition we also looked at certain other potential changes which arose from the Lichfield Review and subsequent Planning Service analysis which sought further clarifications to the GDO.

Using the outcome of Stage 1, we then developed a number of options for each development topic. These were then tested for in terms of their economic, environmental, social, policy and administrative implications as set out in Chapter 2. In addition we consulted stakeholders on some of the options which were put forward and following this again revised the options further. This led to the selection of a preferred option.
Creating the environment for business

Which types of development offer the greatest potential for extending PD?

Planning application data

Are there significant nos. of planning applications?

No

Not included within the review

Yes

Other GPDOS/reviews

Do other reviews support extending PD for the topic?

Do stakeholder comments support extending PD for the topic?

Consider options for change

General Impact Criteria

Test options against environmental, social, economic, policy and administrative outcomes

Preferred Option

Draft Recommendations

Refine Impact Criteria
2.4 Stage 3 – Final Recommendations

Once the preferred option was identified we considered specific detailed recommendations for that topic. These were devised by further review of stakeholder responses, other reviews and PD rights elsewhere and by an assessment against the impact criteria.

Our decision on whether to take forward the recommendations proposed was based on several factors:

1. Whether the recommendation matched the objectives of the brief (i.e. did it seek to extend permitted development rights or add new permitted development rights, or, did it make recommendations to reform the operation of the GDO);

2. Did the recommendation suggest alterations to a topic in the GDO where there were a significant number of similar/minor applications thereby making any alterations to the GDO worthwhile in terms of the potential savings to Planning Service or users of the Planning Service;

3. Were the recommendations proposed reasonable and implementable (i.e. could the recommendation be taken forward by the Planning Service).

The impact of the proposed recommendations was assessed by examining planning application data through analysing a sample caseload of applications from the Planning Service Divisional Offices. This enabled us to provide an indicative estimate of the likely impact on reducing planning applications for particular categories of development where an extension of PD was proposed. In some topic sections the small number of planning applications meant that it was not possible to do an analysis of applications to identify those which are usually approved or vice versa. This is a weakness, in terms of testing the recommendations, however if other sections of the topic indicated need for reform PD right recommendations were assessed anyway.

The Partial Regulatory Impact Assessment forms a separate document to this report and can be reviewed independently.

2.5 Report Structure

The remainder of the report is broken down into 2 parts. Part 1 includes Chapters 3-5 explaining the background to the report including:

- Chapter 3 – Existing Permitted Development Rights in Northern Ireland;
- Chapter 4 – An explanation of the impacts based approach;
- Chapter 5 - A literature review;
Part 2 of the report looks in detail at the permitted development rights we reviewed and the recommendations we made following on from those reviews. The ‘topics’ we looked at were:

- Chapter 6 - Cross cutting themes including sections on communicating the GDO, potential measures to augment the GDO, disability Access, sensitive area, climate change and sustainability;
- Chapter 7 - Industry; Research and Development;
- Chapter 8 – Waste management;
- Chapter 9 - Telecommunications;
- Chapter 10 – Retail and Town Centres;
- Chapter 11 – Rural Areas (including agricultural development and caravans);
- Chapter 12 – Institutions, Community Facilities, Leisure and Recreation (includes temporary uses);
- Chapter 13 - Utilities;
- Chapter 14 – Minerals.
3. **Existing Permitted Development Rights**

3.1 **Introduction**

This section looks at how the permitted development rights are currently administered in Northern Ireland.

3.2 **The Current System**

The Planning (General Development) (Northern Ireland) Order 1993 (the GDO) is arranged in 2 sections. The first sets out the articles and directions relating to permitted development rights and planning permissions, the second sets out what type of development can be undertaken in Northern Ireland without requiring a planning application and are called permitted development rights. Permitted development rights often relate to minor building work where the effects of the development on neighbours or the environment is likely to be small. Permitted development rights therefore serve to reduce the volume of planning applications and the regulatory burden of the planning system.

In order to ascertain whether certain types of development require planning permission, a Certificate of lawful use or development (CLUD) for an existing development or a proposed development can be applied for. Planning Service currently determine the applications for CLUDs which provide a definitive answer as to whether or not planning permission is/was required for the proposed development, whether it falls within the realms of permitted development, or whether it has become lawful though the passage of time. In some cases, due to the nature of the application it may take some time to process a CLUD, particularly to establish whether an existing use is lawful. Therefore applicants are sometimes circumventing the CLUD system and applying straight for planning permission as, if Planning Service determine that the proposed development does not fall within the realms of PD, the applicants have to apply for planning permission anyway, which inevitably adds to the length of time taken to get the proposed development started.

The PD Rights for non-householder land uses are generally based on measurements such as volume, height and distance. Permitted development rights as allowed by the GDO sometimes differ in certain types of areas that are considered to be particularly sensitive to some forms of development, in particular World Heritage Sites, Special Areas of Conservation (SACs), Special Protection Areas (SPAs), National Parks, Areas of Outstanding Natural Beauty (AONBs), Areas of Special Scientific Interest (ASSIs), Sites of Archaeological Interest (SAIs), Conservation Areas, listed buildings and local sites/designations.

Permitted development rights can be changed by what is termed an Article 4 direction, which gives the department powers to remove some or all permitted development rights from an area where there is a particular need to do so.
The Department also has the power to extend permitted development rights in a locality through creating Simplified Planning Zones which grant a specified planning permission in the zone without the need for a formal application or the payment of planning fees.

**Local Government in Northern Ireland**

The current local government system in Northern Ireland was established under the Local Government Act (NI) 1972. It consists of a single tier of 26 district councils based on the main population centres.

Local Councils in Northern Ireland have 3 main functions:

- **Direct service provision:** Each council is responsible for the provision of a range of services within its own area such as refuse collection and disposal, recycling and waste management, cemeteries etc;
- **A representative role:** Councillors are appointed to represent their councils, or elected members in general, and on a number of public bodies, such as education & library boards etc;
- **A consultative role:** Where public service functions are undertaken by government departments or other agencies (e.g. planning, roads, and education). In most cases local authorities will be engaged in consultation with these bodies. Councils are currently not responsible for (but are consulted on) planning functions such as the preparation of Development Plans and the determination of planning applications.

### 3.3 How the System Performs in Practice

The current planning system in Northern Ireland is administered by the Planning Service, who have overall responsibility for all planning matters, including the design and implementation of the GDO. Day to day implementation is carried out through the divisional offices of the Planning Service.

In practice, the GDO for householder development is well known by planning staff and members of the public who use the GDO. The GDO for non householder development is less well known, by members of planning service, architects and agents and members of the public who may wish to use the service.

The GDO is not currently published and available for members of the public to access and therefore all enquiries need to go through Planning Service staff. Anecdotally, through stakeholder interviews, it has been reported to us that planning applications are often submitted for development which is actually deemed to be permitted development. It has been suggested that developers/agents are unable to get a timely response to a PD enquiry to the planning service as to whether an application is required and therefore decide to submit an application in any event.
3.4 Planning Reform

The timeframe for the planning reforms outlined in Section 1 is broadly the same as for the implementation of the local government aspects of the Review of Public Administration (RPA). The reform proposals are designed to enable and take account of the transfer of responsibility for most planning functions to the new district councils. Following the implementation of the RPA, local government will have responsibility for key planning functions, including:

- Local development plans;
- Development control (excluding regionally significant applications); and
- Enforcement.

Central government will retain responsibility for regional strategic planning and planning policy, regionally significant applications, legislation, oversight, intervention (by exception), audit, governance and performance management.

Amongst the reform proposals is the change from development control to development management which will include a rationalisation of planning permission for minor developments through a simpler and more streamlined process for planning applications for minor development and by extending the range of minor developments for which planning permission is given without the need for a planning application (the subject of this review).

On implementing planning reform it is proposed that the GDO will be split into two, with that part relating to permitted development, becoming a new General Permitted Development Order (GPDO) as is currently the case in England and Wales.

In terms of how the planning reforms will directly impact on the GDO, the details of the non-planning functions which will be transferred and those which will be retained centrally has yet to be finalised. This may impact on the GDO as certain existing parts confer rights on particular government departments. If any of these functions transfer to local authorities then there may be a need to revise parts of the GDO. As the details are unknown at this stage Entec are unable to say how these changes will directly impact on the GDO.
3.5 **The Volume and Structure of Planning Applications**

In 2007/2008 (April 07- March 08) there were 27,906 planning applications submitted, of which 21,920 were residential applications and 5,986 were non residential planning applications.\(^2\) The overall approval rate for all applications was 91.6% which demonstrates that the vast majority of planning applications are approved.

Planning applications are broken down into major, intermediate and minor categories, according to their land use type not their size. The focus of our research is small scale applications most likely to have limited impacts. However we needed to review major, intermediate and minor categories of development in the non residential group as a small scale application may fall within any category.

A separate review is being undertaken into relaxing permitted development rights for householder development which would obviously have the biggest impact in terms of reducing the number of planning applications going through the planning system overall. This review will concentrate on reducing the 6,000 non residential planning applications.

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4. The Impacts Based Approach

4.1 Impacts Based Approach

Entec has reviewed the GDO using an impacts based approach. This approach emerged from the work of White Young Green on the Householder Development Consents Review conducted in England and Wales. The review stated that future permitted development rights should be informed primarily by the potential impact on others, for example, by overshadowing. A starting point would be that the planning system should not be there to regulate development that has no impact beyond the host property. This is to overcome the problem that the current framework of permitted development rights can be unclear and confusing, and by using a sometimes somewhat arbitrary size and volume-based approach, anomalous in terms of impact as to what is and is not permitted.

The England and Wales Non-Householder Minor Developments Review 2008 also uses the impacts based approach to identify low impact developments, which could be exempted from needing planning permission.

The impact approach is based on the principles developed by Sparks and Jones (The Non Householder Minor Development Consents Review, CLG & WAG (June 2008)). In their work, Sparks and Jones examined the types of impacts that a householder development can give rise to, and they suggested that there are four broad levels of impact. Their analysis provided a useful framework for understanding precisely the types of impact that the GDO needs to control and how these can be measured and quantified.

**Level 1 – Impacts on the Host Property**

Changes that affect the host property – internal changes to the layout of the building, and changes to the appearance of the building and minor external changes that planners consider do not materially affect neighbours or the public street scene. These are generally not controlled by the planning system.

**Level 2 – Impacts on Adjoining Neighbours**

Changes that may affect adjoining properties and neighbours, including overlooking causing loss of privacy, overshadowing causing loss of daylight, creating an overbearing presence causing loss of aspect or openness, disturbance causing loss of peace and tranquillity in terms of noise, light pollution, fumes and smells.

**Level 3 – Impacts on the Street Scene**

These are changes that impact on the character and appearance of a street or neighbourhood. Greater importance is attached to elevations which front a public area or are visible from a public highway, as opposed to those which face away from it.
Level 4 – Impact on Interests of Wider Importance

These are changes that may affect wider interests than those of neighbours or the immediate neighbourhood. Typically they relate to sensitive areas which national policies seek to protect – National Parks and AONBs, Conservation Areas or Green Belts, or where they impact on national concerns such as increasing flood risk or highway safety.

The key impacts for non-householder development are significantly more varied than those of householder developments because they cover a much broader range of issues varying from changes of use of land or buildings to the installation of plant/machinery. Depending on what is proposed, these types of development can have significant impacts on neighbours and the character of the site and surroundings. They also have the potential to have a much more significant and widespread impact than most householder developments.

The key potential impacts of non householder developments that are minor in nature are detailed below. These impacts were identified by White Young Green in their review of non householder minor development consents. Entec has reviewed these impacts, which are of similar relevance to Northern Ireland, and has set these out below.

Overlooking

Overlooking is a key impact and is most commonly an issue when the adjacent property is in residential use, but can also occur when the adjoining property is a hospital for example. Problems of overlooking can also arise when distances between windows in a business use and a private residential property are so close that they lead to overlooking and loss of privacy for primary living accommodation. The impact is the same if the property is in an industrial, institutional or other use. Overlooking is therefore an important consideration when determining tolerances for the GDO.

Overshadowing (Loss of Daylight)

There are 2 components of daylight (natural light); skylight and sunlight. Skylight sometimes know as diffuse skylight, is light which is diffused all around us even on cloudy days, whilst sunlight is the light which comes directly from the sun on clear days.

The Building Research Establishment (BRE) suggests three indicators for assessing skylight and two for sunlight which indicate whether there is a potential overshadowing issue.

Skylight Indicators:

- 25 degree line governs new development directly facing existing windows;
- 45 degree line governs new development at right angles to existing windows;
43 degree indicator which is used for a development close to a boundary to avoid sterilising potential development on land on the other side of the boundary.

**Sunlight Indicators:**

- 25 degree line. Adjoining occupiers are particularly likely to notice a loss of sunlight to their property or their amenity areas;
- Sunlight indicator: Amenity areas. BRE recommend that no more than 40% of any private garden (excluding small front gardens) should be prevented from receiving any sun at all when the sun is at its equinox.

The current GDO does not restrict developments that breach these indicators. However, when considering a proposal for a business, industrial or institutional use, the loss of light to neighbouring properties should be avoided if it compromises the space and operation of the adjoining user, especially in cases that would result in an increased need for artificial lighting contrary to wider sustainability objectives.

**Overbearing Presence (Loss of Aspect or Openness)**

Loss of aspect or openness is not as specific in its harmful impact as overshadowing, but it is an impact that planners consider. Tolerances need to be sufficient to protect adjoining users from overbearing large or poorly located developments and alterations. The relationship between the height and massing of a new building and its proximity to a boundary is a key concept in determining whether the new building would be unneighbourly.

**Out of Character**

Whilst being out of character doesn’t impact on amenity of adjoining properties or users, it does impact on the appearance of the building or the overall street scene or wider area. The GDO must ensure that development permitted does not detract from the area’s established character where this is of value.

**Noise**

This 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. 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.
Light

Non domestic lighting has the potential to cause nuisance to neighbours and the wider environment. This can be a particular issue in relation to security lighting, particularly lighting which is subject to a time switch or being triggered by movement. In general such lights are exempt from planning permission unless installed on a purpose built structure which itself needs planning permission, therefore the issue of light is beyond the remit of this project.

Fumes/Dust

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.

Highways

Traffic movements and the types of vehicles associated with non-householder development often have the potential to result in noise and amenity issues but also to overload the highways and junctions, which neither have the capacity nor are suitable for the number of vehicles that would be generated. This has the potential to result in highway safety issues for road users and pedestrians and/or impact on the character of a particular area. It is therefore important that the GDO does not introduce proposals that generate additional traffic movements that will affect highway safety or the character of the area.

Sensitive Areas

Developments which are acceptable in most situations can be harmful in areas that are given extra protection because of their sensitive nature. Planners consider these level 4 impacts when considering a planning application in these locations, and the impact approach to permitted development means that the GDO needs to reflect them too. The GDO needs to take account of the objectives for the different types of protected areas. It is worth noting that Areas of Outstanding Natural Beauty cover about 40% of the area of Northern Ireland.

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.

The following principles should provide the basis for determining permitted development limits.
Developments that have only level 1 impacts should be permitted by the GDO as they do not have planning impacts beyond the host property. However, this may need to respond to the cumulative impacts of development, particularly in response to the effects of climate change.

Most level 2 impacts can be controlled with the use of quantitatively expressed tolerances which might take the form of height restrictions for example. It may be desirable to develop other quantifiable limits to measure noise or light as experienced by nearby occupiers. Similar measures may also be appropriate to control some level 3 impacts, although others may require more subjective judgements.

Level 4 impacts are likely to be addressed by modifying level 2 and level 3 tolerances as appropriate to meet the policy objectives as set out in national government policy.

The principles highlighted above have been used to propose a set of impact thresholds which could be applied within the GDO to ensure a consistent approach.

White Young Green (WYG) have already produced a set of impact thresholds which we believe could be applied, with modification, in Northern Ireland. The thresholds are listed below and it is proposed that these thresholds should provide the permitted development limits for all types of development, unless, due to their context, the thresholds need to be adjusted to make them more or less restrictive. A set of impact thresholds is suggested below based on a modified version of those set out by WYG.
<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Area of Potential Impact</th>
<th>Proposed General Threshold</th>
<th>Exceptions to General Thresholds</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>Floor area of additions to vulnerable uses in flood risk areas</td>
<td>Maximum 250m²</td>
<td></td>
<td>Upper threshold set at 250sqm based on the England and Wales Environment Agency’s definition of a minor development</td>
</tr>
<tr>
<td></td>
<td>Basements in flood plains</td>
<td>Require Planning permission</td>
<td></td>
<td>Basements in flood plains could give rise to potential Level 1 impacts on the host property</td>
</tr>
<tr>
<td>Level 2</td>
<td>Distance of extensions or new buildings from boundary</td>
<td>Minimum 5m</td>
<td>Bin stores/trolley bays – no minimum</td>
<td>To ensure no adverse impacts on adjoining land uses, a minimum distance of 5m to the boundary has been adopted. Exceptions are where developments are limited to single storey or less in height, such as shop extensions, bin stores/trolley bays etc.</td>
</tr>
<tr>
<td></td>
<td>Height of new buildings or extensions</td>
<td>Maximum 5m</td>
<td>Extensions more than 10m from a boundary – height of existing building</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Bin stores/trolley bays – 2.5m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>DDA works – 2m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Noise, vibration and light spillage from plant and machinery</td>
<td>Planning permission required.</td>
<td>General industrial – permitted development (as Part 8, Class B) subject to conditions</td>
<td>There is the potential for level 2 and 3 impacts, therefore a certain degree of control is required.</td>
</tr>
<tr>
<td></td>
<td>Height of telecoms masts</td>
<td>Planning permission required for new masts</td>
<td></td>
<td>There is the potential for level 2, 3 and 4 impacts and therefore a certain degree of control is required.</td>
</tr>
</tbody>
</table>
### Table 4.1 (continued)  Schedule of Impact Thresholds

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Area of Potential Impact</th>
<th>Proposed General Threshold</th>
<th>Exceptions to General Thresholds</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 3</td>
<td>Massing</td>
<td>New buildings or extensions no closer to highway than any existing building</td>
<td>Bin stores/trolley bays – no limitation</td>
<td>In order to protect the street scenes from level 2 and 3 impacts, development closer to a highway than existing buildings should continue to require planning permission.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Disabled access works – no limitation except in Conservation Areas where planning permission is required.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>External appearance</td>
<td>Materials to match existing</td>
<td>Field shelters for horses – no control</td>
<td>There is no need to specify materials to match for field shelters as they are unlikely to be sited near existing buildings.</td>
</tr>
<tr>
<td></td>
<td>Significant elevational changes</td>
<td>Planning permission required for new shop fronts, although they could be subject to the streamlined process (as outlined in section 6.3.2 of report) for minor applications (currently being piloted).</td>
<td>Planning control should be retained over such changes due to the potential level 2 and 3 impacts, including effects on the street scene.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Floor area of extension</td>
<td>Maximum 50 m² up to 25% of original</td>
<td>Research and development, light and general industrial storage – 1000 m² (500 m² in sensitive areas) up to maximum 25%</td>
<td>New pd rights for schools, universities and hospitals to allow for operational changes without being excessive. Typically, schools, universities and hospitals occupy larger buildings on larger sites.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Colleges, universities and hospitals – 100 m² up to maximum 25%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Floor area of new buildings</td>
<td>Maximum 50 m²</td>
<td>Research and development, light and general industrial, storage, colleges, universities and hospitals – 100 m²</td>
<td>The proposed new floor areas allow modest new buildings to be added as operational requirements dictate, whilst ensuring that larger new buildings require planning permission to minimise level 3 impacts in particular.</td>
</tr>
</tbody>
</table>
## Table 4.1 (continued)  Schedule of Impact Thresholds

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Area of Potential Impact</th>
<th>Proposed General Threshold</th>
<th>Exceptions to General Thresholds</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground coverage</td>
<td>Maximum 50% ground coverage by buildings</td>
<td>Shops and offices – no limitation</td>
<td>Shops and offices are excluded from the new buildings allowance on the basis that they are usually single entities with no requirement for additional buildings.</td>
<td></td>
</tr>
<tr>
<td>Level 4</td>
<td>Onsite turning and manoeuvring areas</td>
<td>No permitted development which would lead to the loss of such areas</td>
<td>The loss of turning and manoeuvring areas could have significant level 4 impacts as the need to turn etc would remain, even if the ability to do so was removed.</td>
<td></td>
</tr>
<tr>
<td>Surface water runoff</td>
<td>All hardstanding to be permeable (or porous), up to maximum 50m²</td>
<td>Research and development, light and general industrial storage - 100m²</td>
<td>To reduce cumulative flood risk impact from hardstandings.</td>
<td></td>
</tr>
<tr>
<td>Setting of listed buildings</td>
<td>No permitted development</td>
<td></td>
<td>There should be no permitted development within the curtilage of listed buildings as there could be significant level 4 impacts unless Listed Building Consent for the development has previously been granted.</td>
<td></td>
</tr>
<tr>
<td>Visual impact of single user Electricity lines</td>
<td>Maximum 400 m length</td>
<td></td>
<td>There could be level 4 impacts, particularly visual impacts as a result of new electricity lines.</td>
<td></td>
</tr>
</tbody>
</table>
5. Literature Review

5.1 Introduction

The report Modernising Planning Processes: A Consultation Paper (NI Planning Service 2002) proposed that the Planning Service would examine the GDO with a view to expanding the types of permitted development in Northern Ireland in order to reduce regulation in the planning system. As part of this a review of permitted development rights in Northern Ireland was undertaken in 2003. Further a number of reviews have been carried out in England, Wales and Scotland. This chapter provides a summary of such reviews both within Northern Ireland and the rest of the UK. The main reviews we have considered are:

**Northern Ireland:**


**England & Wales:**

- Barker Review of Land Use Planning (2006);
- Department of Communities and Local Government (2007) Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders;
- The Killian Pretty Review (2008): Planning applications: A faster and more responsive system;

**Scotland:**

5.2 Review of Permitted Development in Northern Ireland

A review of the GDO in Northern Ireland was carried out by Nathaniel Lichfield and Partners (“the 2003 Lichfield Review”). This was comprehensive in terms of coverage of the GDO and was based on and subject to consultation with organisations affected by the GDO. The overall conclusion of the study was that the GDO generally worked well although there was a case for some targeted amendments and improved guidance for users of the system. Some specific general changes recommended from the review are shown in Table 5.1.

Table 5.1 Summary of Recommendations to Improve the GDO made in the 2003 Lichfield Review

<table>
<thead>
<tr>
<th>General Recommendations to Improve the GDO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Improving Interpretation and User Friendliness</strong> – Provide a more clearly drafted document that is simpler to use and interpret. This would include redrafting the GDO, making a version of the GDO available on the Planning Service website, provide clear definitions or interpretations for all terms that give rise to problems, provides conditions to minimise the scope for subjective interpretation whilst no change to the GDO’s current linear format occur.</td>
</tr>
<tr>
<td><strong>Rationalisation of the GDO</strong> - The need for cross-references to other sections of the GDO should be reduced by including within each Part of Schedule 2 the text of any relevant general restrictions set out in Article 3.</td>
</tr>
<tr>
<td><strong>Inconsistencies &amp; Anomalies</strong> – Proposed changes to the GDO aim to provide a system appropriate to circumstances in Northern Ireland. It is also proposed to correct areas of the GDO that have unintended effects on PD rights.</td>
</tr>
<tr>
<td><strong>Guidance for Users</strong> – The publication of a ‘User Guide’ to help interpretation of the GDO.</td>
</tr>
<tr>
<td><strong>Sensitive Areas</strong> – A more consistent approach is required across different categories of development with respect to sensitive areas such as AONBs, National Parks, Conservation Areas &amp; ASSIs.</td>
</tr>
<tr>
<td><strong>Airport Safeguarding</strong> – Review outlined the general concern in the UK that there is no procedure to notify or consult on high buildings or structures erected under PD rights in aerodrome safeguarding zones. A number of approaches were proposed to deal with this.</td>
</tr>
<tr>
<td><strong>The Articles</strong> – Article 3 to add a requirement to remove redundant equipment/structures provided under PD rights. Further Article 3 to make PD rights stricter with regard to Public Safety Zones. Preparation of best practice guidance on Article 4 Directions to expedite its use &amp; automatically remove PD rights in Conservation Areas at the time of their designation the appropriate PD rights.</td>
</tr>
<tr>
<td><strong>Consultation Procedures</strong> – review didn’t propose any general changes to consultation processes or prior approval procedures.</td>
</tr>
<tr>
<td><strong>Size Limits</strong> – For simplification the volume limits used throughout the GDO’s PD rights is proposed to be replaced by calculations such as percentage increase on the original floorspace, building height and distance from the site boundary.</td>
</tr>
<tr>
<td><strong>Streetscape Issues</strong> – The potential for a Street Management Code is proposed to avoid adverse impacts such as badly sited street furniture and signage.</td>
</tr>
<tr>
<td><strong>Confirmation of PD Rights</strong> – New provisions to obtain a Certificate of Lawful Use or Development may offer an alternative to a planning application and provide a quicker and cheaper system.</td>
</tr>
</tbody>
</table>

Subsequent to the Lichfield Review the Planning Service prepared a number of policy assessment papers drawing on the outcome of the review and consultation responses (2007). These papers were suggestive of changes which have been considered, where relevant, as part of this review.

In 2007 the Planning Service published a policy consideration and consultation document regarding microgeneration for householders and Entec are currently undertaking a review of permitted development rights for
non-householder small scale renewables. Amendments to the GDO for renewable energy devices as a result of these reviews will take place when Planning Service has fully considered the reviews and responses.

5.3 Reform of Permitted Development Other Parts of the UK

5.3.1 England & Wales

In England the Barker Review of Land Use Planning recommended a review of permitted development rights to speed up the planning process. Following this, the Householder Development Consents Review (HDCR) was launched in January 2005 which examined ways of reducing bureaucracy for householders seeking to improve their homes while protecting the interests of neighbours, the wider community and the environment. In turn this led to a review of householder permitted development rights, Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders (Department of Communities and Local Government 2007).

The key recommendation to emerge from the work of the HDCR was that future permitted development rights should be informed primarily by the potential impact on others, for example, by overshadowing. A starting point would be that the planning system should not be there to regulate development that has no impact beyond the host property. It also explicitly acknowledged that the current framework of householder permitted developments rights can not only be unclear and confusing, but by using a sometimes somewhat arbitrary size and volume-based approach, anomalous in terms of impact as to what is and is not permitted. The report also raised similar issues to the 2003 reports of lack of clarity, inconsistency and that the regulations are and remain relevant to new technologies and changing life styles.

The Non Householder Minor Development Consents Review prepared for the Department of Communities and Local Government (CLG) and the Welsh Assembly Government (WAG) by White Young Green (WYG) in 2008 (“the England and Wales Non-Householder Minor Developments Review 2008”) is the equivalent review for England and Wales to that being undertaken by this study for Northern Ireland. The approach adopted in this review was based on a targeted approach which involved examining planning application data to focus on the existing number and type of minor developments dealt with by local authorities. By concentrating on minor developments with a high success rate in securing planning permission they were able to establish which type of developments had little or no impact. The review makes recommendations for revising the GPDO\(^3\) using an impact based approach to identify low impact developments which could be exempted from needing planning permission.

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\(^3\) The GPDO - The Town and Country Planning (General Permitted Development) Order 1995 - is the England and Wales equivalent of Northern Ireland’s GDO
In setting out its recommendations, the review took a measured approach to allowing businesses and institutions to adapt their premises to their changing needs. Where such adaptations are minor in nature and have low external impacts, the planning system should facilitate them via appropriate ‘permitted development’ rights. By these means the burden on both users of the planning system and local authorities can be reduced. The recommendations for reforming the GPDO were split into two parts. The first part made recommendations for reforming and modernising the GPDO to make it an easier document to use and to update. These are shown in Table 5.3.

**Table 5.3  General Recommendations for Amending the GPDO in England and Wales**

<table>
<thead>
<tr>
<th>General Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>There should be a website for the GPDO, enabling easy access to an updated and consolidated Permitted Development Order, and with hypertext links to relevant parts of guidance and advice</td>
</tr>
<tr>
<td>There should be an ‘easy read’ user-friendly summary version of the Order, both to accompany the full definitive version and for wider distribution</td>
</tr>
<tr>
<td>Government should issue comprehensive advice in regard to the relationship between the various statutes, advice and circulars covering permitted development</td>
</tr>
<tr>
<td>Consideration should be given to adapting the Planning Portal’s on-line interactive householder guide to other forms of development and reviewing current CLG guidance on the planning system for other users such as farmers and businesses</td>
</tr>
<tr>
<td>Consideration should be given to taking on board the proposal that every time there is an amendment to the existing GPDO the whole document should be reissued so that users can be confident what the current regulations are</td>
</tr>
<tr>
<td>Recasting the GPDO to make it more closely resemble the major uses as set down in the Use Class Order and to Government Policies set out for them in relevant PPSs</td>
</tr>
<tr>
<td>Individual parts of the GPDO could be published as separate Orders to cover the following broad areas:</td>
</tr>
<tr>
<td>Town centre and Retail Uses (Class A of the Use Classes Order)</td>
</tr>
<tr>
<td>Business and Commercial Uses (Class B of the Use Classes Order)</td>
</tr>
<tr>
<td>Institutions and Places of Assembly (Class C1, C2, D1 and D2 of the Use Classes Order)</td>
</tr>
<tr>
<td>Rural and Agricultural Uses</td>
</tr>
<tr>
<td>Infrastructure Provider</td>
</tr>
<tr>
<td>Mineral Extraction and Waste Management</td>
</tr>
<tr>
<td>Redundant parts of the Order should be removed and redundant classes within parts of the order should be identified and deleted</td>
</tr>
<tr>
<td>Bring a greater degree of consistency to the thresholds applied to different classes of development, ironing out the inconsistencies which have arisen as the GPDO has been revised over the years</td>
</tr>
<tr>
<td>Clarify and extend existing rights for schools etc and for Local Development Orders to be adopted by Local Planning Authorities to encourage long term planning on key healthcare and education sites</td>
</tr>
<tr>
<td>Prior Approvals/Notifications to be rebranded as Minor Development Certificates with a non extendable period of 28 days for determination and an enhanced fee</td>
</tr>
</tbody>
</table>

The second set of recommendations made in the review related to the GPDO itself and identified the areas that could be revised and amended to reduce the number of minor planning applications while protecting the interests of neighbouring occupiers, the wider community and the environment. These are shown in Table 5.4.
Table 5.4  Specific Amendments to the GPDO in England and Wales

<table>
<thead>
<tr>
<th>Specific Amendments to the GPDO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Changes to minor operations to extend PDR for waste operations and works to comply with Disability Discrimination legislation</td>
</tr>
<tr>
<td>Change of use amended to allow for production and sale of farm products grown/reared on the farm</td>
</tr>
<tr>
<td>Extend PDR on caravan sites where necessary to comply with site licence requirements</td>
</tr>
<tr>
<td>Extend PDR for industrial and warehouse development</td>
</tr>
<tr>
<td>A range of uses that do not currently benefit from ‘permitted development’ rights such as shops, offices, institutions, waste management should have permitted development rights to allow occupiers to adapt their buildings by carrying out low impact changes such as alterations and small extensions</td>
</tr>
<tr>
<td>Some very specific areas of the GPDO, which do not set tight enough limits on development such as local authority skate parks and other high impact outdoor leisure uses are proposed to be excluded from permitted development</td>
</tr>
<tr>
<td>Bring the GPDO up to date in areas where it has lagged behind other legislation (sustainable management of waste etc) and bring in new classes of ‘permitted development’ rights (e.g. for flats)</td>
</tr>
</tbody>
</table>

The review also noted that it may be appropriate to consider separate orders for ‘specialist areas’ such as utilities and statutory undertakers, and minerals and waste operators, leaving a much simplified GPDO containing only the most commonly used parts. Other recent reviews of permitted development in England and Wales have focused on permitted development rights for renewable energy technology. Two reviews were carried out in 2007 with regard permitted development rights for householder microgeneration and non-domestic small scale renewable energy development.

CLG published amendments\(^4\) to permitted development in England for household development generally and for householder microgeneration in 2008.

Subsequent to the above reviews The Killian Pretty Review (CLG 2008) was published in November 2008. The objective of this review was to:

> look objectively at the planning application process, to identify how it could be further improved, and in particular to consider ways to reduce unnecessary bureaucracy, making the process swifter and more effective for the benefit of all users.

The review notes that 97% of planning applications in England are for householder, minor, or other small scale development and recommends and makes recommendations with regard to extending permitted development rights for non-householder development. The recommendation is shown in full in Box 1.

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\(^4\) The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008
Killian Pretty Review Recommendation 1

Recommendation 1 – Government should take the following steps to reduce the number of minor applications that require full planning permission:

- Substantially increasing the number of small scale, commercial developments and other minor non residential developments that are treated as permitted development. Based on the detailed work undertaken, we would expect this measure to reduce the number of such proposals, such as small scale extensions and alterations to business premises, by about 18%, although Government should also consult on the scope for extending permitted development further, for example, in relation to plant and equipment, and allowing opportunities for small scale renewable facilities on non domestic buildings and land;
- Ensuring that permitted development rights for new development are not restricted by condition at the time of the grant of planning permission, other than in exceptional circumstances;
- Providing additional support for local authorities to increase permitted development opportunities locally, through the use of pilot Local Development Orders for areas, such as large hospital or university sites, where greater flexibility regarding small scale development may be appropriate;
- Revising and expanding the prior approval process so as to provide a proportionate intermediate approach for appropriate forms of non residential development. Based on the detailed work undertaken, we would expect this measure to mean that nearly 20% of minor commercial and other minor non residential developments, such as replacement shop fronts and automated teller machines, would be subject to this expedited process.

5.3.2 Scotland

A study of Scotland’s permitted development rights was conducted for the Scottish Executive in 2007 - Review of the General Permitted Development Order 1992 - Heriot Watt University, Brodies LLP, Scott Wilson Scotland Ltd (“the Scotland PD Review 2007”). The study made 100 recommendations covering improvements to the ease of use and consistency of the GPDO in Scotland, as well as specific amendments with a focus on agriculture, industry and warehousing, development by Statutory Undertakers and waste management. A summary of the general recommendations made in the review are shown in Table 5.5.

Table 5.5 General Recommendations Regarding GPDO Amendments in Scotland

<table>
<thead>
<tr>
<th>General Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Making the GPDO easier to understand, interpret and use, including a new format for the presentation of PDR, easy-read and web-based versions in plain English, and separate user guidance;</td>
</tr>
<tr>
<td>Simplifying PDR as far as possible, reducing the uncertainties associated with interpretation of criteria and terminology, reducing the need for prior approval by the planning authority, and reducing the number of Parts of the GPDO from 25 to 20;</td>
</tr>
<tr>
<td>Improving consistency across Classes where justified by circumstances (e.g. In relation to permitted development within designated areas)</td>
</tr>
<tr>
<td>Resolving anomalies about private ways by consolidating all PDR for private ways into one comprehensive Class;</td>
</tr>
<tr>
<td>Clarifying permitted development for agricultural operations, and the PDR available to statutory undertakers;</td>
</tr>
<tr>
<td>Extending PDR for industrial and warehouse development;</td>
</tr>
<tr>
<td>Introducing new PDR for micro-generation equipment and development ancillary to waste management operations;</td>
</tr>
<tr>
<td>Minor reforms to the other Parts of the Order.</td>
</tr>
</tbody>
</table>
Table 5.5 (continued)  General Recommendations Regarding GPDO Amendments in Scotland

General Recommendations

Replacing the current GPDO with separate Orders for specified categories of minor development, each having the status of a General Development Order; or

Issuing the GPDO in a loose-leaf format or as a series of folders.

Supported by up-to-date local design guidance by planning authorities.

One recommendation the review made which was not raised in the reviews in Northern Ireland or England and Wales was that the electronic version of the GPDO should be accompanied by decision trees which would assist users to establish whether their proposal is permitted development.

The review raised some specific issues with regard to Industry and Warehouses which are of relevance to the current review of the GDO. These are shown in Table 5.6.

Table 5.6  Key Issues Raised in Scotland GPDO Review Regarding Industry and Warehouses

<table>
<thead>
<tr>
<th>Key Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 26 permits the importation and deposit of waste on an industrial site. By granting PDR for waste matters, this does little to encourage good environmental practice, risks ground contamination and works against wider policy on sustainable development and environmental protection.</td>
</tr>
<tr>
<td>Although some practitioners may feel that the term plant and machinery is well understood, there is still merit in providing a clear definition of the term within the order. As CCTV is covered by another part of the order, it is clear that this should not be covered within the term plant/machinery. However, it is less clear whether air conditioning units, heating/boiler systems and external lighting should be included within the term.</td>
</tr>
<tr>
<td>The main argument for this is to resolve an anomalous situation in which ancillary uses have no established PDR, but principal uses do. The main exception should be retail functions. In planning terms these are significantly different from other ancillary uses (office/storage etc) as they can have traffic impacts and may affect the viability of local retailers.</td>
</tr>
<tr>
<td>There is a need to provide some protection to residential properties which are close to industrial uses. At the moment, the GPDO does not recognise any potential conflict between industrial and residential uses, and no protection is afforded to residential neighbours.</td>
</tr>
<tr>
<td>The current absolute limit on increases in height is over cautious and is determined by the height of the “original” building, which is often problematic to establish. Where there is only a modest increase in height proposed (for both buildings and plant/machinery) this is unlikely to have any significant impacts on neighbours or wider amenity which requires scrutiny through the planning system.</td>
</tr>
<tr>
<td>The term ‘materially affect appearance’ from both class 23(2)(a) and class 24(2)(a) creates uncertainty and debate for both site owners and local authorities. The GPDO already includes various restrictions to PDR in these classes (based on height, distance from boundary etc). The additional limitation on things which materially affect appearance appears to be poorly understood and little used. In addition, it appears to be in conflict with things which are expressly permitted within the GPDO – e.g. extensions, and which necessarily have a material effect on appearance. Finally, there is a danger that this limitation might discourage routine maintenance or upgrading of a building/site.</td>
</tr>
</tbody>
</table>
6. Cross-Cutting Themes

6.1 Introduction

As well as examining how the GDO can be reviewed to reduce the burden on the planning system, Entec are reviewing a number of issues which apply to the GDO as a whole or are of potential relevance to all categories of the GDO. These include a number of issues which have been raised elsewhere in the UK notably in the review of non-householder minor development in England and Wales. These cross cutting themes are:

- Communicating the GDO;
- Prior Approvals (including Minor Development Certificates);
- Article 4 Provision;
- Local Development Orders;
- Simplified Planning Zones;
- Disability Access;
- Sensitive Areas;
- Climate change and Sustainability.

Unless the GDO explicitly excepts them, permitted development rights apply in all circumstances and in all parts of Northern Ireland. However, most Parts of the Order contain exceptions and conditions that exclude developments that are in other cases treated as permitted. These exceptions are particularly significant in sensitive areas such as Areas of Outstanding Natural Beauty, Conservation Areas etc.

However, every exception to the general rules adds to the GDO’s complexity. This raises difficult questions when considering whether additional types of development should be treated as permitted in particular circumstances. As our stakeholder feedback suggests the GDO is viewed as a complex piece of legislation by many. Reconciling the need to provide precise rules which take account of a range of circumstances and providing legislation which can be easily understood by stakeholders is a significant challenge. Many of the cross cutting themes we consider deal with aspects of this issue and our aim has been to put forward suggestions that maintain this balance of objectives described above.

We have approached each topic by summarising the issue involved and putting forward a number of options for change. These options are considered in turn in terms of their advantages and disadvantages and a preferred option recommended. In a few cases we consider it is not possible to put forward options at this stage.
6.2 Communicating the GDO

6.2.1 Introduction

Although the focus of much of our review has been on what permitted development rights should be allowed by the GDO, consultees have frequently drawn our attention to difficulties they have accessing the GDO and, once accessed, the difficulty they have interpreting it. Key issues raised with regard to permitted development rights in the GDO include:

- The GDO is not easily available/ not currently online;
- Convoluted legal language is confusing;
- The document needs simplification and consolidation;
- New parts have been added incrementally without a comprehensive review;
- It has also been reported that some planning agents are advising clients to submit planning applications for development that may be permitted under the GDO; and
- Poor interpretation of the GDO may therefore be leading to increased workload for the Planning Service and developers.

In addition, the Planning Service recognises the need to modernise the permitted development regime in Northern Ireland and that this may lead to important efficiency gains and an improvement in the public perception of the planning system.

It is understood that the Department’s current intention in Planning Reform is to replace the current GDO with two orders: a General Development Procedures Order (GDPO) and a General Permitted Development Order (GPDO). The latter provides an opportunity to address some these issues.

6.2.2 Options

Option 1: No Change except Publication of Permitted Development Guidance

In this option the physical look and layout of the new GPDO would remain the same as for the GDO and there would be no further measures to make it more widely available although guidance would be produced on permitted development rights.

Advantages:

- The planning authority will be the sole source of permitted development advice in Northern Ireland;
Creating the environment for business

- No significant increase of Planning Service resources needed to complete a new GPDO for 2011;
- Avoids potential legal difficulties associated with making an “unofficial” consolidated version of the GDO available online;
- The Department could issue detailed guidance regarding what constitutes permitted development.

Disadvantages:

- The GDO is not easily accessible leading to more requests for information to the planning authority;
- Developers who do have access to the GDO are often left confused with the language and layout and are often unsure as to what constitutes permitted development in relation to their operations;
- This uncertainty leads to unnecessary planning applications being submitted defeating the purpose of permitted development rights and increasing bureaucracy;
- Any guidance issued by the Department would need to be updated as new amendments were made, may be resource intensive and would not have any legal standing.

Option 2: The GDO is Replaced by the GPDO and Basic Improvements are Made

A number of measures are implemented to improve the look, layout, and usability of the new GPDO. Suggested measures include:

- The new GPDO will in effect not only introduce changes to permitted development rights but also consolidate all previous changes to the GDO in a single document provided on the website enabling ease of access for developers and other interested parties;
- There is the potential for parts of the GDO to need to be amended to reflect any transfer of functions to District Councils;
- Review the GDO to see if there are any additions in terms of definitions or clarifications required in the GPDO;
- Clear contents list & glossary.

Advantages:

- The GPDO is easier to read and follows a more logical sequence;
- The GPDO is accessible to all;
- Greater clarity and accessibility should lead to fewer requests for information to the planning authority. There may also be less planning applications for planning officers to review;
• The new GPDO overcomes any legal issues arising from making an ‘unofficial’ consolidated GDO available.

Disadvantages:

• The new GPDO will require amendments in the future which would lead to a similar situation as now where there is no consolidated list of permitted development rights (unless the GPDO was to be reviewed and reissued as a new Order periodically);

• Where subsequent changes are made to the GPDO there may continue to be potential legal issues associated with making it available online unless the status of unofficial consolidated text can be appropriately qualified in consultation with Departmental Solicitors.

Option 3 Enhanced Changes are made to improve the GPDO

Measures proposed are as those suggested in Option 2, plus:

• Hyperlinks within the GPDO webpage direct users to other parts of the GPDO which may be relevant to their operations. Hyperlinks also direct users to other legislation/guidance which they may need to consider e.g. Listed Building Consent; flooding guidance; map of sensitive areas etc;

• Consider short, simple topic based user friendly guidance for the most frequently used parts of the GPDO e.g. agriculture. Trade associations could be used to help disseminate these user guides;

• Awareness raising as part of the process of introducing the new GPDO. Consider a programme of workshops for planning officers, planning agents, developers and other stakeholders to explain the changes from the old GPDO. This can also be used as an opportunity to raise awareness more generally about the GPDO. There may be a need to repeat such sessions periodically and especially when significant updates to the GPDO are made;

• Consider further training to develop specific “expert” planning officers who have a thorough understanding of the GPDO such that they can respond effectively and quickly to queries about the GPDO.

Advantages:

As Option 2, plus:

• Should improve developers and planning agents understanding of the GPDO. Will help reduce the number of planning applications submitted;

• Training for planning officers on particular areas of the GPDO will benefit both the planning authority and those seeking advice on the GPDO.
Disadvantages:

As Option 2, plus

- This is the most resource intensive of the options and would need further consideration by Planning Service of the resources involved and the programme for communicating the GPDO. This commitment may need to be long term as the new GPDO cannot be communicated etc until it is available – currently planned for 2011. Also it would need to be an ongoing process as subsequent updates would need to filter through all guidance and website information.

6.2.3 Recommendation

We have noted that there is considerable concern with the current situation and lack of access to and understanding of the GDO which, we are told, leads to delays and unnecessary planning applications being submitted. This indicates that some changes would be beneficial. If guidance was included with Option 1 this could make some improvement on the current situation however it would not have any legal standing in itself and planners and developers would still have to rely on the GDO for definitive information on whether a development was permitted.

The creation of a new GPDO in Option 2 would provide some limited improvements by making permitted development rights more accessible, although we note that consultees still have concerns about the wider awareness of permitted development rights in Northern Ireland. Whilst Option 2 would undoubtedly lead to some improvements, it would be of limited value without some wider strategy to communicate the GPDO.

Option 3 provides the opportunity to improve access to permitted development rights in a new GPDO and includes raising awareness of permitted development rights that should ultimately reduce the planning application workload for planning authorities. We recognise that there is a resource commitment associated with this Option and timing issues, particularly in light of planning powers due to be given to local authorities. We recognise that in the short term training and awareness raising of permitted development rights needs to be considered in light of other commitments relating to planning reform in Northern Ireland. In the long term the Department may also have less officers and resources available to carry out the changes to a permitted development regime when officers in the Planning Service transfer to Local Authorities.

We recommend that Option 3 be implemented in the long term if resources allow, however we recognise that for 2011, Option 2 may be more realistic due to resource and time constraints. In light of this we recommend that as the GDO is replaced by the GPDO, that online guidance is published (and kept up to date in light of any further amendments) that outlines the permitted development that is allowed under the GPDO. Planning Service officers have indicated that this could take the form of a web based Frequently Asked Questions page, particularly for those uses that at present have no permitted development rights, and a user friendly Explanatory Guide with illustrations similar to the Planning Service’s planning permission advice for homeowners. The Explanatory Guide could show examples of non-householder permitted development and indicate key issues, permitted developments relationship with planning policy, the Use Class Order and other relevant legislation.
6.3 Potential Planning Mechanisms to Supplement the GDO

6.3.1 Prior Approvals

In England and Wales a system of Prior Approval operates for certain types of development, in particular for some telecommunications and agricultural development. It works by requiring the developer to seek prior approval for the permitted development before going ahead. If the local planning authority does not respond to the developer's application for prior approval within the specified time limit then the development can go ahead. In essence, Prior Approval lies somewhere between the need to apply for full planning permission and permitted development rights; the principle of the development is considered acceptable, however, the siting and design of the development is the matter for consideration by the determining body. This means that in theory, the determining body should be able to deal with the application faster than a planning application because there are fewer issues to consider.

Northern Ireland does not currently operate a Prior Approval system, although such rights did previously exist for certain types of development (mainly for telecommunications); however these rights were removed due to their unpopularity. Despite the removal of Prior Approval rights in Northern Ireland, the powers to introduce a more extensive Prior Approval system still exists and therefore this option is considered here as a potential way of streamlining the planning process.

Although not Prior Approval, the GDO currently contains two requirements for ‘consultation’ prior to undertaking the development (Part 15, Condition A.2 and Part 29 A.2) which both relate to aviation development and the need to consult the Department before carrying out any development unless certain conditions are met. The GDO also contains a requirement for the Department to be notified in writing prior to undertaking mineral exploration development (Part 16 A.1).

There is one explicit reference to Prior Approval in the GDO in Part 11 (Development under local or private acts or orders), relating to the need for prior approval of details for accesses, bridges, aqueducts, piers or dams.

WYG extensively reviewed the Prior Approval system in their review of non householder permitted development rights in England and Wales. They specifically considered:

- Its effectiveness as currently operated in controlling larger scale permitted development compared with resourcing requirements for the Local Planning Authority, and times taken to gain development consent when required;
- Any amendments needed to make Prior Approval a more effective tool; and
- What types of permitted development might be subject to Prior Approval and what aspects of the development should be subject to approval, for example, siting, design or appearance.

WYG found that a large majority of Development Control managers in England and Wales would like to see the Prior Approval system abolished, arguing it is a confusing halfway house between permitted development and a
full planning application. It was also found that there were an insufficient number of Prior Approval applications, outside of telecommunications applications, for a critical mass of understanding of their operation to develop. However, it also argued that Prior Approvals offer a system more tailored to risk management than the more precautionary, risk averse approach that demands a full planning application for every development if it is of a kind that could have an impact beyond the host property.

6.3.2 Options for Change

Entec has considered three options relating to a Prior Approval or similar system in Northern Ireland:

Option 1: Do nothing;

Option 2: Introduce a modified Prior Approval system (of Minor development Certificates) as outlined below;

Option 3: Introduce a form of Prior Approval system which places the onus on the developer to consult with the relevant bodies, i.e. direct referral to notifiable authorities.

Option 1

Option 1 is based on retaining the current system whereby there would no prior approval procedures in the GDO.

Although Option 1 is titled a do nothing option it has been assumed that the introduction of a streamlined planning process, such as that currently being piloted in several divisions in Northern Ireland, would still be continued. The pilot scheme involves District Councils agreeing to allow planning approvals for non-contentious applications, such as temporary classrooms, shop fronts and farm buildings, to be issued without needing to be discussed at monthly planning committee meetings. Instead, District Councils are consulted on a weekly basis on applications received and have an agreed three week period to respond to the Planning Service. An approval can only be issued by the Planning Service if no objections have been received from third parties and there is no formal request from a council to discuss the application at its planning committee. The pilot scheme, currently operating in Armagh, Ballymoney, Banbridge, Derry and Limavady, has had a positive impact with 20% of non-contentious decisions issued within 16 to 20 working days and 70% within 28 days, compared with the previous average processing time of 89 days. When planning powers are transferred to District Councils it is proposed that there will be provision for schemes of delegation to chief planning officers to act on behalf of the Council. This could operate in a similar manner to the pilot scheme.

As has been highlighted earlier in this report Development Control managers in England and Wales would like to see the Prior Approval system abolished, arguing it is a confusing halfway house and that there is little understanding of its operation. Considering there is currently virtually no provision for Prior Approval in Northern Ireland there would be even less understanding of the system here if it was introduced. When the option for reintroducing a system of Prior Approval was put forward at the Development Management Working Group, there was very little support, due to previous problems experienced with telecommunications.
Advantages:

- Very little support for introducing any form of Prior Approval system in Northern Ireland;
- Streamlining process for minor development appears to be working in the pilot areas and no need for any additional legislation;
- No need for any additional staff training.

Disadvantages:

- Does not really provide a halfway house measure so full planning permission or permitted development and nothing in between.

Option 2

WYG in their review, suggest a reconfiguration of the current Prior Approval System in England and Wales as follows:

- Full plans to be submitted at the outset;
- Technical justification if required e.g. a noise report;
- Licensing details if required, e.g. caravan parks\(^5\);
- 28 days for determination;
- LPA may take into account all material planning considerations, except the principle of development;
- No extension of time or ability to seek further details;
- No external consultations;
- Default permission (deemed consent) if no decision in time;
- Consents may carry conditions, and the use of model conditions will be encouraged;

\(^5\) Although it should be noted that, in principle, planning control should not apply to matters controlled by the licence. There is guidance on what a licence should control but it is not mandatory what a licence should contain. Licensing details are currently a matter for District Councils, therefore after the transfer of planning powers the District Councils will be both the planning authority and the licensing authority.
• Right of appeal, possibly to the planned Local Member Review Boards (although this has been dropped from legislation in England and Northern Ireland are currently consulting on this matter);

• Fees uplifted to reflect the true work involved, probably in line with householder applications;

• Development of clear instructions for applicants and LPAs;

• Rebranding under the new name of Minor Development Certificates.

WYG considered that the above approach would be used in England and Wales for agriculture and forestry development and would be expanded to include other minor developments sharing the following characteristics:-

• The principle of the development is acceptable;

• There is no evidence of widespread public concern about the type of development;

• Aspect(s) of the scheme require approval from the LPA;

• Significant harm would not result if a deemed consent was inadvertently granted after 28 days.

WYG considered the following as possible candidates for permitted development under Prior Approval:

• Plant and equipment;

• Shopfronts;

• Automated Teller Machines (ATMs);

• Horse Shelters;

• Disability Access;

• Street Furniture;

• Facilities at Caravan Sites;

• Waste Management.

This option could be introduced in Northern Ireland without requiring changes to primary legislation, but it is not considered it would be suitable for telecommunications development, which is the most contentious form of development under Prior Approval.

WYG suggest changing the name of the Prior Approval system to Minor Development Certificate as it carries the connotation of a certification process rather than a planning application, they also suggest changing the fee structure to more accurately reflect the true cost of the level of work involved.
Advantages:

- Halfway house retaining some control over minor developments;
- Some benefit to developers potentially with streamlined process.

Disadvantages:

- Potentially confusing;
- Unlikely to be popular due to previous experiences and lack of knowledge regarding Prior Approval systems, requiring investment in educating planners, developers etc;
- May be no quicker than a streamlined process for minor applications similar to the current pilot schemes in Northern Ireland.

Option 3

Option 3 was also proposed by WYG in England and Wales and could apply to developments where concerns about a highly specific potential impact require the divisional office to notify another body before it issues a decision. In these cases it may be possible to eliminate the role of the divisional office entirely, and place the onus on the developer to obtain the requisite clearance or licence directly from the body concerned; but a more likely alternative is that the developer would be required to undertake the necessary consultation(s) before submitting a Prior Approval application to the determining body.

This option was also mooted by Entec’s Review of Microgeneration in England and Wales as a means of guarding against creating adverse impacts for a number of agencies including the Civil Aviation Authority where there is concern about interference with airport radar, nature conservation agencies concerned about impacts on wildlife; and archaeological authorities concerned about the damage to archaeological evidence caused by ground excavations of ground source heat pumps. Some elements of this arrangement already apply to the way that the Habitats Directive operates. Other developments, in addition to those that Entec proposes should be referred to a notifiable authority might include:

- Basement developments subject to Environment Agency approval;
- ATMs subject to Police/Crime prevention approval.

Advantages:

- Reduces the workload for the determining body;
- Increasing the freedom of applicants to work to their own timescales.
Disadvantages:

- The system could be difficult to police and could increase the enforcement workload on the determining body;
- Could put developers unfairly at the whim of statutory consultees, who may be slow or reluctant to grant a licence;
- Developers would have no legal recourse when faced with an unresponsive or uncooperative consultee (although an option could be that the case would revert to a 28 day Prior Approval procedure rather than a full application if no response);
- Need to be a verification process to ensure that the developer has been entirely open with the consultee about his proposals, which could be just as time consuming as the normal consultation process on a full application.

6.3.3 Preferred Option

Entec’s preferred option is Option 1 for the following reason:

- There is very little support for the reintroduction of any form of Prior Approval system, even if it is rebranded;
- Given that there is no prior approval in Northern Ireland at present introducing such a system is likely to be confusing and require substantial investment in education of planners and stakeholders. This does not sit well with the objective of streamlining the process and reducing regulatory burden;
- The streamlining process for minor development currently being piloted, offers in our view a better way of ensuring that minor developments are dealt with quickly and effectively by the Planning Service and ultimately by District Councils when they take on the planning function.

We do however consider that a natural consequence of choosing this option is that PD rights may need to be more restrictive than is otherwise the case if prior approval existed. This is because where there are potential impacts from minor development; the planning system would need to retain control through requiring a planning application. We do not however see this as an overriding problem as mechanisms can be put in place to improve the speed of determination of minor applications where there are no significant impacts (i.e. through the streamlining process).

6.3.4 Local Development Orders

Provision for Local Development Orders does not exist in Northern Ireland; however it does exist in England and Wales.
Introduced in the 2004 Planning And Compulsory Purchase Act 2004 (the Act), Local Development Orders (LDOs) permit Local Planning Authorities (LPAs) in England and Wales to extend PD rights for certain types of development (specified in the order) within a certain area (also specified in the order). It was intended that LDOs would give LPAs a tool to reduce the number of minor planning applications in their areas. The Planning Act 2008 includes a provision to remove the requirement for LDOs to explicitly implement the policies contained in an adopted development plan. By doing so it was intended to make it easier for authorities without an adopted development plan to prepare and implement LDOs. This provision was introduced through the Town and Country Planning (General Development Procedure) (Amendment) (No.2) (England) Order 2009.

To date LDOs have not been widely used and their value has therefore been a matter for debate. There are also likely to be a number of obstacles to the successful application of LDOs, especially with regard to developing expertise in the use of the new powers and willingness of a LPA to relinquish their existing regulatory powers.

In their report WYG noted there may be scope to apply LDO legislation in England and Wales to development by large scale institutions for development on their own campus, but that their likelihood of doing so is hampered by the lack of familiarity with the way LDOs operate. The potential of LDOs may never fully be realised without further encouragement from outside sources. WYG recommended encouraging planning authorities to investigate adopting LDOs where the development plan envisages a new or expanded university or hospital within their district.

Recently, a study was commissioned by the Planning Advisory Service to consider why LDOs have not been taken up and how their use could be encouraged. The Objectives of the project were to:

(i) Understand the reasons for the lack of local development orders (LDOs);

(ii) Increase understanding about how LDOs can be formulated and implemented;

(iii) Improve understanding of the benefits that effective use of LDOs can bring to the management of workloads in LPAs in order to realign resources towards more proactive management of strategic developments which will make the biggest contribution to the future development of the area;

(iv) Encourage confidence in using LDOs as a tool for improving customer service being a simpler and more certain process for applicants for small scale, low impact developments; and

(v) Illustrate how LDOs can encourage appropriate standards of development in accordance with policy.
This study was completed by Entec UK Ltd and the report on stakeholder views and practice issues was published in March 2009\(^6\). The key recommendations arising from this study are set out below.

- There is sufficient interest in the use of LDOs for a variety of purposes that it makes sense to put resources into activities which can further develop understanding of them and encourage active take-up of LDOs by local authorities;

- It is clear that, as far as local authorities are concerned, there will need to be significant financial incentives put in place to encourage LDOs to embark on making an LDO. There will also need to be significant support to encourage a small number to enter into LDO preparation;

- Stakeholders view the LDO process as difficult. They feel that there could be scope to streamline the process, including by removing the need to secure the Secretary of State’s consent to adopt an LDO. Also, some stakeholders referred to the desirability of dropping requirements to report annually on LDO implementation/performance;

- A Pilots programme is widely supported as a way of providing a learning space for LDOs and to evaluate their role on a national basis;

- Development of the potential role of LDOs in specific circumstances should continue, to create discussion and debate about the use of this new form of development management;

- Although there is a small amount of evidence, it is probable that small authorities in rural areas will find it more difficult to promote LDOs locally. Planning is a significant activity in such councils and members view their planning role as one of their most important. LDOs may not be an attractive option in these settings. Consideration needs to be given as to how to promote LDOs among planning committee members;

- It is clear from the interaction with businesses through this project that there is greater interest in LDOs among them. This is to the extent that businesses might be prepared to get actively involved with the LPA in developing LDOs. A pilots programme should provide for the opportunity for business-partnered or led LDO preparation;

- A significant potential advantage of LDOs could be to provide a solid connection between planning permission through LDO to compliance to design codes or other design guidance. Further work is needed to explore the links between Design Guidance and LDOs and provide a solid platform for development of LDOs;

- Attention needs to be paid to the role of planning consultants in facilitating LDOs. Business users have referred to the reliance they place on their planning consultants for advice on approaches to

\(^6\) Local Development Orders Stage 1 Report on Stakeholder Views and Practice Issues, Entec UK Ltd March 2009

http://www.pas.gov.uk/pas/core/page.do?pageId=106042
Creating the environment for business

development with LPAs. By and large, they are not so far being recommended to pursue LDOs by their consultants.

Conclusion

In light of the lack of experience elsewhere in the UK and the ongoing work to pilot LDOs in England and Wales it is not considered appropriate to make any recommendations regarding LDOs in this review. Whilst there may be benefit in introducing LDOs our view is that further research is required into potential options taking account of the research being conducted in England and Wales. We therefore recommend that the Department reviews this issue in light of the research and ongoing initiatives in England and Wales.

6.3.5 Article 4 Directions

Article 4 directions are issued by planning authorities to disapply permitted development rights. Although not restricted to these areas, they have been most regularly applied to add extra protection for Conservation Areas or to protect the setting of Listed Buildings.

Use of Article 4 directions seems to have declined quite strongly in England and Wales in recent years. The Lichfield Review ascribes this to a concern amongst LPAs about their ability to compensate owners whose development rights are removed. In Northern Ireland there are no compensation provisions relating to the use of Article 4 directions. The Development Management Group acknowledged that Article 4 powers were little used in Northern Ireland; however, the group wanted the powers to introduce Article 4 directions retained as there was a benefit in controlling permitted development in sensitive areas.

The greater use of Article 4 directions in Northern Ireland would provide the Planning Service and in 2011, planning authorities, with much greater scope to fine tune developments within their areas and this will undoubtedly assist in the place making opportunities available to them. However, tensions will remain between this objective and the concerns of developers for policy consistency across the country and for less regulation generally.

One possibility which was discussed during this review was whether provision could be introduced to allow Article 4 directions to be used to extend PD rights as well as restrict them. This would require primary legislation amending Article 13(5) of the Planning (NI) Order 1991 (potentially in the Bill planned for 2011).

Amending Article 13(5) of the 1991 Order to enable permitted development rights to be extended appears, on the face of it, to be an easier option than the introduction of LDOs (which would also require primary legislation), however, further consideration is required of the relative merits, including the true costs of both options. It is therefore recommended that the Department should await the outcome of the further work on the use of LDOs in England before determining the way forward.
Conclusion

At this stage Entec do not propose to make any alterations to Article 4 directions, however, Entec do recommend that Planning Service draft some guidance to clarify the potential and the limitations of Article 4 directions to help enable their use and raise their profile.

6.3.6 Simplified Planning Zones

A Simplified Planning Zone (SPZ) is an area in which planning permission is automatically granted for particular types of specified development. Planning permission under a SPZ scheme may be unconditional or subject to such conditions or exceptions as may be specified in the scheme.

In Northern Ireland, SPZs can be made under the Planning (NI) Order 1991 although none have yet been established. The process for making an SPZ in Northern Ireland resembles that for making a development plan with publicity and consultation requirements, independent examination and adoption. Once adopted an SPZ is valid for 10 years. Certain types of land may not be included in a SPZ, including land in a Conservation Area, National Park; AONB, ASSI, NNR, green belt or other land prescribed for this purpose by regulations.

SPZs enable the Department to specify the type of development it would like to see in the areas to which the scheme relates, and to also provide that such development is automatically permitted, so avoiding doubt and expenses for the developers. SPZs are ways in which, in addition to the preparation of a development plan, the Department can make local policy.

Little detailed research has been undertaken with regard to the uptake of SPZs but the Barker Review noted that by 1993 only six SPZs had been approved in England and that these were restrictive and lacked flexibility. Other criticisms of SPZs include:

- The procedure for the making and adoption of such schemes was too lengthy and cumbersome;
- There is a degree of overlap with LDOs;
- The automatic permission cannot apply to development that requires an Environmental Impact Assessment.

In Northern Ireland the power to make SPZs will be transferred to local authorities as part of planning reform. It is understood that the Department does not have any plans to specifically promote the use of SPZs at present.

Our consultations with Development Management Working Group suggested that there was some support for the potential limited use of SPZs in Northern Ireland in certain areas where planning controls might be relaxed such as docks, harbours, airports, industrial estates and regeneration areas.
There were no other views received specifically on SPZs although Northern Ireland Manufacturing did suggest more generally that PD rights should be relaxed in existing industrial estates or where land is zoned for industrial development (as this land had been considered as part of the development plan).

**Conclusion**

As the power to introduce SPZs is already in existence, the decision is really whether their use should be encouraged and actively promoted in Northern Ireland.

The preparation of an SPZ scheme duplicates many elements of the preparation of a development plan; the work involved is significant and would initially add to the pressure on Planning Service staff. However, once implemented the burden on Planning Service staff would be reduced through the reduction in the number of planning applications. There are also benefits to the developer as planning permission can be quickly and automatically granted for certain types of specified development within an identified area.

There was some support amongst principal planning officers and industry for more relaxed controls, particularly regeneration areas, industrial estates etc where the use of the site is clearly designated. Clearly the provision for SPZs exists in Northern Ireland and therefore could be invoked in a particular area if it was felt justified. Local authorities will be able to make SPZs following the transfer of planning functions. However at this stage we do not consider that there is a sufficient case for actively promoting SPZs further as a means of relaxing permitted development rights.

### 6.4 Disability Access

#### 6.4.1 Introduction

The Disability Discrimination Act (DDA) came into effect in 1995 and introduces, over a period of time, new laws and measures aimed at ending the discrimination faced by many people with disabilities. The Act defines disability as:

>a physical or mental impairment which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities.

Whilst the DDA extends to the whole of the United Kingdom, separate secondary legislation and Codes of Practice exist for Northern Ireland. Schedule 8 of the DDA sets out the modifications which apply to its application in Northern Ireland. The Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO), as amended, covers disability discrimination in the field of education.

The DDA recognises that various barriers exist within society which may present practical difficulties for disabled persons who are working, seeking work and for many who access goods, facilities services or premises. In
response the disability legislation, creates a positive duty on employers and service providers to make ‘reasonable adjustment’ to their policies and premises where reasonable and appropriate.

As far as the planning implications of the DDA are concerned, the most significant requirement relates to making reasonable adjustments where a physical feature makes it impossible or unreasonably difficult for a disabled person to access a service. The options are to remove the feature, alter it, provide a reasonable means of avoiding it, or to provide a reasonable alternative method of making the service available, e.g., the installation of a lift or ramp (the DDA defines a ‘service’ as one that is provided to the public whether free or in return for payment (e.g. shops, libraries etc)). A test of reasonableness is applied which takes account of the extent and cost of works required, the type of services being provided, the size and resources of the service being provided, the disruptive impact on the business to make the adjustment and the amount already being spent on making adjustments. Failure to comply with the DDA risks a civil claim.

The DDA protects the rights of all people with disabilities including:-

- Blind and partially sighted people;
- Deaf and physically impaired people;
- Facial disfigured people;
- People with long term illnesses or hidden impairments such as arthritis, asthma, diabetes and Alzheimer’s Disease;
- People with learning difficulties such as dyslexia;
- People with mental illness.

Compliance with the DDA and related secondary legislation in terms of the removal of physical barriers may be of most benefit to wheelchair users; however, it is worth noting that adjustments required as a result of the DDA will benefit people without disabilities, such as parents with pushchairs.

In Northern Ireland, there are no specific permitted development rights in the GDO to allow service providers to carry out works to comply with the DDA, although those classes of use which benefit from PD rights are often able to carry out certain adjustments to their premises without the need for planning permission.

As with the equivalent review in England and Wales, disability accesses do not account for a high level of minor applications. However, we have considered whether such changes have any potential impacts that need to be controlled through the planning system or whether ‘permitted development’ rights could be framed for such developments.

The Development Management Working Group (DMWG) agreed there was some potential for Permitted Development rights to cover the issue of disabled access, subject to controls on the impact of implementing these measures on the street scene. The controls mentioned at the DMWG meeting were:
• Setting a size limit;
• Ensuring the works were within the curtilage of the building;
• Protecting the building line;
• The principle was acceptable but the design and location were to be determined by the planning body.

6.4.2 Options for Change

There is a case for updating the GDO to afford all service providers rights to carry out external works to create disability accesses, subject to no adverse third party impacts. WYG suggested that the most appropriate means to achieve this would be to expand Part 2 of the GPDO (Minor Operations) in England and Wales. Part 2 grants universal rights to undertake minor operations such as means of enclosure and new accesses, therefore WYG argue it would be logical to add a new part granting rights to construct disability accesses to achieve compliance with the DDA. Part 2 of the GDO also provides some PD rights for minor operations in NI.

Neither the 2003 Lichfield Review nor the Scotland PD Review 2007 touched on disability access.

Although permitted development rights and the regulations governing them are different in England, Wales and Northern Ireland, the rights of disabled people are the same; therefore WYG’s recommendations are generally applicable in Northern Ireland.

Designing for Accessibility published by the Centre for Accessible Environments and the Royal Institute of British Architects (2004) sets out the types of physical alterations needed to achieve compliance with the DDA. These alterations can be split into two broad categories: those affecting the external environment; and those affecting building layout. Only those affecting the external environment are relevant to this report as those inside a building should not require planning permission. The two types of external alterations fall into 2 types:

• Freestanding additions (measures which can be taken to help disabled people alight at a building), such as sufficient disabled parking, location of setting down points, providing level, clear routes to places and the positioning of street furniture;

• Alterations to buildings (measures to allow disabled visitors to enter a building), such as external ramps, external steps, handrails and clear signposting for entrances.

In considering the options for change, WYG suggested a Prior Approvals procedure for England and Wales which would control the precise detail of the proposal (as most entrances are on the street scene some control would need to be provided over the siting and design of the development) whilst acknowledging that the principle of development is not in doubt. However, as a Prior Approval system does not seem appropriate in Northern Ireland it will instead be necessary to rely on a streamlined planning system to expedite any applications for disabled access. WYGs preferred option was to introduce permitted development through a new class to Part 2 of the GPDO covering the following types of works:
Freestanding additions including hard surfacing for disabled parking bays and setting down points, installation of ticket-dispensing machines, hard surfaced routes for wheelchairs and appropriate street furniture;

External ramps and steps subject to a limit on size and ground coverage of ramps;

Alterations to entrances subject to a limit on the size of canopies.

6.4.3 Preferred Option

There was general support from the Development Management Working Group regarding relaxing planning permission for disabled access subject to certain criteria. Given the overarching DDA which applies equally in Northern Ireland we can see no reason to substantially alter the recommendations made for England and Wales, other than to make these directly relevant to the GDO. The detailed recommendations from WYG also included provision for a prior approval process in Conservation Areas or the grounds of Listed Buildings. As this review does not favour introducing prior approval, our view is that, in order to control impacts on these sensitive areas, permitted development rights should be withdrawn.

We therefore recommend the following should be permitted development:

- Within the curtilage of a building, freestanding development which enables disabled access to the building is permitted development provided:
  - All hardstanding is permeable (or porous); and
  - Any parking bays, drop-off points etc. created are clearly signed and lined for disabled use.

- Ramps and steps within the curtilage of a building which is being accessed and which do not extend over a public highway, subject to:
  - A maximum of one set of ramps/steps per building frontage;
  - A maximum 2m change in level of ramps/steps;
  - A maximum total length of ramp (excluding landings) of 40m, and
  - A maximum projection of ramps/steps from the building of 12m.

- Entrance alterations;

- Max canopy spread of 3m; and

- Max canopy height of 3m;

- No limitation need be placed on the size to which doorways can be enlarged or the fenestration which can be added to allow views into foyers;
• A general limitation that works do not impinge on the public road;

• To protect sensitive areas permitted development rights for disabled access should be removed in Conservation Areas and within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted. The detail of the above would form a new Part 2 Class D of the GDO.

### 6.4.4 Potential Planning Application Savings

Our sample of 388 applications contained 9 applications relating to disabled access. Table 6.1 sets out the savings that would be achieved if the recommendations above were introduced both within the sample and Northern Ireland throughout 2007/2008.

#### Table 6.1 Predicted Savings in Disabled Applications

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>No. of applications saved</th>
<th>% apps. saved in total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entec’s preferred option</td>
<td>1</td>
<td>0.26</td>
</tr>
<tr>
<td>Total</td>
<td>1</td>
<td>0.26</td>
</tr>
<tr>
<td>Total saved in Northern Ireland (2007-2008) if all recommendations implemented</td>
<td>15</td>
<td>0.26</td>
</tr>
</tbody>
</table>

### 6.5 Sensitive Areas

#### 6.5.1 Introduction

Under the existing GDO in Northern Ireland, permitted development rights are withdrawn or modified in relation to certain designated areas and sites, such as Areas of Outstanding Natural Beauty or Conservation Areas. There is generally no consistent limitation on permitted development rights across all types of sensitive area with each part of the GDO setting limits in a targeted manner depending on the type of development.

Recent amendments to the GDO have however set limits to permitted development rights in relation to microwave antennae on or within the curtilage of a dwellinghouse (Part 1 Class G) and for ‘other telecommunications equipment’ (Part 18) in ‘Designated Areas.’ These Designated Areas are defined as Conservation Areas, Areas of Outstanding Natural Beauty (AONBs), Areas of Special Scientific Interest (ASSIs) and National Parks and sets consistent limits to permitted development in ‘Designated Areas’ rather than having separate limits for different types of sensitive area. For this review we have looked at each type of permitted development and its potential impact on each type of sensitive area separately as this will allow us to maximise, where appropriate, the relaxation of permitted development rights within each type of sensitive area. If the limits recommended are found to be the
same for Conservation Areas, AONBs, ASSIs and National Parks then the GDO could, where appropriate, refer to them collectively as Designated Areas. The GDO also restricts development in other sensitive areas, in particular Sites of Archaeological Interest. Entec has treated Sites of Archaeological Interest and World Heritage Sites in the same way as Conservation Areas, AONBs, ASSIs, National Parks and Special Countryside Areas and proposes to include them within the definition of ‘Designated Areas’.

Appendix B provides a description of the various designated areas found in Northern Ireland which will be examined in this report. The remainder of this section considers stakeholder views, potential options under the review of the GDO, our preferred options and the implications for sensitive areas.

6.6 Stakeholder Views on Current System/Possible Areas for Change

6.6.1 Views of Development Management Working Group

The DMWG expressed the general view that permitted development rights within sensitive areas should be more restrictive. One comment centred on aligning the permitted development rights with those in England and Wales, and another view expressed was that permitted development rights needed to be more site specific and based on what the site is protected for (e.g. different in AONBs, Conservation Areas etc).

6.6.2 Other Stakeholder Views

RSPB Northern Ireland support the existing controls on non householder permitted development, particularly with regard to development likely to affect important wildlife sites. They are not aware of major problems with the existing PD system, particularly regarding damage to wildlife and the environment, however, RSPB do comment that there is no room for complacency as monitoring and enforcement of planning controls has been a weak area generally which has been recognised in the planning reform already underway. The RSPB believes that sufficient resources must be made available to the relevant statutory bodies to enforce and monitor the effectiveness of these controls.

At the stakeholder meeting held in December 2008, the following views were expressed:

- There needs to be a balance between the current political will for economic development and protection of sensitive areas;

- NI has a very dense concentration of ecological, geological, historical, and landscape designations. However not all are referred to in the GDO e.g. ‘Areas of High Scenic Value’/ Natura 2000/ RAMSAR sites etc. There are also a number of areas which need to be protected but are not designated e.g. Areas of Managed Retreat;
Use of Landscape Character Areas could be helpful in assessing the different character areas and designations and could also help outline suitable carrying capacity.

The favoured approach expressed by the stakeholders was to restrict development in sensitive areas. However, each designation should have different thresholds for different types of development. There should also be a distinction between different designation types and also different development types within the designations.

6.7 Options for Change

The three options for change we have identified are as follows:

Option 1: No Change

Option 2: Two tier approach across all development types

Option 3: Two tier flexible impact based approach which relates PD to the purpose of different designations.

6.7.1 Option 1

There is some disparity in the current GDO with regard to whether conditions or limits are placed on permitted development in sensitive areas. For example, in some parts of the GDO, permitted development is limited for all Designated Areas, in other cases there are restrictions on a particular type of sensitive area. This option proposes that there should be no attempt to consolidate the limits and conditions attached to different types of development and sensitive areas in the current GDO. As the Department adds new parts or amends existing parts of the GDO it should consider whether such development allowed by the new or amended part requires additional limits or conditions to be attached to the permitted development for each of the different types of sensitive area identified in this review.

Advantages:

- There is no need to retrain staff and those using the GDO regarding the proposed changes.

Disadvantages:

- Current system is confusing and inconsistent;
- It does not accord with the impact based approach to PD;
- Continuing disparity in the GDO between rights in different classes.
6.7.2 **Option 2**

In this option permitted development rights would be more restrictive in sensitive areas in general, but there would be no distinction between different types of sensitive area.

**Advantages:**

- Simpler process - ‘one size fits all’;
- Easier to enforce and monitor.

**Disadvantages:**

- A ‘one size fits all’ approach could lead to either permitted development rights being restricted unnecessarily in some sensitive areas or, if a low level of restriction was applied, that some sensitive areas could be adversely affected.

6.7.3 **Option 3**

In option 3, permitted development rights would be more restrictive in sensitive areas but there would be some variation according to the type of area. Permitted development rights would take account of the nature and purpose of each designation and the type of development proposed for permitted development. This would result in different thresholds for different types of development in different areas.

**Advantages:**

- PD Rights would be tailored to the specific protected area ensuring appropriate development;
- Greater clarity and consistency of approach across Northern Ireland;
- Relates better to the impact based approach to PD.

**Disadvantages:**

- More complex to enforce and monitor;
- Need to bear in mind there is a plethora of designations across NI.

6.8 **Preferred Option**

Entec recommends that, in general, Option 3 is taken forward as the preferred option. We believe that to allow permitted development to be applicable in as many non-householder situations as possible it will be necessary to
prescribe different limits to permitted development in different sensitive areas depending on the determined impacts of the development. The Northern Ireland Environment Agency representative consulted supported this proposal. In particular we believe that there are inherent differences between what is appropriate in large scale protected areas such as National Parks and AONBs compared to more localised sites such as Conservation Areas and ASSIs. Where we make recommendations for specific types of permitted development in the following sections of this report we will therefore look at each type of sensitive area in turn to ascertain if additional limits are necessary in each type of sensitive area. We do believe however that it is possible to make some generic exclusions from the list of sensitive areas where additional limits to permitted development are required. These are examined in turn in the remainder of this section.

We also recommend that details of the additional limits regarding sensitive areas and general recommendations regarding development in such areas should be included in any non-householder permitted development guidance that is produced. Guidance should also include details of other permissions, consents or licences that may be needed before development can take place.

6.8.1 European and Internationally Protected Nature Conservation Sites

As outlined previously permitted development that may affect European sites requires written approval from the Department before it can commence. This requirement is not just limited to development on the European site but to any development that could significantly affect the site. An argument could be made for removing permitted development rights from all European sites and amending the Habitats Regulations such that a developer must apply for planning permission (rather than approval to commence under the Habitats Regulations). To keep the same level of protection as exists at present, in terms of development that might significantly affect a Natura 2000 site it would also be necessary to include a buffer zone removing permitted development rights around European sites. This buffer zone could vary in size depending on the conservation objectives of the site and the type of development proposed resulting in a complex system of exclusions and limits to permitted development around European Sites. We believe that the present system of requiring ‘prior approval’ from the Department before commencing permitted development on or near a European site is simpler than trying to amend the GDO to accommodate limits or removal of permitted development from European sites. As European sites are generally composed of one or more ASSIs, they will also be subject to any limits on permitted development that is extended to these areas.

We recommend that the Department consider reviewing the guidance relating to European sites and PD rights to see if this needs to be updated.

6.8.2 World Heritage Sites

There are currently no special restrictions to permitted development in World Heritage Sites outlined in the GDO, although it should be noted that the Giant’s Causeway and Causeway Coast World Heritage Site also lies within an AONB. Although we feel it unlikely that permitted development rights will be utilised in the World Heritage Site
such that its special qualities will be adversely impacted, the Planning Service are considering adding World Heritage Sites to the current definition of “designated areas”. As such the need for restricting permitted development rights for non-householder land uses will be considered in this report. Without knowing what World Heritage Sites might be identified in future it is difficult to know what types of impact may be expected from permitted development. In light of this we recommend that as part of the process of seeking any future World Heritage Site designation, the potential impacts of permitted development on the reasons for the site declaration are examined with a view to altering or removing permitted development rights using Article 4 directions or amending the GDO should it be necessary.

6.8.3 Areas of Outstanding Natural Beauty

AONBs are sensitive areas which we believe need to be examined within each specific part of any new permitted development rights recommended in this review. As an AONB is a landscape scale area we envisage that, in most cases, some permitted development can be allowed if it is allowed in non-sensitive areas, although there may be further restrictions on such development. In the existing GDO there are limits to permitted development in AONBs for a number of different types of permitted development, including under Part 1 (dwellinghouses), Part 13 (statutory and other undertakers), Part 17 (telecommunications operators) Part 18 (other telecommunications development) and Part 32 (national security). In Part 28 (crown development) a two tier system of thresholds exists with more limited PD rights allowed in AONBs.

As noted in Appendix B of this report some AONBs have Special Countryside Areas (SCAs) identified in development plans where specific policies are in place to protect the unique character of the area, while other AONBs have design guides setting out specific design principles focussing on local styles and layouts. To allow permitted development in such areas may lead to some developments which compromise the objectives of these countryside policy areas and design guides. We can see a number of alternatives as to how to proceed with regard permitted development in AONBs:

1. Remove all permitted development in AONBs where special countryside policy areas or design guides exist and use generic limits to permitted development in other parts of AONBs;
2. Remove all permitted development rights in AONBs and publish Local Development Orders for each;
3. Use generic limits that apply to all permitted development in AONBs;
4. Use generic limits to permitted development in AONBs supplemented by Article 4 directions removing permitted development rights in particularly sensitive locations.

We believe that either of the first two options would lead to a more complex permitted development regime in Northern Ireland, indeed the second option outlined would effectively create a separate permitted development regime in each AONB. We believe that using generic limits for all AONBs (Option 4 above) will deliver a more simple approach to permitted development in Northern Ireland and that conditions or limits to permitted
development could be included for specific types of development to reduce the potential for impact. There may still be a small number of areas where specific permitted development could be in conflict with the countryside policy areas or design guide.

The need for additional (generic) limits to permitted development in AONBs will be looked at in more detail for specific recommendations later in this report.

6.8.4 **Special Countryside Areas**

Draft PPS21 Sustainable Development in the Countryside refers to Special Countryside Areas (SCAs) as follows:

> In addition there are some areas of the countryside with exceptional landscapes, such as the High Mournes, stretches of the coast or lough shores, and certain views or vistas, wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances.

> Based upon the Countryside Assessment, these areas will be identified and designated as Special Countryside Areas in development plans and local policies brought forward to protect their unique qualities.

Such policy will protect unique landscapes and no development will be acceptable unless it complies with the specific policy provisions of the relevant plan. The existing GDO contains no reference to SCAs. We do not generally believe that there is any need for additional limits to permitted development in these areas as they are likely to be within AONBs which are already afforded considerable protection. The only exception to this is in respect of electricity lines, where in discussion with Planning Service we believe there is case for additional restriction on line length in order to retain control over landscape and visual impacts.

6.8.5 **National Parks**

As there are currently no National Parks designated in Northern Ireland it will be difficult to judge what impacts specific permitted development may have on them. In the existing GDO the limits to permitted development in National Parks are the same as the limits given for AONBs. We believe that the similarities in the permitted development rights in these two types of sensitive area are because both areas are at a landscape scale and their vulnerabilities to impacts are likely to be very similar. We have therefore included the same limits to permitted development for National Parks as we have for AONBs in the limits to specific permitted development later in this report.

6.8.6 **Areas of Special Scientific Interest**

In the existing GDO there are some limits to permitted development in ASSIs for certain types of permitted non-householder development, specifically under Part 16 (minerals exploration), Part 17 (telecommunication operators),
Part 18 (other telecommunications) and Part 32 (national security). There does not appear however to be any consistency to how permitted development rights are limited in ASSIs, as other forms of permitted development, such as Part 6 (agricultural) and Part 13 (statutory and other undertakers) seem just as likely to have an impact on the site as those for which permitted development rights have been limited. There appears to be a case for additional limits to permitted development in ASSIs in other some other parts of the GDO and this was recommended in the 2003 Lichfield Review and subsequent analysis by the Planning Service. This will be looked at in more detail for specific recommendations later in this report.

6.8.7 Sites of Archaeological Interest

As with ASSIs, the approach to limiting permitted development in SAIs in the GDO appears to be relatively ad hoc, with restrictions applying under twelve different parts, including most of those relating to ASSIs. Other areas where restrictions apply to SAIs include Parts 4 (temporary buildings and use), 15 (aviation development) and 22 (roads undertakings by the Department for Regional Development). The need for additional limits to permitted development in SAIs will be looked at in more detail for specific recommendations later in this report.

6.8.8 Conservation Areas

In the existing GDO there are some limits to permitted development in Conservation Areas. These limits are generally the same as those set out for AONBs, although unlike in AONBs restrictions in Conservation Areas have also applied under Parts 21 (closed circuit TV cameras), 22 (roads undertakings by the Department for Regional Development) and 26 (Development by the Department).

The need for additional limits to permitted development in Conservation Areas will be looked at in more detail for specific recommendations later in this report.

6.8.9 Listed Buildings

In the existing GDO there are some limits to permitted development within the curtilage of a Listed Building for non-householder development in Part 2 (minor operations), or on a Listed Building in Parts 17 (telecommunication operators) and 21 (closed circuit TV cameras).

The requirements for planning permission and listed building consent fall under the NI Planning Order 1991, given this is the case Entec support that permitted development within the curtilage of a listed building is removed unless Listed Building Consent for the development has previously been granted.

If guidance is produced to accompany permitted development rights we recommend that it incorporates advice to developers that they contact relevant authorities before commencing permitted development in or near the curtilage of a Listed Building to ensure that development is carried out with sensitivity.
6.8.10 **National Nature Reserves and Local Nature Reserves**

There are no current restrictions in the GDO regarding NNRs or LNRs. The general function of NNRs and LNRs is to protect and enhance wildlife and to promote public access to wildlife. We assume that, in general, the management regimes at NNRs and LNRs will be carried out to reduce any potential impacts on wildlife or people and that where the sites are of special importance for either wildlife or landscape that they will be declared as (or be part of) ASSIs, AONBs or Conservation Areas. We do not believe that there is therefore any need for additional limits to permitted development in these areas and have not examined them in any more detail in specific recommendations section later in this report.

6.8.11 **Local Sites and Designations**

This review does not include proposals to limit or remove permitted development for local sites or designations as to do so would cause very lengthy and detailed restrictions within the GDO. Instead we recommend that guidance should stress the need for installers to check the current local planning regime and, where necessary, contact the relevant authorities before commencing work. Installers should also employ special sensitivity during installation and operation in these areas to prevent inappropriate development. For local sites that were felt particularly sensitive to particular types of permitted development Article 4 Directions can be used to remove permitted development rights.

6.8.12 **Consistency Across the GDO**

In order to achieve a consistent approach across the GDO we recommend that the Department considers those parts of the GDO which fall outside the scope of this review process to ensure that relevant conditions reflect the recommendations regarding sensitive areas described above.

6.9 **Sustainability and Climate Change**

A sustainability agenda has increasingly come to the forefront of Government planning policies. In June 2008 the Department for Regional Development published a five year review of the Regional Development Strategy (RDS). This included adjustments to the Guiding Planning Principles in the RDS to reflect updates in policy and research on, amongst other issues, climate change. The changes also include matters relating to the Water Framework Directive. In 2006 a Sustainable Development Strategy for Northern Ireland – first steps towards sustainability was published. Sustainable development is increasingly reflected in the Planning Policy Statements (PPSs) through for example the publication of PPS21 Sustainable development in the Countryside, which seeks to strike a balance between the needs of rural communities and the need to protect rural areas from unnecessary development, PPS18 Renewable Energy which sets out the Departments planning policy for development that generates energy from renewable sources and PPS15 Planning and Flood Risk which aims to prevent future development that may be at risk of flooding.
Creating the environment for business

It is important therefore that the role and scope of the GDO should be in accordance with the policies that underpin the Government’s objectives for sustainable development. To assist with this process, each of the recommendations contained in the topic based chapters is supported by a matrix that identifies any sustainability or environmental implications of each of the recommendations made in this report.

We appreciate that sustainability and climate change covers a large number of issues and topics. A number of sustainability topics are considered under specific topic section or in other parts of the report e.g. waste management and protection of environmentally sensitive areas. Through our review and consultation with stakeholders two further issues were raised which potentially relate to all non-householder PD rights; flooding and the implications of the Water Framework Directive. These topics are addressed in this section.

6.10 Flooding

6.10.1 Introduction

Planning policy toward flooding in Northern Ireland is set out in Planning Policy Statement 15: Planning and Flood Risk (PPS15) (Planning Service 2006). The primary aim of PPS15 is to ‘prevent future development that may be at risk of flooding or that may increase the risk of flooding elsewhere.’ PPS15 has a general presumption against development in flood plains with the exception of those uses outlined in Policy FLD1, which is included in full below.

<table>
<thead>
<tr>
<th>Policy FLD1 Development in Flood Plains</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within flood plains the Department will not permit development unless it falls within one of the following exceptions or it is demonstrated that the proposal is of overriding regional importance.</td>
</tr>
<tr>
<td>(a) Development of previously developed land which is protected by the appropriate minimum standard of flood defence or where such a defence is under construction or where public funding for planned flood defence works has been committed. This does not include proposals involving essential civil infrastructure or accommodation / facilities for vulnerable groups;</td>
</tr>
<tr>
<td>(b) The replacement of a building in the countryside where this will not materially increase flood risk;</td>
</tr>
<tr>
<td>(c) Development where location within a flood plain is essential for operational reasons for example, navigation and water based recreation uses or transport and utilities infrastructure which has to be there;</td>
</tr>
<tr>
<td>(d) The use of land for sport and outdoor recreation use, amenity open space or for nature conservation purposes where this will not materially increase flood risk;</td>
</tr>
<tr>
<td>(e) The extraction of mineral deposits and the ancillary development necessary to facilitate such extraction where this will not materially increase flood risk; or</td>
</tr>
<tr>
<td>(f) The use of land for seasonal occupation by touring caravans and/or camp sites where this will not materially increase flood risk.</td>
</tr>
</tbody>
</table>

To inform the consideration of proposals that fall within the exceptions specified above, such applications will need to be accompanied by an assessment of the flood risk that may affect the development, or result elsewhere because of it. Where appropriate, this assessment shall include details of measures to mitigate any increase in flood risk.

As part of the Department’s precautionary approach to dealing with flood risk, measures such as flood compensation storage works or new hard-engineered flood defences will not be acceptable as justification for development in a flood plain.

The flood plains referred to in Policy FLD1 are the 100 year fluvial and 200 year coastal flood plains, maps of which are held by the Rivers Agency, including a Strategic Flood Map for NI to a maximum detail of 1:25,000.
scale. However, the map is not sufficiently accurate to determine the flood risk to individual properties or specific point locations. In addition, the map does not illustrate flooding from other sources, such as surface water and overflowing sewers.

PPS15 specifically refers to permitted development in one section (7.7) which states that:

for large development schemes (i.e. those that require an assessment of flood risk or the submission of a drainage assessment), it may be necessary to consider the removal of permitted development rights. This may also be appropriate where run-off carries the potential to adversely affect a sensitive area.

Most of the development allowed under the permitted development rights in the GDO could take place on flood plains as there are currently no restrictions in place in such areas. Indeed some of the permitted development rights granted for some undertakings are likely to take place in flood plains, e.g. Part 13 Class B (dock, pier, harbour or water transport undertakings) and Part 13 Class H (water and sewerage undertakings).

In this review, we have considered a number of issues with regard whether permitted development rights should be amended, these are:

- Whether it is appropriate to have permitted development rights within flood plains generally;
- Whether there should be permitted development rights for basements;
- Whether a condition of permitted development for hardstandings should be that they are required to be permeable; and
- Whether permitted development rights to create flood defences could be extended, particularly for utilities and statutory undertakers.

6.10.2 Options for Change: Flood Risk

PPS15 specifically notes that certain types of development are unacceptable in a flood plain, in particular these are essential civil infrastructure such as hospitals, fire stations, emergency depots and ground based telecommunications equipment. Development is unacceptable, even if protected by flood defences, in locations where access and uninterrupted operation in time of emergency cannot be guaranteed. PPS15 goes on to note that planning permission will only be granted exceptionally for the development of schools and nurseries, care homes, care homes,

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7 Sensitive areas are defined in PPS15 as ‘areas within, or upstream of, a conservation site designated under national or international legislation, for example Areas of Special Scientific Interest.’
sheltered housing or accommodation/facilities for other vulnerable groups in defended areas. Facilities such as storage sites for hazardous substances, fuel storage depots and sewage treatment works can be approved on condition that it includes pollution containment measures designed to prevent a pollution incident in the event of flooding. Proposals to raise ground levels in undefended flood plains are not permitted.

The Northern Ireland Environment Agency had concerns regarding permitted development if it increased development within flood plains as this could increase the risk of out of sewer flooding and Combined Sewer Overflow operation and the impact on water quality that may result.

Although flood planning policy is such that there is a general presumption against development in flood plains in Northern Ireland, this policy does not seem to extend to the GDO as it does not include limits to permitted development when a development is located on a flood plain. Of particular note for this review is that PPS15 states that developments that individually may seem of little consequence can have a cumulative effect. To comply with such policy it may therefore be necessary to limit or remove permitted development rights in flood plains unless they can be shown to have minimal impacts. Options are considered in table 6.2.

### Table 6.2 Options for PD in Flood Plains

<table>
<thead>
<tr>
<th>Option</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1 - Do not include any limits or additions to permitted development that relate to flood plains.</td>
<td>Fewer planning applications for operators to submit and Planning Service to process Simplified process</td>
<td>Less control over development on land at risk from flooding Little chance to advise on suitable materials and design Risk of damage to property and lives Inappropriate development could exacerbate flood risk</td>
</tr>
<tr>
<td>Option 2 - No permitted development allowed in flood plains.</td>
<td>Land most at risk from flooding can be tightly controlled; Ability to advise on suitable materials and design; Reduced risk of damage to property and lives; Reduces the risk that inappropriate development could exacerbate flood risk.</td>
<td>More planning applications for developers to submit and Planning Service to process More complex process (the boundaries of flood plains are not accurate to street level so it could be difficult to assess whether a development is located toward the edge of a flood plain) The effects of climate change may increase the incidences of flood events which could impact on permitted developments and have a cumulative impact Flood risk maps are liable to change as further information becomes available and through changes to flood plains, the GDO would need to define flood zones with certainty (e.g. by referring to flood plains identified in development plans or as held by the Rivers Agency)</td>
</tr>
</tbody>
</table>
Table 6.2 (continued) Options for PD in Flood Plains

<table>
<thead>
<tr>
<th>Option</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 3 - Set a generic limit to permitted development in all flood plains</td>
<td>Tight control of flood risk areas</td>
<td>Risk of a significant increase in the number of planning applications</td>
</tr>
<tr>
<td></td>
<td>Less chance of damage to property and lives</td>
<td>Flood risk maps are liable to change as further information becomes available and through changes to flood plains, the GDO would need to define flood zones with certainty (e.g. by referring to flood plains identified in development plans or as held by the Rivers Agency)</td>
</tr>
<tr>
<td>Option 4 - Limit certain types of permitted development in flood plains - for example vulnerable uses/ those most likely to be affected by flooding</td>
<td>The most vulnerable uses are protected</td>
<td>Relatively complex process</td>
</tr>
<tr>
<td></td>
<td>An impact based approach to permitted development</td>
<td>Flood risk maps are liable to change as further information becomes available and through changes to flood plains, the GDO would need to define flood zones with certainty (e.g. by referring to flood plains identified in development plans or as held by the Rivers Agency)</td>
</tr>
</tbody>
</table>

Preferred Option

Entec considers that a number of key issues emerge from the discussion of options above. In the case of Options 2, 3 and 4 which would apply PD restrictions within the floodplain the question arises as to whether this is sufficiently well defined at the local level to implement such a measure.

On balance Entec recommends that Option 4 is taken forward and that individual limits or exclusions are placed on permitted development for the amendments made in this report. Although this approach is better related to policy and to the impact based approach it is acknowledged that it potentially makes for a more complex GDO.

This approach should be the subject of further discussion with the Rivers Agency and other relevant bodies before final decisions are taken on changes/ additions to PD rights.

Utilising PPS15 Policy FLD1 we recommend that the following generic guidelines should be used as a basis for permitted development rights and that the limits and conditions outlined subsequently are used to inform more specific recommendations for land uses and undertakers later in this report.

We suggest that generic limits and conditions to permitted development within floodplains should be based on the following limits:

- No permitted development for proposals involving essential civil infrastructure (hospitals, fire stations, emergency depots and ground based telecommunications equipment);
- No permitted development for accommodation / facilities for vulnerable groups (e.g. schools, nurseries, care homes, sheltered housing or accommodation/facilities for other vulnerable groups);
• No permitted development for hazardous substances storage sites, fuel storage depots or sewage treatment works all of which are a potential source of pollution; and

• Maximum area for any permitted development of 250m².

In the detailed topic sections we consider whether PD rights should be withdrawn within Flood Plains and make recommendations as appropriate. For those topics where we are not recommending the removal of PD rights within Flood Plains, this is because we consider that to do so would not be consistent with Policy FLD 1 of PPS 15.

In addition we recommend that Article 4 directions are used to remove permitted development rights where the cumulative impact of minor development has been identified as adding to the flood risk potential of an area. In order to identify any such areas where removal of PD rights using Article 4 might be justified there will need to some monitoring of developments and their impacts. This could be achieved through development plan related monitoring however there are clearly resource implications for implementing such monitoring. Any monitoring system would need to be agreed between Planning Service, Rivers Agency and in due course District Councils, once planning powers are transferred.

6.10.3 Options for Change: Flood Risk and Basements

The current GDO allows buildings to be extended and does not stipulate whether these extensions should be above or below ground level. If such development was underground within a flood plain there could be an impact on those using such development during a flood event, particularly if the development was for the use of vulnerable people. DARD have noted that ideally permitted development for basements would be removed in flood risk zones but that this may be inconsistent with Roads Service policy relating to basement car parks. It is therefore worth considering whether to remove permitted development rights for basements in flood plains entirely. Options are considered in table 6.3 below.

<table>
<thead>
<tr>
<th>Option</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1 - No permitted development rights for basements and other subterranean development in flood plains.</td>
<td>Tighter control over development in areas at risk of flooding</td>
<td>Increased number of planning applications Limits the use of existing buildings</td>
</tr>
<tr>
<td>Option 2 - Allow permitted development rights for basements and other subterranean development in flood plains except for vulnerable users and issue guidance on reducing flood risk.</td>
<td>Enables operators to more flexibly extend their buildings without increasing the footprint or having to submit a planning application Less planning applications to process Protects vulnerable groups</td>
<td>Risk of damage to property and lives in flood plains Resources required to write guidance on flood risk and prevention targeted specifically at flood risk</td>
</tr>
</tbody>
</table>
Preferred Option

The choice between the options is either to remove all PD rights for basements in flood plains, or to remove permitted development rights for development that would be utilised by vulnerable groups and issue guidance that can be utilised by other permitted development to minimise the risk and impacts of flooding.

In a written response regarding the review of non-householder permitted development rights in England, the Environment Agency commented that they were concerned with regard to the flood risks of subterranean developments including extending into basements, particularly for residential extensions where there is potential for developments that do not allow occupants to remain safe during flooding.

The brief for this review was to extend permitted development rights where possible; however as a precautionary measure we do not believe that this should extend to basements in flood plains (Option 1). Our recommendation is due to our belief that it is not just vulnerable groups at risk in basements (whether residential or non-residential) built in flood plains. The hazard involved is such that closer scrutiny through the planning application process is justified. We have reflected this general recommendation with specific details in each of the later topic sections.

However, we also recommend that the Department considers further discussion with stakeholders regarding whether there are currently controls other than planning control (e.g. building control, old public health legislation, roads legislation) that limits the development of basements before taking a final decision.

6.10.4 Options for Change: Permeable (or Porous) Surfaces

The construction of hardstandings is permitted under various parts of the GDO. The unrestricted addition of hardstandings can inadvertently cause or contribute to flooding by enhancing the speed of surface water flow and increasing the amount of water in storm water drains. Use of permeable materials can help reduce the instances of flooding by allowing surface water to permeate through the ground.

PPS15 (B11) notes that:

New development can increase indirect flood risk in locations beyond the development site simply by increasing the amount of run-off from the developed area. This may occur where permeable surface areas are reduced by construction work leading to increases in the volume and speed of water transported through a catchment.’ PPS15 (B14) also notes that ‘land raising (sometimes called infilling), either to facilitate a development or as an operation in its own right, can also cause flooding where it interferes with existing drainage systems under normal conditions or areas that store or convey water during flood events.

The Rivers Agency commented that any storm water runoff from new developments, whether in a flood plain or not, should be required to be broadly equivalent to 'green field' runoff, i.e. to have similar characteristics of the natural runoff patterns that existed before the development was built. They commented that this can achieved
through the use of Sustainable Drainage Systems (SUDS) techniques including, but not limited to, permeable and porous paving.

The NIEA is currently drafting a SUDS strategy for Northern Ireland and it is important that any amendments made to permitted development rights take this into account when it is finalised. The recommendations made in this section may therefore need to be amended in light of this strategy.

In 2008, the householder permitted development rights in England were amended such that the provision or replacement of hardstanding within the curtilage of a dwellinghouse could be permitted development subject to the conditions that where:

(a) The hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and

(b) The area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,

Either the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

In essence, PD rights for an area of hardstanding more than 5m² in a front garden is allowed only if the hardstanding is made of porous materials, or if water run-off is directed to a soakaway, swale or equivalent.

When consulted for this review regarding SUDS, DARD noted that, in principle, they were in support of hardstanding being required to be porous/permeable in order to be permitted development, but that it would be ‘virtually impossible to enforce the hardstanding rule for relatively small pavings below 250m².’ DARD also commented that porous paving has only a minor overall role in dealing with large-scale flooding event if it wasn't part of a SUDS drainage plan for the site.

NIEA commented that all permitted development for hardstandings should be required to be permeable (or porous) but that permeable paving is only one of a range of SuDS techniques that should be taken into consideration at the planning stage of any new development.

Options for PD rights relating to hardstandings are considered in table 6.4 below.
Table 6.4 Options for PD for Hardstandings

<table>
<thead>
<tr>
<th>Option</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1- Permitted Development for hardstandings should only be permissible if the hardstanding is constructed out of permeable (or porous) materials or if run-off is directed onto a permeable area within the curtilage.</td>
<td>Reduces the risk of flooding as surface water can permeate through the permeable (or porous) material.</td>
<td>Difficulty in monitoring and enforcement; increased costs associated with permeable (or porous) materials.</td>
</tr>
<tr>
<td>Option 2 - No requirement for permitted development hardstandings to be permeable (or porous).</td>
<td>Less restrictive and cost effective for operator/ developer.</td>
<td>Enhanced risk of surface water flooding; No requirement to enforce and monitor material use; Likely to be out of step with requirements in the rest of the UK.</td>
</tr>
</tbody>
</table>

Preferred Option

The cumulative impact of new hardstandings could increase the risk of flooding in an area, although it is difficult to quantify the contribution of hardstandings installed under PD rights. Nevertheless, along with amendments in other parts of the UK, we believe that the principle of SUDS and reducing the potential for flooding is important and should be reflected in permitted development rights. We therefore recommend that a condition of permitted development is that for any hard standing created or replaced that exceeds 5m² in surface area must either be constructed of permeable (or porous) materials or that any run-off from the surface is directed onto a permeable area within the curtilage.

We recognise that there may be enforceability issues with regard this recommendation and also that a condition within the GDO that also requires SUDS to be maintained (otherwise they can lose their efficacy) would also be desirable but is likely to be even more difficult to enforce. Given that the draft NI SUDS Strategy is being prepared it is important that any recommendations made with regard to the GDO are aligned with the SUDS Strategy when prepared.

6.10.5 Flood Defences

Existing Permitted Development rights for flood defences are already extensive under Part 24. There were no stakeholder views seeking extension of these rights further and therefore this issue has not been given further consideration.

6.10.6 Consistency across the GDO

In order to achieve a consistent approach across the GDO we recommend that the Department considers those parts of the GDO which fall outside the scope of this review process to ensure that relevant conditions reflect the
recommendations regarding flood risk described in regarding removal of PD rights in Flood Plains, basements and hard standings.

6.11 Water Framework Directive

6.11.1 Introduction

Some concern was raised by stakeholders within the Department regarding the potential effects that a relaxation of permitted development rights for non-householder land uses could have on Northern Ireland’s water bodies ability to meet some of the requirements for the Water Framework Directive\(^8\). In particular, it was felt that permitted development may impact on the current classification and mitigation measures required to allow Heavily Modified Water Bodies (HMWBs) to reach Good Ecological Potential (GEP) and for surface waterbodies to reach or maintain Good Ecological Status (GES) by 2015.

Factors that could affect the ecological quality of surface waters were identified as:

- The type of activity related to the permitted development;
- The type of water body;
- The proximity of the water body to the permitted development.

Examples of potential effects on the ecological quality of surface water bodies include habitat loss, sediment input, changes to flow regimes and the migration of biota. Indirect effects from permitted development are also possible, for example, if a jetty could be built under permitted development, this could lead to an increase in boating activity or dredging to keep the channels open for boats, which may in turn have an adverse effect on the ecological quality of the water body.

Measuring Good Status for the WFD involves assessments to a distance of 15m from a lake and 20m from a river. Stakeholders within the Department noted that these areas closest to the water course should not be built on to keep Good status and to prevent flooding of the development, although it was acknowledged that it may be difficult to set a generic buffer zone for waterbodies as the scenario for each may be site specific. As groundwater is also assessed for WFD classification officers thought that sustainable urban drainage for new builds should be a consideration in any amendments to permitted development.

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\(^8\) The Water Framework Directive requires that the ecological and chemical quality of surface water (e.g. lakes and rivers) achieves and maintains good status and that no deterioration occurs in the status of ground water (with poor status restored to good, where technically and economically feasible).
In the existing GDO there are very few limitations or conditions regarding water bodies, even in those parts directly related to undertakers associated with water bodies. For example, Part 13 Class B of the GDO provides permitted development rights for dock, pier, harbour and water transport undertakings such as for disembarking or loading but does not require any particular conditions relating to protection of water bodies. Similarly, Part 13 Class H of the GDO relating to statutory water and sewage undertakers (which was amended in 2007 after The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 came into force) allows some development close to water bodies under permitted development rights but does not limit or condition them with respect to the ecological quality of water bodies.

The review of non-householder PD rights in England and Wales did not consider the implications of the Water Framework Directive.

The concerns regarding permitted development rights impacting on the ecological quality of surface water bodies are a wider issue relating to permitted development rights generally – they do not just relate to non-householder permitted development rights and the changes proposed in this report. How and whether these concerns can be addressed in relation to proposed and existing permitted development rights requires a wider and more in depth consideration by the Department taking into account policy development throughout the UK in relation to implementation of the Directive. That being the case, it is not possible for this report to make definitive recommendations and hence no recommendations are made with respect to this issue in the report.
7. Industry & Research & Development

7.1 Definitions

Industry is defined in the Northern Ireland UCO\(^9\) as:

**Class B1 (c): Business**

Use for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

**Class B2: Light Industrial**

Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

**Class B3: General Industrial**

Use for the carrying on of any industrial process other than one falling within Class B2.

**Class B4: Storage or Distribution**

Use for storage or as a distribution centre.

7.2 Background

Industrial development in Northern Ireland enjoys relatively generous PD rights allowing for the erection, extension and alteration of a building, subject to conditions. However this right is subject to a limit on floorspace slightly lower than throughout the rest of the UK.

There are three classes of permitted development within Part 8 (Industrial and Warehouse Development) of the GDO\(^10\). These are now summarised.


\(^10\) Planning (General Development) Order (Northern Ireland) (1993)
Class A permits the extension or alteration of an industrial building or a warehouse. Development is not permitted if the floorspace of the original building is exceeded by more than 750 sq m or the cubic content of the original building is exceeded by more than 20%. This right is subject to certain other conditions regarding the buildings use; the extension’s height; its external appearance; proximity to the premises curtilage; whether the developments’ premises adjoins the curtilage of a dwellinghouse or flat; its impact on parking spaces or turning areas; location in the conservation area, AONB or National Park and the time of day it is to be used.

Class B permits development carried out on industrial land for the purposes of industry consisting of:

- The installation of additional or replacement plant, machinery, or structures of that nature;
- The provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; and
- The provision, rearrangement or replacement of a private way, private railway, siding or conveyor.

This Class is subject to height restrictions and must not materially affect the external appearance of the premises.

Class C permits the creation of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned, provided it does not involve the removal of trees.

7.3 PD Rights in Other Nations

The PD rights are similar to those provided in the rest of the UK. However the key difference in England, Wales and Scotland is that PD rights for extensions or alterations to industrial buildings are provided up to an increased floorspace of 1,000 sq m. However no such rights for extensions and alterations are in the Republic of Ireland Exempted Development document. Further details on industry related PD rights in surrounding nations are provided in Appendix C.

7.4 Current Volume of Applications for Industry

The analysis of planning application data shows how many industry related applications were submitted over the period. These are summarised in Table 7.1.

Table 7.1 Sampled Applications for Industrial Development

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Industry Applications</td>
<td>30</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>7.73</td>
</tr>
</tbody>
</table>
A moderate percentage of our sample was for industry-related development. Some of these were for the erection of new buildings and there may be potential for new PD rights for small buildings with minimal impacts. The sample also included applications regarding replacement and building extensions that provide particular areas where extended PD rights may reduce the number of planning applications. There is a large enough number of applications here to justify the considering the potential to extend PD rights for this topic.

7.5 **Planning Policies**

National policy with regard to industry sets out to retain, expand and diversify Northern Ireland’s industrial base. This may include R&D, light industry or heavy industry. Policy recognises the importance of attracting inward investment in a highly competitive market. Development plan policy seeks to protect and extend industrial areas usually through zoning them. Appendix D provides further detail on national and development plan policy with respect to this topic.

7.6 **Previous PD Reviews and Possible Areas for Change**

7.6.1 **Lichfield Review of PD 2003 and Planning Service Analysis**

The 2003 Review of Northern Ireland PD rights by the Planning Service was undertaken with a view to producing a revised GDO. The majority of the changes suggested by the consultants were greeted with positive responses during the consultation period. Set out below are the suggestions made for further consideration in the review:

- Increasing the floorspace limit from 750m² to 1000m² - this would bring Part 8 PDRs into line with the rest of the UK;
- Withdrawing PD rights in ASSIs in addition to the current restriction of PD rights in conservation areas, AONBs and National Parks;
- Specifically excluding incineration operations from Part 8 rights – only large scale incineration processes should be excluded. There may be issues around the wording of this exclusion and definitions;
- Providing better definition of the curtilage boundary of an industrial building – there was unanimous support for this proposal. However the wording of such a definition will need some consideration;
- Revision of the “material effect on the appearance of the building” proviso – there was concern that this proviso should not be removed completely as it would create visual amenity issues; and
- Controlling extensions by height and floorspace measurements rather than volume – this proposal was met with unanimous agreement. This approach is already in operation in Scotland and has also been suggested as a modification to Part 1 PD Rights.
The England and Wales Non-Householder Minor Developments Review 2008 provides a summary of Lichfield’s Review of PD rights in England. Feedback within the Lichfield review finds that 78% of respondents felt that current industrial PD rights were ‘about right’ with an even split of opinion between those that felt they were too tight or too relaxed. Lichfield therefore concluded that whilst the relaxation of PD rights for industry and warehousing may support economic policy aims, there was an increased risk of adverse impacts on adjoining land uses and traffic levels. As a consequence their recommendations focused on deregulatory and clarificatory measures:

- Clarify that ‘material effect on external appearance’ applies to the site as a whole and consider removing this limitation outside conservation areas and on premises not fronting a highway;
- Clarify how the curtilage boundary should be defined on industrial estates; and
- Limit extensions under Class A by floorspace rather than by floorspace and volume.

Further the WYG Report refers to the Scotland PD Review 2007 that made the following general recommendations:

- Delete the reference to ‘materially affecting appearance’ on the grounds that it is contradictory, little used and could discourage routine maintenance;
- Remove the cumulative limitation on extensions of 25% or 1,000 sq m above the original building, and instead allow extensions up to 50% of site coverage;
- Height limitation to relate to existing rather than original building;
- To guard against impacts on nearby homes, all development within 25m of a residential property should require consent;
- Ancillary commercial uses (other than trade counters) should benefit from ‘permitted development’ rights;
- Define whether plant and machinery includes air conditioning units, heating/boiler systems and external lighting; and
- Planning permission should be required in all cases for the deposit of imported waste.

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The England and Wales Non-Householder Minor Developments Review 2008 received limited feedback from stakeholders on this topic. Despite industry already arguably enjoying generous PD rights, recommendations were made to focus on further potential relaxation for both light and general industry, including:

- Limit extensions to maximum 1000 sq m floorspace per building (500 sq m in sensitive areas) up to a maximum 25% extra floorspace (deleting the alternate test of cumulative percentage volume);
- Height no greater than existing building, if within 10m of a boundary max height of 5m;
- New allowance for freestanding buildings up to 100 sq m;
- Delete the test of ‘material effect on external appearance’, and replace with a test which restricts development to not within 5m of a boundary or facing a highway;
- No loss of turning/manoeuvring space for vehicles;
- Materials to match existing building;
- No PD within the curtilage of a listed building;
- Control the potential for overlarge extensions to small buildings by adding a limitation of maximum 50% ground coverage;
- Porous hardstanding up to 100 sq m (impermeable (or non-porous) where risk of contamination);
- Require a Minor Development Certificate (MDC) for all plant and equipment on light industrial premises (except general industrial B2);
- No basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding’.

Feedback from the Environment Agency expressed concern that pollution control efforts could be undermined by an extension of industrial permitted development rights, particularly in relation to noise and dust issues.

**Summary**

The WYG review raises several points regarding failures to provide impact-based limitations in several cases within the current England and Wales GPDO. One of these relates to the “materially affects the external appearance” test. This takes no account of the context of the development or that an extension of the size allowed for under PD is bound to affect the external appearance i.e. it gives with one hand and takes away with the other. As such provision also exists in the Northern Ireland GDO the same criticism also applies.

The second point relates to the restriction on development within 5m of the boundary of the curtilage and the fact that this takes no account of the sensitivity of the adjacent uses. In the GDO there is the same provision (A1.part g) but there is also paragraph (h) which restricts development within any boundary adjoining a dwellinghouse or flat.
Creating the environment for business

There is no equivalent to paragraph (h) in the England and Wales GPDO. We find paragraph (h) confusing as it is not clear what is meant by ‘within any boundary’. It is not clear to us if this means that where any industrial premises adjoins a residential property on any side then PD is withdrawn or if there must be residential properties on all sides for this condition to take effect. For this reason Entec recommend that A1 (h) is deleted and replaced with a test which withdraws PD rights where the development is within 10 m of a curtilage boundary of a residential property. This recognises that residential properties may be potentially be impacted more greatly than other land uses by industrial PD and therefore provides greater protection than the general restriction of 5 metres described above.

Previous reviews provide numerous recommendations for extending PD rights and given that the Northern Ireland rights are less than in England and Scotland there is a case for examining options for change. The approach to any potential extension of PD rights in sensitive areas is raised as an issue as are the potential for wider area-based PD rights covering for instance industrial zones. These measures are considered further in the cross cutting themes section. Further the proposal to switch the controlling of extensions by height and floorspace measurements rather than volume is discussed further in Section 4. In section 4 it is agreed that volume measurements are to be removed and therefore conditions used in the options for change section are based on height and floorspace measurements.

As set out in Section 6, Entec are not recommending that a prior approval system be introduced in Northern Ireland. WYG recommend that plant and equipment be subject to an MDC and therefore it has to be assumed that they consider there are potential impacts arising from such development which need to be controlled. Entec would concur with this view, however as prior approval is not proposed in NI, then PD rights should not be extended to cover plant and machinery in order to retain control over impacts.

7.7  Stakeholder views on Current System and Possible Areas for Change

7.7.1 Views of Development Management Working Group (DMWG)

The Development Management Working Group (DMWG) expressed the view that the GDO was not widely used and that applicants were often unaware that it existed. As a result applications were often submitted regardless of whether the proposal could be constructed using PD rights. There was general consensus that there was potential for there to be the same PD rights in Northern Ireland as in England and Wales. For example, maximum floorspace could be increased from 750m2 to 1,000m2.

7.7.2 Other Stakeholder Views

A stakeholder response was received from Northern Ireland Manufacturing (NIM). NIM indicated that the existing GDO is too complicated and cumbersome to be readily understood and therefore the restrictions need to be simplified and the provisions relaxed to be more readily used. For instance the size restriction of 750 sq metres
needs to be increased to perhaps 1,000 sq metres or more given the greater size of modern manufacturing units, with extensive Health & Safety legislation.

NIM felt that PD rights should be relaxed where the development is located within an existing industrial estate or where the land is zoned for industrial development. It is argued the size restriction here is unnecessary given the land is zoned for industry. However it is recognised that it is important to protect the interface on the boundary of an industrial estate, particularly where it interfaces with surrounding housing. NIM therefore accept that existing regulations in this regard should be retained.

**Summary**

The references made in stakeholder responses to both area wide relaxation of PD rights and the submission of applications for planning permission that are in fact already PD are discussed in the cross cutting themes. The stakeholder views received generally support extending PD rights and therefore there is a good case for considering extensions to PD.

### 7.8 Options for Change

All the above sections suggest there is potential for a change in PD rights for industrial development.

On the basis of the changes suggested Entec has considered three options. Option 1 reflects the view of NIM that PD rights could be more relaxed in designated industrial areas. Option 2 is based on extending PD rights to reflect changes suggested by stakeholders. Option 3 is based on no change to PD rights. In each case it is assumed that the other existing provisions within the GDO would remain. The following three options have therefore been generated by Entec to cover the key issues for potential reform of industrial development within the GDO:

**Option 1** – Further Relaxation of PD Rights in Designated Industrial Areas (in Development Plans).

This option would have several elements:

- Remove cumulative volume and floorspace limits and limit by ground coverage of buildings to a maximum of 75%; and
- Remove curtilage boundary restriction except where boundary adjoins sensitive use (e.g. residential, school).

**Option 2** – Extend PD Rights - This Option has Several Elements:

- Limit extensions by floorspace only rather than cumulative potential volume;
- Rights for freestanding buildings up to 100 sq m;
- Limits on ground coverage of buildings to a maximum of 50%; and
• An increase in the permitted floorspace for extensions from 750 sq m to 1,000 sq m;
• All the above subject to conditions including height, materials, proximity to boundary.

**Option 3** - No change – Under this Option, PD rights remain the same and are not extended.

Table 7.2 assesses the three options against economic, environmental, policy, social and administrative implications.
Table 7.2 Industrial Development: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 1 - Further relaxation of PD rights in designated industrial areas</td>
<td>✓ Reduced PS case load. Sampling could not review impact but applications would decrease substantially</td>
</tr>
<tr>
<td></td>
<td>✓ Increased commerce &amp; jobs from permitted extensions, new build &amp; hardstandings</td>
</tr>
<tr>
<td></td>
<td>✓ Provides greater certainty to industry on what will be permitted, removing uncertainty of application process</td>
</tr>
<tr>
<td></td>
<td>✓ Minimal regulation for PS on design and development on greenfield land</td>
</tr>
<tr>
<td></td>
<td>✓ Potential level 4 impacts caused by development on potentially contaminated land</td>
</tr>
</tbody>
</table>
### Table 7.2 (continued) Industrial Development: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 2 – Extend PD rights</td>
<td>✓ Reduced PS case load. 6.67% less applications in industrial development topic</td>
</tr>
<tr>
<td></td>
<td>✓ Extended rights may encourage the remediation of brownfield sites owned by current industrial businesses</td>
</tr>
<tr>
<td></td>
<td>✓ Potential level 4 impacts caused by development on potentially contaminated land</td>
</tr>
</tbody>
</table>
Table 7.2 (continued) Industrial Development: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 3 – No change</td>
<td>Hampers industrial development &amp; increases costs to business in applying for planning permission</td>
</tr>
<tr>
<td></td>
<td>×</td>
</tr>
<tr>
<td></td>
<td>Pressure for development on greenfield land may increase</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

LEGEND

✓ Positive Impact
0 No Impact
× Negative Impact
7.9 **Other Potential Changes**

A number of other individual specific changes came out of the Planning Service consideration of the 2003 Lichfield Review. These are considered in Table 7.3 outside of the Options considered above.

### Table 7.3 Possible Options for GDO Reform

<table>
<thead>
<tr>
<th>Proposed Change / Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delete the test of ‘material effect on external appearance’, and replace with a test similar to that for householder development.</td>
<td>This was recommended in the WYG review. The present test takes no account of the context of the development and whether it is facing the highway or located in a sensitive area. Furthermore it effectively rules out any extension otherwise allowed by the GDO as such an extension is bound to affect the appearance of the premises. For this reason Entec recommends a new provision which restricts development facing a highway or within 5m of a boundary, which could have Level 3 or 4 impacts. This is fed through into the recommendations. In other cases materials should match the existing building.</td>
</tr>
<tr>
<td>Specifically exclude incineration operations from Part 8 rights – only large scale incineration processes should be excluded. There may be issues around the wording of this exclusion and definitions.</td>
<td>This would add clarity to the GDO and is therefore recommended.</td>
</tr>
<tr>
<td>Provide better definition of the curtilage boundary of an industrial building.</td>
<td>This appears sensible in principle however defining this term may be too difficult due to the diversity of circumstances likely to be encountered. As a result we are not recommending a change to add a definition for curtilage.</td>
</tr>
<tr>
<td>Amendment to Part 8 A1 (h)</td>
<td>This relates to part (h) of the GDO which restricts development within any boundary adjoining a dwellinghouse or flat. We find this condition to be confusing and would suggest that it is deleted and replaced with a condition which removes PD rights within 10 m of any boundary which adjoins a residential property.</td>
</tr>
<tr>
<td>Controlling extensions by height and floorspace measurements rather than volume – this proposal was met with unanimous agreement.</td>
<td>Entec recommends this in the cross cutting section. All recommendations made throughout the report use floorspace and height measures rather than volume. This is taken into account in the recommendation.</td>
</tr>
</tbody>
</table>

#### 7.9.1 **Recommendations for Change**

The table above finds Option 2 to be the preferred option. This Option provides a number of economic benefits including job gains and boosting the industry sector supporting agglomeration. Further the option will reduce minor applications for the Planning Service to determine. However it does not grant such extensive rights as Option 1, reducing potential level 2-4 impacts. It also doesn’t threaten to increase Planning Service workload in the policy or enforcement areas. The analysis undertaken in the above section has led to the following recommendations for change to the GDO.
A revised Part 8 for Industrial, research/development and storage uses is proposed by Entec similar to those recommended in the WYG Report. However the element regarding MDCs is removed as discussed above and the conditions regarding flooding are adjusted to take account of the Northern Ireland context.

Table 7.4  Recommended changes to Industry and R&D PD rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 8, Class A permits the extension or alteration of an industrial building or a warehouse. Development is not permitted if the floorspace of the original building is exceeded by more than 750 sq m or the cubic content of the original building is exceeded by more than 20%. This right is subject to certain other conditions regarding the buildings use; the extension’s height; its external appearance; proximity to the premises curtilage; whether the developments’ premises adjoins the curtilage of a dwellinghouse or flat; its impact on parking spaces or turning areas; location in the conservation area, AONB or National Park and the time of day its to be used.</td>
<td>Revised Part 8 – Industrial, research/development &amp; storage uses</td>
<td>Extended Part 8 PD rights are to be provided in Conservation Areas (CAs), Areas of Outstanding Natural Beauty (AONBs) &amp; National Parks (NPs) up to a restrained floorspace limit of 500 sq m. Further they are permitted up to a floorspace of 250 sq m on floodplains. Development and excavation on sites of natural, archaeological or geological value offers the potential to destroy such characteristics and therefore conditions to take away PD rights in ASSIs &amp; SAIs are proposed for Class A of Part 8 (permitting extensions, alterations &amp; new build).</td>
</tr>
</tbody>
</table>

- Permitting a maximum of 1,000 sq m floorspace for extensions and alterations per building (500 sq m in AONBs, Conservation Areas & National Parks, 250 sq m in floodplains) and up to max of 25 per cent extra floorspace;
- Height no greater than existing building, if within 10m of a boundary max height of 5m;
- A maximum floorspace of 100 sq m per new building;
- Not within 5m of a boundary or facing a highway;
- Not within 10m of a boundary of a residential property;
- Materials to match existing building;
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;
- Max 50 per cent ground coverage;
- Permeable (or porous) hardstanding up to 100 sq m (impermeable (or non-porous) where risk of contamination); and
- No basements in floodplains.

Delete the test of ‘material effect on external appearance’, and replace with a test similar to that for householder development. This takes into account development facing a highway and distance from boundary (as used in revised Part 8).

Specifically exclude incineration operations from Part 8 rights – only large scale incineration processes should be excluded.
7.9.2 **Estimated Potential Savings in Planning Application Numbers**

Our sample of 388 applications contained 30 applications relating to industrial development. Table 7.5 sets out the savings that would be achieved if the recommendations above were introduced both within the sample and Northern Ireland throughout 2007/2008.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>No. of applications saved</th>
<th>% apps. saved in topic</th>
<th>% apps. saved in total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New allowance for freestanding buildings up to 100 sq m, subject to limit on ground coverage to 50%</td>
<td>1</td>
<td>3.33</td>
<td>0.26</td>
</tr>
<tr>
<td>Increase floorspace limit for extensions/alterations to 1,000 sq m</td>
<td>1</td>
<td>3.33</td>
<td>0.26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2</strong></td>
<td><strong>6.67</strong></td>
<td><strong>0.52</strong></td>
</tr>
<tr>
<td>Total saved in Northern Ireland (2007-2008) if all recommendations implemented</td>
<td>31</td>
<td>6.67</td>
<td>0.52</td>
</tr>
</tbody>
</table>

The potential savings in this area are not as great as for recommendations in other topics. This is in part down to fairly generous rights already existing for general industrial users such that the potential for saving further applications is limited. The low sample sizes mean that the outlined savings should be treated with caution.

7.9.3 **Approach to Sensitive Areas**

At present Part 8 rights (Industrial and Warehouse Development) are restricted in conservation areas, Areas of Outstanding Natural Beauty (AONBs) and National Parks in Northern Ireland. Industrial development on such land in the form of extensions potentially up to 1,000 sq m could have level 4 impacts on the mentioned areas landscape, scenic or architectural value. Physical development of such magnitude on these sensitive areas threatens the qualities stated. A system is therefore proposed here that is similar to that used in England & Wales. This will permit extensions in AONBs, Conservation Areas and National Parks but only up to a limit of 500 sq m. This in turn will minimise the impact such PD rights may have on these areas.

Similarly physical development is likely to have significant negative impacts on Areas of Special Scientific Interest (ASSI) and Sites of Archaeological Interest (SAI). Development and excavation on sites of natural, archaeological or geological value could potentially destroy such characteristics and therefore conditions to take away PD rights on such areas are proposed.

It is of note that industrial areas are not traditionally located in the protected areas discussed and therefore Entec conclude that restricting PD rights is unlikely to constrain industrial development under the new PD rights substantially.
8. Waste Management

8.1 Definitions

The Use Classes Order\textsuperscript{12} (UCO) does not include a waste management class and specifically states that no class specified in the order includes use ‘as a waste management facility for the recovery, treatment, recycling, storage, transfer or disposal of waste’. Hence waste management use is sui generis. Typically waste management development includes banks for recyclables, civic amenity sites, waste transfer, processing, recycling and treatment, incineration, landfill and associated infrastructure. However the management of waste may be ancillary to the main use of a development.

Any reference to waste management would therefore provide a new part or section to the GDO.

8.2 Background

The Waste Management Hierarchy (seen below) is at the centre of European waste management policy and is referred to in PPS11 - Planning & Waste Management\textsuperscript{13}. The hierarchy indicates the relative priority of different methods of managing waste, and informs the process of drafting waste management policy and planning initiatives as to how to progress towards more sustainable waste management practices. The Northern Ireland Waste Management Strategy (WMS) – Towards Resource Management, published in 2006 promotes more sustainable waste management practices based on the hierarchy.


\textsuperscript{13} Planning Service (2002) PPS11 - Planning & Waste Management
The latest Northern Ireland figures published are for 2007/08 whereby just over 70% of Municipal Solid Waste (MSW) was landfilled (70.63%). Further the Biodegradable Municipal Waste (BMW) landfilled in 2007/08 was 80% of the 1995 levels and positive progress has continued although validated figures are not yet available (figures received direct from Northern Ireland Planning Service). The UK as a whole requires a reduction in the amount of BMW going to landfill to 35% of 1995 levels by 2020. Consequently there is a substantial need to shift waste management up the waste hierarchy and reduce pressure on Northern Ireland’s landfill resources. This will in part be achieved through waste prevention or minimisation.

The Government’s focus on the waste hierarchy suggests that any potential permitted development rights would focus on schemes at the upper levels of the waste hierarchy and could encourage businesses to reuse or recycle waste if such schemes were simpler to implement in planning terms. Permitted development rights are therefore less likely to be suitable for disposal or incineration as these waste treatment methods aren’t preferred in policy terms.

The White Young Green Report notes that:

*The waste industry has not historically benefited from widespread ‘permitted development’ rights in the same way as industrial uses, which, as was noted in Chapter 10, benefit from generous ‘permitted development’ rights. Past practices in the waste industry have tended to colour public perceptions about the waste industry. The industry is now subject to more stringent regulation than in the past, meaning that many waste installations have impacts which are similar to general industrial (B2) uses or even storage and distribution (B8) uses. A significant development arising from recent changes in waste management practices, has been that many industries are now covered by their own waste regulations, meaning that many industrial premises now incorporate ancillary waste transfer activities.*
Entec consider that similar circumstances will have applied in Northern Ireland. There is likely to be a potential increase in waste facility applications to meet the drive to reduce landfill and therefore there is a need to consider PD rights given more stringent regulations on it nowadays.

This could provide further justification for new PD rights for waste management use.

Waste management is presently not included as a permitted development heading in the GDO. Only one reference is made to waste in the document in the form of a condition regarding its clean up in Part 16 – Mineral Exploration.

### 8.3 PD Rights in Other Nations

Similarly to the Northern Ireland GDO, surrounding nations do not grant specific PD rights for waste management facilities either. Greater detail of the position in other countries is provided in Appendix C.

### 8.4 Current Volume of Applications for Waste Management

The analysis of planning application data shows how many waste related applications were submitted over the period. These are summarised in Table 8.1.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Waste Applications</td>
<td>3</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>0.77</td>
</tr>
</tbody>
</table>

Only 3 applications in the sample were for waste related uses. The small number means that any application savings from new PD rights are likely to be minimal.

Whilst the number of waste applications included in the sample is not extensive enough to suggest PD rights for this topic are in need of reform, it is likely that the number of applications will increase in the future. There is also support for reform identified in other parts of the waste section.

### 8.5 Planning Policies

National planning policy through Planning Policy Statement 11 and the Northern Ireland Waste Management Strategy seeks to promote the highest environmental standards in development proposals for waste management facilities and includes guidance on the issues likely to be considered in the determination of waste planning applications. Policy therefore falls in line with the waste hierarchy (see above). Regional planning policy further
supports facilities towards the top of the waste hierarchy, whilst development plans refer to the Northern Ireland Waste Management Strategy to provide greater information on waste treatment within a district. Appendix D provides further detail on national and development plan policy with respect to waste management.

8.6 Previous PD Reviews and Possible Areas for Change

8.6.1 PD Review 2003 and Planning Service Analysis

The 2003 Review did not contain a specific section referring to waste management; however the potential for additional PD rights for minor works required for waste management, such as venting walls was considered. Whilst the Review did not make any firm recommendations this proposal was wholly supported at the Review’s consultation phase, with 20 respondents agreeing with the proposal and 2 giving no preference.

8.6.2 England and Wales Non Householder Minor Development Review 2008


Whilst the Nathaniel Lichfield Review of English PD rights did not consider waste management in depth, it briefly considered a potential new waste category for inclusion in the GPDO. The Review received representations on this in two areas. The first of these was to provide flexibility in interchanging between waste management activities and B2/B8 uses, to reflect the trend to locate waste transfer facilities on industrial estates, up to a maximum floorspace of 235 sq m. However the Review concluded that waste sites are likely to raise significant planning or environmental issues and should generally be subject to planning control. A range of minor, site-related works on landfill sites were proposed including equipment for monitoring boreholes and landfill gas management equipment. Research found that large landfill sites for instance may require hundreds of such minor developments, and that there was therefore a case for introducing PD rights via a new Part of the GPDO.

The Scotland PD Review 2007 also considered the potential for a waste management class within the GPDO. Representations received argued for permitted development rights to allow operators to respond quickly to changes in site license requirements. The Review proposed 2 new classes of PD rights.

1. Development ancillary to landfill operations, consisting of:
   - Plant or machinery;
   - Buildings or structures;
   - Equipment for monitoring gas, leachate, surface water or groundwater;
- Engineering bunds for environmental control;
- Stockpiling of materials for operations and restoration; and
- Parking of lorries and skips.

Subject to:
- Max 15m above original ground levels;
- Max 6m above made ground for litter control fencing;
- Max 5m above made ground for flare control rigs;
- Max 3m above made ground for anything else;
- Max additional 1,000 sq m or 25 per cent cubic capacity for any extended building;
- No buildings, plant or machinery within 400m of any dwellinghouse;
- Within 24 months of waste operations ceasing, all buildings, plant and machinery to be removed; and
- The land to be restored afterwards.

2. Development ancillary to other waste management operations, consisting of:
- Plant or machinery;
- Provision of pipes and cables;
- Installation of boreholes to monitor water; and
- Extension of any building.

Subject to:
- Max 15m above original ground levels;
- Height of extended building not to exceed existing;
- Max additional 1,000 sq m or 25 per cent cubic capacity for any extended building;
- No buildings, plant or machinery within 400m of any dwellinghouse; and
- Within 12 months of boreholes no longer being required, all surface equipment to be removed.

White Young Green’s analysis concluded that there was a clear case for introducing PD rights for the waste management industry. Their Report considered that the negative public image of the industry was now outdated.
due to greater regulation and increased emphasis on reuse and recycling. These drivers led to calls for PD rights to reflect the needs of the industry and ultimately fall more in line with those granted to industrial development. The White Young Green Report concluded that there was:

A clear case for introducing ‘permitted development’ rights for the waste management industry based on the needs of the industry and the types of ‘permitted development’ rights which other comparable operators enjoy.

As a result a number of PD rights were suggested:

- A new Class to be added to Part 3 (Changes of use) of the GPDO permitting the change of use of a building from Class B2 (General Industrial) to waste processing and vice versa up to maximum floorspace of 235 sq m. (It is noted here that B2 (General Industrial) in England & Wales is B3 (General Industrial) in the Northern Ireland UCO);

- A new part to the Order for ‘Waste Processing Facilities and Incinerators’ allowing permitted development works on existing facilities. This recommendation allows for the following:
  - Max 100 sq m floorspace for new buildings;
  - Max 100 sq m for extensions and alterations to buildings up to max of 25 per cent additional floorspace;
  - Extensions to be no higher than existing building, and max 5m if within 10m of a boundary;
  - New buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building;
  - Not within curtilage of a listed building;
  - No loss of turning/manoeuvring space for vehicles;
  - Max 50 per cent ground coverage;
  - Materials to match;
  - New permeable (or porous) hardstanding up to 50 sq m (provided not used for waste processing);
  - No basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA’s\textsuperscript{14};

\textsuperscript{14} Strategic Flood Risk Assessments (SFRAs) are undertaken in England in order to provide an evidence base for Local Development Framework on the risks of flooding in a particular District or area.
Creating the environment for business

- New storage bays up to 4m high; and
- Installation of boreholes for environmental monitoring.

- A new Class D in Part 2 (Minor operations) of the GPDO – permitting the erection of a waste storage container, subject to:
  - Max floor area of 20 sq m;
  - Max height of 2.5m;
  - Not within 10m of a boundary;
  - Max 25 cu m of waste to be stored; and
  - Not applicable to dwellinghouses or flats.

- Amend Part A of Part 4 (Temporary Buildings and Uses) to clarify that “moveable structures, works, plant or machinery” includes concrete crushers and other plant and equipment for the recovery of materials from wastes;

- A new part to the Order for ‘Landfill Sites’ permitting the following works to be carried out on existing sites:
  - Installation of boreholes for environmental monitoring;
  - Installation of leachate management infrastructure;
  - Installation of odour control systems;
  - Erection of litter fencing up to 6m above made ground level;
  - Provision of sewers, mains, cables, pipes or other;
  - Installation of environmental monitoring equipment for gas, surface water and groundwater; and
  - Storage of topsoil and restoration materials up to 3m high.

- Further the following works under the new ‘Landfill Sites’ part may be carried out subject to a Minor Development Certificate (MDC):
  - Relocation of internal haul roads;
  - Erection of temporary buildings;
  - Installation of weighbridges and wheelwashes; and
  - Replacement plant and equipment.
Further the WYG Report recommends that a definition of waste and waste processing should be included within the GPDO amongst the many other definitions contained therein, which will assist in interpreting the new classes of ‘permitted development’ rights being proposed.

**Summary**

The above reviews present clear support for reform of the GDO to allow for waste management PD rights particularly for waste management facilities. This is justified because of the greater regulation placed on the industry and the likely increase in waste facilities and the movement away from disposal.

The WYG Report recommends that a number of waste related operations are made subject to Minor Development Certificates (MDCs). It would appear that WYG took the view that there are potential impacts arising from such development which need to be controlled and Entec concur with this. However as Entec are not recommending that a prior approval system be introduced in Northern Ireland, then PD rights should not be extended to cover those recommendations dependent on MDCs discussed above, in order to retain control over impacts. As a consequence such recommendations are not taken forward to the options for change stage.

A number of extensions to PD rights are proposed regarding landfill and waste management operations in the Scotland PD Review 2007. In some cases these overlap with those recommended in the WYG Report but in others they grant greater rights. Entec conclude that the balance is right in the WYG Report and that there could be potential impacts which would need to be controlled if the full PD rights set out in the Scotland PD Review 2007 were introduced. The Scottish recommendations therefore are not taken forward as potential options.

8.7 **Stakeholder Views on Current System and Possible Areas for Change**

8.7.1 **Stakeholder Views**

A response received from the Belfast City Council Waste Management Service provided a number of opinions on the GDO:

- The GDO is satisfactory in relation to its development of public conveniences, litter bin sites and small ‘bring sites’ for recyclable materials. Requests therefore, that the current level of PD be maintained in relation to such developments;

- The Service request a more suitable form of consent to be provided to allow layout changes or other minor development that is consistent with the operations on a waste management site. This could be similar in principle to LDOs;

- Development of waste management facilities must be carried out in compliance with Central Government waste policy and legislation. The Service indicates that relevant planning policy and legislation should, therefore, enable rather than hinder the development;
• Changes in PD rights to allow additional waste streams to be accepted on a waste management site for segregation for recycling/recovery activities (acknowledge certain types e.g. hazardous waste should be excluded from this).

The Belfast City Council Waste Management Service has since provided an additional suggestion, requesting that:

• Permitted Development Rights are not easily granted to any development with an associated increase in the generation of waste or which will compromise existing waste storage capacity or accessibility. Development should only be permitted on condition that adequate waste storage and access provision is maintained.

8.7.2 Views of Development Management Working Group (DMWG)

A principal planning officer attended this meeting and expressed reservations about extending PD rights for waste management issues due to the highly controversial nature of such schemes. Concern was expressed here that developments on waste sites were being carried out by operators without applying for planning permission. The concerns subsequently expressed can be summarised as follows:

• Allowing change of use from B3 to Waste Management and back - likely to be an issue for adjacent uses relating to the food industry, life science type activities etc. due to possible contamination;

• The removal of waste management facilities from the Use Classes Order in 2004 and defining them as sui generis reflected the problems that they potentially and actually cause within established industrial areas and elsewhere;

• The number of current enforcement cases in the field of waste management is indicative of the issues that could arise in relation to PD rights;

• Some operators seek planning permission or seek confirmation that planning permission is not needed for works on existing sites (in that regard Planning Service is flexible/pragmatic and reasonable in terms of its dealings with these firms) - others carry out works without planning permission and are usually detected when the NIEA process/consultations highlight the issue;

• Leachate management systems will often form part of a larger package of development for which planning permission is sought. For example a planning application for a new landfill site will include proposals for, among other things, leachate management systems, gas collection and flaring systems etc.;

• With older landfill sites, where upgrading is necessary or where a closure plan requires planning permission, a leachate management system will often be included in the application;

• On occasions, Planning Service will receive an application for a leachate management system, either because the old one isn't working or there never was one on site;
While the number of applications for leachate management systems is not large, there can be that particular Northern Ireland issue, that there is always someone living close by in their house in the countryside - the planning application process allows the Planning Service to resolve these issues; and

Leachate management does not come in a 'one size fits all' package, so it is difficult to generalise and provide a PD type standard.

A principal planning officer provided further views on the problems of permitting change of use from B3 to waste management use and vice versa, and these views are set out in detail in Appendix A.

It was discussed at the workshop that Simplified Planning Zones (SPZs) or Local Development Orders (LDOs) could be used in areas made up of waste management and industrial uses. This could be suitable given the negative impacts of such operations are limited in such areas. However concern was expressed at the workshop over the length of time they take to implement.

**Summary**

Previous reviews have considered and recommended the introduction of PD rights for waste management. In the context of this particular review stakeholder feedback was limited and whilst there was some support from the Belfast City Council waste management service there were also concerns expressed through the DMWG. More general measures such as the potential for the use of LDOs/SPZs and their possible role are discussed in section 6.

Previous reviews have suggested granting PD for change of use from general industrial to waste management and vice versa (with a floorspace restriction). However given the views expressed through the DMWG over the potential impacts of introducing such a change and the limited potential application savings this option has not been considered further.

One of the responses received from Belfast City Council Waste Management Service would require conditions to retain adequate waste storage and access provision for other types of development e.g. commercial, industrial. Entec recognise that ensuring that developments can be adequately serviced by waste collection/recycling services is important. In practice however Entec conclude that to come up with such a condition is difficult due to its site specific nature and therefore is not recommended. A more appropriate mechanism for achieving the same end result may be to impose appropriate conditions onto planning permissions when granted.

**8.8 Options for Change**

The presence of a number of recommendations made in past reviews and stakeholder responses has led to Entec concluding that further assessment of options for the GDO’s reform is justified. Although there are a low number of waste applications in the sample, it is anticipated that the number of applications will increase in future years due to the policy pressure to divert waste from landfill. Such applications are in particular likely to be based on more sustainable waste management methods such as recycling and recovery. This potential for GDO reform is partly
due to the fact that increasing regulation and controls placed on waste sites, ensure that certain environmental impacts are controlled through other legislation.

In considering PD rights specific to waste, it is important to examine whether there is a need for additional definition of terms in the GDO. The Waste Framework Directive 2008/98/EC already provides definitions in relation to waste and it would therefore seem appropriate to use these as a basis for the GDO. Definitions for both ‘waste’ and ‘waste management’ are provided in the Directive. It is considered that the term ‘waste management’ (reflecting the Directive) is used when referring to a potential new part to the GDO which allows for PD rights for waste facilities rather than the term ‘waste processing and incinerators’ used by WYG which would require separate definition and has a narrower meaning.

Entec has generated two options to appraise as a result of the above sections:

**Option 1** – New PD Rights for Waste Management Including:

- A new part for ‘Waste Management Facilities’ allowing minor works, new buildings & extensions/alterations up to a floorspace of 100 sq m on existing sites subject to a number of conditions;
- A new part to the Order for ‘Landfill Sites’ allowing a number of works to be carried out on existing waste sites; and
- New Class D in Part 2 (Minor Operations) of the GPDO, permitting the erection of small waste storage containers, subject to conditions.

**Option 2** – No extension of PD rights.

Table 8.2 assesses the two options against economic, environmental, policy, social and administrative implications.
### Table 8.2 Waste Management: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>ECONOMIC</strong></td>
</tr>
</tbody>
</table>
| Option 1 – New waste PD rights | ✓ Reduced application costs for waste firms  
✓ Allows for greater efficiency in operations at existing waste management/landfill developments  
✓ Reduced PS case load  
0 Uncertainty over whether permitted change of use would bear an increase or downturn in job numbers | ✓ Encourages quick response to operational matters & quicker clean up of waste  
✓ Allows greater potential for waste industry to respond to drive to move away from landfill by providing new PD rights for built waste facilities. Possible level 4 impacts through increased surface runoff & emissions caused by extensions / hardstandings, when building on greenfield land. | ✓ Supports the aims of responsible waste management/disposal set out in PPS11  
✗ May lead to the loss of disused waste facilities to B3 use. Such sites may offer opportunity for new waste facilities. | ✓ May contribute to efficient operation of a waste site, that could reduce level 2 impact on local residents  
✗ Potential level 2 impacts in the form of noise, vibration & light spillage to surrounding land uses  
✗ Significant amenity issues associated with this leachate management infrastructure particularly if there are dwellings in close proximity. | ✓ Less applications for PS to deal with allowing for greater attention to be paid to major applications  
✗ Introduction of new system may produce uncertainty in short-term |
## Table 8.2 (continued) Waste Management: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>ECONOMIC</strong></td>
</tr>
<tr>
<td>Option 2 – No extension</td>
<td>× Hampers waste site development &amp; increases costs to firms in applying for planning permission</td>
</tr>
<tr>
<td></td>
<td>× Option may hinder quick response to operational matters &amp; the quicker clean up of waste</td>
</tr>
</tbody>
</table>

**LEGEND**

✓ Positive Impact

0 No Impact

× Negative Impact
8.9 Other Potential Changes

A further specific individual change came out of the England and Wales Non-Householder Minor Developments Review 2008. This was to:

- Amend Class A of Part 4 (Temporary Buildings and Uses) to clarify that ‘moveable structures, works, plan and machinery’ includes concrete crushers and other plant and equipment for the recovery of materials from wastes.

Entec conclude that will assist the GDO in becoming more reader friendly and therefore recommend this change.

8.10 Recommendations for Change

The table above indicates that Option 1 is the preferred option. The Option will contribute to efficient operations on waste sites and allow the waste industry to respond to the drive to increase recycling and recovery of waste. Further it provides for reduced costs to firms and will reduce Planning Service workload. Elements that include MDCs are removed as discussed above and the conditions relating to flooding are adjusted to take account of the Northern Ireland context.

Following stakeholder response and assessment, Entec conclude that the addition of PD rights for leachate management systems has potential to have adverse impacts on residential amenity in rural areas. It is also noted that these applications are likely to form part of a larger application anyway and thus would have negligible impact in terms of application savings if granted PD rights. For these reasons this PD right is not taken forward as a recommendation. Further Entec conclude that in order to control potential flood risk impacts relating to the new part for waste management facilities a condition removing such development in flood plains has been added into the recommendation.

In conclusion the following rights are proposed, based largely on previous reviews:
### Table 8.3 Recommended Changes to Waste Management PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>
| At present there are no PD rights provided for waste management in Northern Ireland. | A new Class D in Part 2 (Minor operations) of the GDO permitting the erection of a waste storage container (for non-hazardous waste) subject to:  
  - A maximum floor area of 20 sq m;  
  - Maximum height of 2.5m;  
  - Not within 10m of boundary;  
  - Maximum 25 cu m of waste to be stored; and  
  - Not applicable to dwellinghouses or flats. | New Class D in Part 2 PD rights to be permitted in National Parks & AONBs. Rights removed however in CAs, ASSIs and SAIs. |
| | A new part to the Order for ‘Landfill Sites’ allowing the following works on existing waste sites:  
  - Installation of boreholes for environmental monitoring;  
  - Installation of odour control systems;  
  - Erection of litter fencing up to 6m above made ground level;  
  - Provision of sewers, mains, cables, pipes or other;  
  - Installation of environmental monitoring equipment for gas, surface water and groundwater; and  
  - Storage of topsoil and restoration materials up to 3m high. | New part for ‘Landfill Sites’ to be permitted in National Parks and AONBs but removed in CAs, ASSIs & SAIs. |

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15 Non-hazardous waste is waste which does not feature on the list of hazardous waste in the European Waste Catalogue (EWC) 2002
Table 8.3 (continued)  Recommended Changes to Waste Management PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>A new part to the Order for ‘Waste Management Facilities’ allowing works to existing facilities subject to the following limitations:</td>
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<tr>
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<td>• Max 100 sq m floorspace for new buildings;</td>
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<tr>
<td></td>
<td></td>
<td>• Max 100 sq m for extensions and alterations to buildings up to a max of 25 per cent additional floorspace;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Extensions to be no higher than existing building, and max 5m if within 10m of a boundary;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• New buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building;</td>
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<tr>
<td></td>
<td></td>
<td>• Not within 10m of a boundary of a residential property;</td>
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<tr>
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<td>• Not permitted development within the curtilage of a listed building unless listed building consent for the development has previously been granted;</td>
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<td></td>
<td></td>
<td>• No loss of turning/manoeuvring space for vehicles;</td>
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<tr>
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<td>• Maximum 50 per cent ground coverage;</td>
</tr>
<tr>
<td></td>
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<td>• Materials to match;</td>
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<tr>
<td></td>
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<td>• New permeable (or porous) hardstanding up to 50 sq m (provided not used for waste processing);</td>
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<tr>
<td></td>
<td></td>
<td>• Not permitted development within flood plains;</td>
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<td></td>
<td></td>
<td>• No basements in flood plains;</td>
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<tr>
<td></td>
<td></td>
<td>• New storage bays up to 4m high; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Installation of boreholes for environmental monitoring.</td>
</tr>
</tbody>
</table>

|                             |                   | New part for ‘Waste Management Facilities’ to be permitted in National Parks and AONBs but removed in CAs, ASSIs & SAIs. |

Amend Class A of Part 4 to clarify that ‘moveable structures, works, plant and machinery’ includes concrete crushers and other plant and equipment for the recovery of materials from wastes.

8.11  Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 3 applications relating to waste management. No potential savings are made in this area with the introduction of the recommendations. However there were only 3 waste applications in the entire sample.

Whilst it appears from the sample that there would be little in the way of application savings, there still appears to be a good case for extending PD rights based on our research. The drive away from landfill will lead to more development for waste management and given that the industry is now subject to much tighter regulation there is a
justifiable case for new PD rights to assist the industry. On balance it is considered that such rights can be introduced without leading to adverse environmental impacts.

### 8.12 Approach to Sensitive Areas

Given the nature of waste activities there may be potential impacts within certain sensitive areas.

The new parts proposed for the Order include the erection of new buildings and the installation of equipment underground. This offers potential for negative level 4 impacts resulting from ground disturbance upon nature conservation and archaeological interests. As a consequence Entec conclude that PD rights for the new parts regarding ‘Waste Management Facilities’ & ‘Landfill Sites’ proposed in the recommendation are removed in ASSIs and SAIs.

However because AONBs and National Parks are much larger designations with a greater emphasis on landscape protection their principal concern is the impact on the landscape and natural beauty of the area. Entec consider that the scale of PD rights proposed are unlikely to give rise to adverse impacts within these areas, on the basis that the principle of waste development on the site will have already been established. In Conservation Areas PD may have level 3 impacts on the street scene through their external appearance as they cover a much smaller area than national parks or AONBs. It is therefore proposed that PD rights for ‘Waste Management Facilities’ & ‘Landfill Sites’ are removed in Conservation Areas.

The permitted erection of waste storage containers may have potential level 3 impacts on the street scene through its external appearance on a surrounding area. This would be particularly notable in Conservation Areas due to their dense nature and therefore in such areas it is proposed that PD rights are removed.

Entec conclude that constructing waste storage containers could potentially impact on ASSIs and SAIs by destroying natural, archaeological or geological characteristics and therefore PD rights are removed in such areas. However whilst waste storage containers would have an impact on the external appearance of an area, Entec conclude that the impact upon AONBs or National Parks would be unaffected over a wider area and therefore do not propose the withdrawal of rights in such areas.

Table 8.4 provides a summary of the recommendations various elements and whether or not is to be permitted in the different sensitive areas.
### Table 8.4  Summary of Final Recommendations Introduction into Sensitive Areas

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>National Park</th>
<th>AONB</th>
<th>ASSI</th>
<th>SAI</th>
<th>Conservation Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erection of a waste storage container</td>
<td>✓</td>
<td>✓</td>
<td>×</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td>New part for ‘Landfill Sites’</td>
<td>✓</td>
<td>✓</td>
<td>×</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td>New part for ‘Waste Management Facilities’</td>
<td>✓</td>
<td>✓</td>
<td>×</td>
<td>×</td>
<td>×</td>
</tr>
</tbody>
</table>

**LEGEND**

- ✓  Remains Permitted
- ×  Excluded via condition
9. Telecommunications

9.1 Definitions

The Use Classes Order does not include a specific class referring to telecommunications; hence telecommunication development is Sui Generis. Naturally however telecommunications can act as ancillary to the main use of a development.

This section considers telecommunications both in their own right and in the form of telephone cables, masts and satellite antennas that provide ancillary use. These may be attached to existing development in various forms.

9.2 Background

As seen below telecommunications are granted a number of PD rights in the GDO. The key PD rights with regard to telecommunications were amended in 2003 (SR 2003, No. 98) and 2006 (SR 2006, No. 348). However it is difficult to compare these to another part of the GDO as they stand somewhat alone.

Part 15, Class C of the GDO permits development in connection with the provision of air traffic control services, the navigation of aircraft or the monitoring of the movement of aircraft including the installation of any radar or radio mast or antenna or other apparatus up to 15 metres in height on operational land outside but within 8 Kms of the perimeter of an aerodrome.

Part 17 of the GDO relates to ‘development by telecommunications code system operators’. This was amended in 2003, and is now summarised:

- Class A allows development by or on behalf of a telecommunications code system operator for the purpose of the operator’s telecommunications system in, on, over or under land controlled by that operator or in accordance with their licence. This is limited to the installation, alteration or replacement of any telecommunications apparatus and development ancillary to equipment housing. This right is not permitted in conservation areas, AONBs, ASSIs, National Parks or on listed buildings unless it involves the provision of underground apparatus or new overhead lines supported by existing poles. Development is not permitted in sites of archaeological interest unless it involves the

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installation of new overhead lines supported by existing poles. Nor does the permitted development described in Class A permit the installation, alteration or replacement of any mast, or any antenna. Ground based equipment housing must not exceed 90 cubic metres or, if roof-mounted, 30 cubic metres. In the case of the provision of apparatus other than a public call box, any apparatus which does not project above the surface of the ground or equipment housing; the ground or base area of the structure cannot exceed 1.5 square metres. This Class is subject to further conditions regarding the siting of equipment housing and its ancillary development and to the removal of redundant apparatus or structures;

- Class B permits development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunications system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of the use of land in an emergency for a period not exceeding 6 months. This PD right is subject to conditions regarding notice, proximity to existing unserviceable apparatus and restoration of land.

Part 18 of the GDO refers to ‘other telecommunications development’. This was amended in 2006, and is now summarised:

- Class A allows the installation, alteration or replacement on any building or other structure of a height of 15 metres or more of a microwave antenna and any structure intended for the support of a microwave antenna. Development is not permitted; on or within the curtilage of a dwellinghouse; if it would consist of development described in Part 17; if it would result in the presence of more than 4 antennas; if the length of the antenna would exceed 60cm when installed on a chimney or in other cases the length of antenna would exceed 130cm; if the highest part of the antenna or its supporting structure would be more than 3 metres higher than the highest part of the building on which it is installed; if it is installed on a chimney, roof slope or wall facing onto and visible from a road where the building is within a designated area; or if it would consist of the installation of an antenna with a cubic capacity in excess of 35 litres. In addition to these limitations, Class A is subject to conditions relating to siting, removal of redundant equipment and measurement; and

- Class B permits the installation, alteration or replacement on any building or other structure of a height of less than 15 metres of a microwave antenna. This is again subject to limitations which have similar characteristics to Class A of Part 18 but which are more restrictive, for example, in terms of size and number of antenna permitted. Class B is also subject to conditions associated with siting, removal of redundant equipment and measurement.

Part 32 of the GDO relates to ‘Development for National Security Purposes’. Class C provides for Development by or on behalf of the Crown for national security purposes in, on, over or under Crown land. A summary of Class C is now provided:

- The installation, alteration or replacement of any electronic communications apparatus. However development is not permitted if:

  - It involves the installation of a mast or antenna which is not a replacement of an existing one;
- When altering or replacing apparatus already installed (other than on a building) the apparatus, excluding any antenna, will exceed either the height of the existing apparatus or 15 metres above ground level;

- In the case of the alteration or replacement of apparatus on a building the height would exceed the height of the existing apparatus or 15m where it is installed on a building which is over 30m high or 10m in any other case, whichever is the greater;

- In the case of the alteration or replacement of apparatus on a building, the highest part of the apparatus when altered or replaced would exceed the height of the highest part of the building by more than the height of the existing apparatus or 10m where it is installed on a building of 30m plus in height or 8m where the building is between 15m and 30m or 6m in any other case, whichever is the greater;

- In the case of the installation, alteration or replacement of any apparatus other than a mast, an antenna, any apparatus which does not project above the surface of the ground; or equipment housing, the ground area would exceed the ground/base area of the existing structure or 1.5m, whichever is the greater;

- In the case of the alteration or replacement of an antenna on a building (other than a mast) which is less than 15m in height; on a mast located on such a building; or, where the antenna is to be located below a height of 15m above ground level, on a building (other than a mast) which is 15m or more in height, the antenna is located on a wall or roof slope facing a highway which is within 20m of the building on which the antenna will be placed; or in the case of dish antennas the size of any dish would exceed the size of the existing dish or 1.3m;

- In the case of the alteration or replacement of a dish antenna on a building (other than an mast) which is 15m or more in height, or on a mast on such a building, where the antenna is located at a height of 15m or above, measured from ground level, the size of any dish would exceed the size of the existing dish or 1.3m;

- In the case of the installation, alteration or replacement of equipment housing the development is not ancillary to the use of any other electronic communications apparatus, or the development would exceed 90 cubic metres or, if located on the roof of a building, it would exceed 30 cubic metres;

- The installation, alteration or replacement of any electronic communications apparatus is not permitted if it will result in the installation of more than one item of apparatus on a site in addition to the apparatus already on the site;

- The installation, of any electronic communications apparatus is not permitted in conservation areas, AONBs or National Parks unless it is on a site on which there is existing electronic communications apparatus and is installed as close as reasonably practicable to any existing apparatus;

- The use of land in an emergency for a period not exceeding six months to station and operate moveable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, and the installation of one or more antennas under Class C.3, is on condition that:
- Except in an emergency appropriate notice is given to the Department at least 28 days before development is begun;

- In an emergency appropriate notice is given as soon as possible; and

- The notice shall be accompanied by a declaration that the proposed equipment and installation is designed to be in full compliance with the requirements of radio frequency public exposure guidelines;

- Development ancillary to radio equipment housing. This development and the installation, alteration or replacement of any electronic communications apparatus on a building (Class C(a)) should be sited as to minimise its effect on the external appearance of the building;

- This PD right is permitted subject to a requirement to give notice of the proposed development to the owner or occupier of the land to which the development relates.

Given the complexity of the PD rights granted under Part 32 and its subsequent conditions, Part 32 is provided in full in Appendix E.

9.3 **PD Rights in Other Nations**

The key difference between the England & Wales system and Northern Ireland is that in England and Wales there are PD rights granted for the erection of masts and antennas up to a height of 15 metres, depending on their location. In the Republic of Ireland exempted development is more detailed but in the case of masts and antennae the legislation is actually slightly less permissive than in England. However, like Northern Ireland, the erection of new masts is not exempted. Further detail on the PD rights provided in other nations can be seen in Appendix C.

9.4 **Current Volume of Applications for Telecommunications**

The analysis of planning application data shows how many applications related to telecommunications were submitted over the period. These are summarised in Table 9.1.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Telecommunication Applications</td>
<td>7</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>1.80</td>
</tr>
</tbody>
</table>

Fewer than 2% of our sample were for telecommunication development, this does not represent a significant percentage of the sample. It would not therefore appear that there would be significant application savings from
reforming this part of the GDO. However, in light of the 2003 Review and subsequent provision of PD rights for
the Crown it may be appropriate to consider some changes.

9.5  Planning Policies

Both national and development plan policy indicates that the telecommunication industry is set to expand over the
next decade. A drive is set out in national policy for the expansion of telecommunication development to increase
quality of life and provide economic benefits, whilst minimising environmental impacts. The introduction of
extended PD rights could assist the development of this side of the economy, provided telecommunication
development does not have adverse amenity impacts. The position set out in national and development plan policy
for telecommunications is provided in further detail in Appendix D.

9.6  Previous PD Reviews and Possible Areas for Change

9.6.1  PD Review 2003 and Planning Service Analysis

The Planning Service for Northern Ireland reviewed the new permitted development rights set out in 2003 for Part
17 of the GDO. It was stated in the Planning Services’ analysis that:

_The consultants found that the current Part 17 PD rights (introduced in 2003), whilst more
restrictive than previous PD rights, had not significantly increased the Planning Service workload.
Previously staff had spent a considerable amount of time dealing with queries on whether
equipment was de minimis and whether or not prior approval or a planning application was
required. Under the current system everyone knows that mobile phone equipment requires a
planning application and, in the absence of queries, staff can concentrate on determining
applications._

This suggests that any extension of telecommunication PD rights would have to be very clear to avoid the
confusion that led to negligible benefit when PD rights were greater prior to 2003.

Discussions with Planning Service staff as part of the Lichfield Review indicated that there may be scope for
introducing limited PD rights for additional equipment on existing masts:

_Ground based masts – scope to introduce PD rights for additional antenna on ground based masts
provided that this did not increase the height of the structure. This approach was supported by
mobile phone companies such as Orange and could help encourage site sharing in accordance
with policy aims._
Creating the environment for business

Roof top antennas – similarly to ground based masts there was scope to introduce PD rights for installing antennas on existing masts on buildings, provided that the buildings were above a certain height.

The Lichfield Review recognised that PD rights were very restrictive thus affecting the roll out of new technologies but that the issue of masts and antennas is a sensitive one with much speculation over the perceived health implications. Returning to less restrictive PD rights was not therefore an option. The review did however propose to consider introducing limited PD rights for additional equipment on existing masts without the need for planning permission.

In light of the Lichfield Review and the subsequent public consultation the Department when removing Crown immunity from the planning system and providing PD rights, included in Class C of Part 32 of the GDO (crown electronic communications development for national security purposes) a condition requiring that development consisting of the installation of one or more antennas shall be preceded by written notice to the Department of the intention to carry out the development. This notice is to include a declaration that the equipment to be installed is designed to be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Nonionising Radiation Protection (ICNIRP). The PD rights in Scotland and Wales both contain the same condition where the development consists of the installation of one or more antennas. It was considered at the time that any later provision in Part 17 for the addition of equipment to existing masts could adopt a similar approach.

9.6.2 Other Reviews

Other previous reviews referred to in other sections of the Report such as the England and Wales Non-Householder Minor Developments Review 2008 and Scotland PD Review 2007 do not contain any recommendations for telecommunication development.

Summary

The Lichfield Review and subsequent consultation indicated that there was potential for new PD rights regarding telecommunication development.

9.7 Stakeholder Views on Current System and Possible Areas for Change

9.7.1 Views of Development Management Working Group (DMWG)

The group were reluctant to visit any extension to PD rights for telecommunications. However they did feel that mast sharing may be worth considering, subject to a maximum height threshold and a maximum number of antennas on the mast.
9.7.2 Other Stakeholder Views

A stakeholder response was received from National Grid Wireless (NGW) who own and operate the radio and television broadcast networks that transmit across the whole of the UK. NGW expressed interest in Part 17 of the GDO, that as seen above was amended in 2003 and removed some PD rights for the installation of new, additional or replacement apparatus by a telecommunications code subsystem operator.

NGW expressed that they felt there was scope to reintroduce some PD rights within Part 17 of the GDO to encourage the sharing of existing electronic communications installations. NGW concluded that the following PD rights should be re-instated:

- Replacement of existing apparatus on an existing mast;
- Alteration / addition of new apparatus on an existing mast;
- Modest extension of a large mast e.g. 10% height increase to a mast over 25m; and
- Small ground based cabinets.

Further points culminating from NGW’s response are as follows:

- The prior approval system used in England is not particularly liked, especially by LPAs and community. This therefore suggests a move away from Prior Approval;
- Certain forms of PD rights could require a prior notification (not prior approval) to planning service; e.g. where installing new antennas – refer to Scottish GDO (Part 20) requirements;
- English and Scottish GPDO rights have different approaches to rooftop PD rights. Northern Ireland PD rights could follow either of those i.e. a limit on number/height/size of apparatus or number of antenna systems;
- The GDO does not provide for installations in the event of a significant public emergency / incident, or where an installation has fallen either through incident or deliberate; and
- Part 17 should not be just limited to mobile phone operators, as at present there are 150 code system operators which could normally benefit from PD rights. This places Northern Ireland at a competitive disadvantage against other parts of the UK, meaning that a new code operator will go to England or Scotland rather than Northern Ireland.

A second response was received from the Mobile Operators Association (MOA) who represent the five UK mobile network operators on radio frequency health and safety and associated town planning issues. The MOA stated that PD rights could be extended to include certain low visual impact telecommunications development. It was argued that if such PD rights were introduced a notification procedure similar to that used in Scotland could be used to ensure the planning authority remained aware of all telecommunications development. MOA envisage that within
specifically designated areas PD rights could be more limited for more minor development to allow the relevant planning authority to retain control and safeguard such areas special qualities.

9.7.3 Summary

A number of stakeholder responses have been received setting out the importance of developing the telecommunication sector to Northern Ireland’s economy. A common view is taken that there is potential for PD rights to be extended to certain low visual impact telecommunication development. Whilst the potential for application savings does not warrant the GDO’s review, stakeholder responses, other reviews considered and the apparent disparity in Northern Ireland telecommunication PD rights with the rest of the UK suggests that there is a case for review.

9.8 Options for Change

The above sections highlight the rapidly developing nature of the telecommunications industry and the industry’s role in Northern Ireland’s economic development. National policy dictates the importance of telecommunication expansion and development throughout the country. As a consequence expanded PD rights may assist the industry’s growth and potentially through mast sharing reduce applications for completely new telecommunication infrastructure. Entec has therefore generated three options with regard to potential reform of the GDO in this area, these come out of the review of the English/Welsh system and the stakeholder responses:

**Option 1** - PD rights similar to England and Wales in permitting antennas and masts up to 15 metres in height on a building or other structure of 30 metres or more in height or 10 metres in any other case. Further PD rights would allow the replacement of existing apparatus on an existing mast and addition of new apparatus on an existing mast. Finally the Option would allow site and mast sharing by operators.

**Option 2** - PD rights remain the same apart from the introduction of those allowing for the replacement of existing apparatus on an existing mast, addition of new apparatus on an existing mast and site and mast sharing by operators.

**Option 3** - Under this Option, PD rights remain the same and are not extended.

Table 9.2 assesses the three options against economic, environmental, policy, social and administrative implications.

Other Options

Entec conclude that the requirement for an ICNIRP statement for any development involving the installation of one or more antennas is one that would be linked to Options 1 & 2 and therefore is considered under such options.
MOA’s comment that a notification procedure similar to that used in Scotland should be introduced is also recommended should PD rights be extended as this will ensure LPAs remain aware of all telecommunications development.

NGW argue Part 17 should not be just limited to mobile phone operators, as at present there are 150 code system operators which could normally benefit from PD rights. Entec agree this places Northern Ireland at a competitive disadvantage against other parts of the UK and therefore propose the Part is reformed to allow all code system operators Part 17 rights.

NGW do propose a potential option in the form of small ground based cabinets. However these are already permitted in the GDO up to 90 cubic metres. Entec conclude that this PD right is presently set at a suitable level as otherwise level 3 impacts may occur.

The GDO does not provide for installations in the event of a significant public emergency / incident, or where an installation has fallen either through incident or deliberate. Entec recommends that similar provisions are made in Part 17 of the GDO as in Part 32 in relation to development necessary in the case of an emergency.
### Table 9.2  Telecommunications: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 1 – Recommend all proposed PD rights</td>
<td>✓ Reduced application costs for operators</td>
</tr>
<tr>
<td></td>
<td>✓ Increased benefits to the NI economy from permitted extensions</td>
</tr>
<tr>
<td></td>
<td>✓ PD rights for shared masts &amp; apparatus will provide economic incentives &amp; savings to operators</td>
</tr>
<tr>
<td></td>
<td>✓ Offering PD rights similar to the rest of the UK, rids NI of economic disadvantage in telecommunication sector</td>
</tr>
</tbody>
</table>

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Page 114
# Telecommunications: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 2 – Limited extension for mast/apparatus sharing</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>✗</td>
</tr>
<tr>
<td>Option 3 – No extension of PD rights</td>
<td>✗</td>
</tr>
<tr>
<td></td>
<td>✗</td>
</tr>
</tbody>
</table>

---

**LEGEND**

- ✓ Positive Impact
- 0 No Impact
- ✗ Negative Impact
9.9 Recommendations for Change

On the basis of our assessment above we find Option 2 to be the preferred option. Whilst Option 2 provides less of the economic advantages of Option 1, it strikes an appropriate balance between extending rights for telecoms operators and also offering control over the environmental and social impacts of new masts. This should help minimise level 2/3/4 impacts resulting from new electronic communication apparatus that may produce impacts upon landscape, ecology, biodiversity and archaeology through land and operational disturbance that coincides with the construction of new masts. The Option enables the Planning Service to retain control over the impacts of such new apparatus. The following recommendation is therefore made:

- Addition to Part 17 allowing the use of electronic communication masts and apparatus by more than one operator.

This objective is achieved by the PD rights set out in Table 9.3.

Table 9.3 Recommended Changes to Telecommunication PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>PART 17 - DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS</td>
<td>Part 17 to be changed to apply to development by Electronic Communications Code Operators Replacement of an existing mast (which was previously erected under permitted development rights or with express planning permission) and replacement of apparatus on an existing mast. Extension of an existing mast by 10% above its original permitted height. Addition of new apparatus on an existing mast providing it does not extend the mast above 10% of its original permitted height (this extension of Part 17 rights to be subject to the same conditions as Part 32 C.3. The requirement for an ICNIRP statement for any development involving the installation of one or more antennas to be made a condition in Part 17. ‘Appropriate notice’ procedure to be used in Part 17 to ensure that the LPA’s remain aware of all electronic communications development undertaken under the new Part 17. Similar provisions to be made in Part 17 of the GDO as in Part 32 in relation to development necessary in the case of an emergency.</td>
<td>All the proposed PD rights are to be permitted in AONBs, National Parks, conservation areas, ASSIs and SAIs.</td>
</tr>
</tbody>
</table>
Following consultation on the proposed changes to Part 17 the Department should consider how changes to Part 17 can be “copied over” to Part 32 for the purposes of consistency.

9.10 Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 7 applications relating to telecommunications. The proposed reform to the GDO would not have prevented any of these applications. However whilst it appears from the sample that there would be little in the way of application savings, there still appears to be a good case for extending PD rights based on our research. The drive towards mast and apparatus sharing by operators should reduce applications for new electronic communication apparatus. This would in turn decrease application numbers in the long term.

9.11 Approach to Sensitive Areas

In AONBs and National Parks there is potential for electronic communication masts to have level 4 impacts when newly constructed. However Entec consider that the recommendation for telecommunication masts to extend by 10% or have additional apparatus attached to them will have negligible impact upon the landscape over a large area as the key impact is that it is already there. The avoidance of such level 4 impacts is one of the factors behind the selection of this option over option 1. With regard to AONBs and National Parks therefore the proposed PD rights would not have conditions attached in sensitive areas. The same approach is taken towards conservation areas, SAIs and ASSIs as once installed a 10% increase in height and new apparatus installed upon the masts is deemed negligible and unlikely to have impacts on wider nature, geological or archaeological value.
10. Commercial/Retail

10.1 Definitions

For the purpose of this study, commercial and retail uses are defined as they are in the Northern Ireland UCO. These are as follows:

10.1.1 Class A1: Shops

Use for all or any of the following purposes:

(a) For the retail sale of goods other than hot food;

(b) As a post office;

(c) For the sale of tickets or as a travel agency;

(d) For hairdressing;

(e) For the display of goods for retail sale;

(f) For the hiring out of domestic or personal goods or articles; or

(g) For the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises where the sale, display or service is to visiting members of the public.

10.1.2 Class A2: Financial, Professional and Other Services

Use for the provision of services which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public including:

- Financial services; or
- Professional services.

10.1.3 Class B1: Business

Use:

(a) As an office other than a use within Class A2 (Financial, professional and other services);
(b) As a call centre; or

(c) For research and development etc. (Note: covered under the Industry & R&D topic).

No classes are specified within the schedule for the sale of food and drink, restaurants, cafes, public houses, funeral undertakers, petrol stations or taxi business. In considering planning applications and potential reform of the GDO however these are also included within our definition of this topic. CCTV cameras are also included in the section as they come up in subsequent recommendations and the applications received for these were in town centre areas.

10.2 Background

Retail and Commerce uses enjoy little in the way of permitted development rights for modifications or extensions to buildings when compared to rights for housing or industry. This seems to reflect the fact that commercial and retail uses are often concentrated in town centres. Town centres are likely to be intensively developed with different land uses close to each other and the potential for impacts to occur. Furthermore town centres may be historic places, often additionally protected by legislation with an identity and character that is valued by a very broad range of community interests. Any changes to the GDO are therefore dependent on a set of variables including the size of a property, adjoining occupiers and the development’s purpose.

The only physical changes that the GDO permits for any of the town centre uses listed above are those under Part 2 which relate to minor operations involving boundary and access arrangements and painting. Specified categories of minor development in Town Centres are also permitted under Parts 12 and 13 when undertaken by Local Authorities, Highways Agencies and other Statutory Undertakers.

Part 3 (Change of Use) of the GDO permits certain changes in use for a number of retail and commercial uses. This Part permits the following change of uses:

- From A1 to A2 where the building has an existing display window;
- From A1 to mixed use within A1;
- A2 to mixed use within A2; and
- A2 to mixed use within A1.

Part 21 of the GDO provides permitted development rights for CCTV cameras. This is subject to a number of conditions including a limit of 16 cameras per building at a minimum of 10m intervals. There should be no more than 4 cameras per side of building, and cameras should not protrude over 1m and there is a size restriction on the camera itself. This permitted development right is withdrawn in conservation areas or SAs. Further similar PD rights for CCTV cameras are permitted when provided by the Department for Regional Development (Part 22, Class C), the Department (Part 26, Class B), the Crown (Part 32, Class B) and at prisons, juvenile justice centres or
young offender centres (Part 27, Class B) under certain conditions. A more detailed summary of these PD rights is provided in Appendix C.

10.3 PD Rights in Other Nations

Throughout the UK similar PD rights exist for minor operations and development by district councils. Similar PD rights exist for CCTV cameras in England & Wales but are not permitted in Scotland. However PD rights regarding change of use are more permissive in Northern Ireland than the rest of the UK or Republic of Ireland. Greater detail of the differences between the respective nations PD rights with regard to retail and commercial development are provided in Appendix C.

10.4 Current Volume of Applications for Commercial & Retail Use

The analysis of planning application data shows how many commercial & retail related applications were submitted over the period. These are summarised in Table 10.1.

Table 10.1 Sampled Applications for Commercial / Retail Development

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Commercial/Retail Applications</td>
<td>138</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>35.57</td>
</tr>
</tbody>
</table>

Just over 35% of our sample constituted development within our commercial or retail definitions. This topic makes up the largest segment of our sample. Given the high number of applications for commercial or retail development, there is clear potential for increased PD rights within the topic, providing they can be regulated to minimise impacts on neighbours and visual amenity.

10.5 Planning Policies

National planning policy sets out to maintain an efficient, competitive and innovative retail sector whilst sustaining the vitality and viability of town centres. Such objectives are to be based on sustainable development principles. Development plan policy supports a retail hierarchy and in general will grant planning permission for minor external alterations subject to design and location. Planning policy for retail & commercial development is discussed in greater detail in Appendix D.
10.6 Previous PD reviews and Possible Areas for change

10.6.1 PD Review 2003 and Planning Service Analysis

Following the consultation on the 2003 Lichfield Review a number of recommendations for commercial and retail were considered by Planning Service. It was recommended to provide permitted development for licensed street markets. The further expansion of permitted development for closed circuit television cameras was recommended, allowing CCTV cameras to be erected not only on buildings but also on existing poles and other structures. This was taken into account when removing Crown immunity from planning and providing permitted development rights in Parts 22, 26, 27 and 32.

10.6.2 England and Wales Non Householder Minor Development Review 2008

The White Young Green Report proposed a new Part of the GPDO specifically aimed at retail and town centres. A suggestion is made in the Report that sets out to encourage LPAs to draw up their own LDOs for new shopfronts, perhaps by making use of the design guidance many have already prepared. In the meantime, national design guides may serve as a material consideration when a planning application is considered. This guidance would be superseded once an LDO tailored by the LPA to the local context came into effect.

Further WYG Proposed the following extended PD rights:

- Changes to façades and alterations to existing shopfronts within the existing opening of the shopfront and the installation of ATMs as hole in the wall devices to be subject to Minor Development Certificates, this would exclude security shutters, and not apply within conservation areas;

- Plant and equipment to be subject to a MDC to control potentially adverse impacts such as noise and odour;

- PD rights for extensions, and external alterations in the form of new door or window openings, shutters and other surface fittings, subject to:
  - Max 50 sq m of floorspace per building;
  - Height no greater than 5m;
  - Not within 2m of a boundary;
  - Materials to match existing building;
  - Not within the curtilage of a listed building;
  - Not in front of an existing building;
- New permeable (or porous) hardstandings up to 50 sq m; and
- No basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding.

- Construction of trolley & bin stores away from the main building providing their proximity to the boundary of residential property is over 20m, they are below 2.5m in height; and their floor area does not exceed 20 sq m.

Further WYG propose the following additional controls that involve removing some existing PD rights:

- New or replacement areas of hardstanding provided by LPAs under Part 12 or by other undertakers under Parts 13-17 to be constructed from permeable paving;
- Street Furniture within Conservation Areas to be brought under planning control provided by LPAs under Part 12 [or other undertakers Parts 13-17].

In relation to offices the WYG Report proposed a new part providing the following:

- Max 50 sq m extension per existing building up to 25 per cent extra floorspace;
- Height no greater than existing building, if within 10m of a boundary max height of 5m;
- Not within 5m of a boundary, or facing a highway;
- Materials to match existing building;
- Not within the curtilage of a listed building;
- No loss of turning/manoeuvring space for vehicles;
- Permeable (or porous) hardstanding up to 50 sq m;
- Plant and equipment to require a minor development certificate; and
- No basements in flood risk zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding.

10.6.3 Summary

A number of recommendations made in the WYG Report refer to the use of MDCs in regulating PD rights for changes to facades and alterations to existing shopfronts, the installation of ATMs as ‘hole in the wall devices’ and plant & equipment. As set out in Section 6, Entec are not recommending that a prior approval system be introduced in Northern Ireland. WYG outline that such development is to be subject to an MDC as it has the potential to have impacts on the wider streetscape and therefore needs to be controlled. Entec concur with this view and therefore as prior approval is not proposed in NI, it is concluded that PD rights should not be extended to
cover these recommendations. Further it is noted that ATMs are already considered to be PD in Northern Ireland anyway.\(^{18}\)

10.7 Stakeholder Views on Current System/Possible Areas for Change

10.7.1 Views of Development Management Working Group

Generally, principal planning officers felt that minor applications did not create a serious pressure and could be handled by less senior officers. Reducing minor applications however could free up their resources to assist on large applications. Whilst there would be a reduction in fee income it would lead to increased resources being available and therefore in theory the delivery of a better service.

Whilst there was no overwhelming support from principal planning officers for permitted development rights to be extended in any areas, there was some support to add a tolerance for the extension of retail premises into the GDO.

10.7.2 Other Stakeholder Views

There were no comments from stakeholders about potential reform of the GDO with regard to this topic.

10.7.3 Summary

Whilst there was no major support for reform of PD rights in this area the principal planning officers comments do suggest there is some potential for the area to be reformed with particular mention once again made to the extension of retail premises. If such changes were made it would lead to increased resources being available to determine major applications. In addition the WYG review also recommended extending PD rights in the commercial and retail sector. On this basis Entec consider it appropriate to examine options for change.

10.8 Options for Change

All the above sections highlight some potential for a change in PD rights. As a result the following three options are taken forward for further appraisal:

\(^{18}\) Taken from letter from J B Davidson, Divisional Planning Officer to S Martin on 16th August 1985
Option 1 - PD rights for extensions and alterations on retail, food/drink serving premises and offices up to 50 sq m (floorspace) per building are permitted, providing they remain under 25% total floorspace, subject to conditions regarding location, height, design and flood risk. Further this option grants PD rights for changes to façades and alterations to existing shopfronts within the existing opening of the shopfront. (This would operate without any kind of Minor Development Certificate system, as suggested by the England and Wales Non-Householder Minor Developments Review 2008 as Entec are not proposing such a system for Northern Ireland). The option also introduces PD rights for CCTV, trolley/bin stores and licensed street markets as set out in the reviews discussed above.

Option 2 – Under this Option, extensions to retail, food-serving premises and offices are permitted as in Option 1. Again CCTV, trolley/bin stores and licensed street market PD rights are proposed. However this Option does not include PD rights for changes to facades and alterations to existing shopfronts.

Option 3 – Under this Option, PD rights remain the same and are not extended.

Table 10.2 assesses the three options against economic, environmental, policy, social and administrative implications.
### Table 10.2 Commercial / Retail: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>ECONOMIC</strong></td>
</tr>
<tr>
<td>Option 1 – Recommend all proposed PD rights</td>
<td>✓ Reduced application costs for business ✓ Increased commerce &amp; jobs from permitted extensions ✓ Reduced PS case load. 12% less applications in retail/commercial topic</td>
</tr>
</tbody>
</table>
### Commercial / Retail: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td>Option 2 – All recommendations except facades &amp; alterations</td>
<td>✓ Reduced application costs for businesses making applications regarding extensions</td>
</tr>
<tr>
<td>✓ Increased commerce &amp; jobs from permitted extensions</td>
<td>✗ Potential level 4 impacts through increased surface runoff &amp; emissions caused by extensions, increasing urban density when building on green land.</td>
</tr>
<tr>
<td>✓ Reduced PS case load. 5% less applications in retail/commercial topic</td>
<td>✗ Potential level 3 impacts if design of extensions doesn’t match existing materials/buildings or is of poor design quality. Relates to design as prioritised in draft PPS5.</td>
</tr>
</tbody>
</table>
### Table 10.2 (continued) Commercial / Retail: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td>Option 3 – No extension of PD rights</td>
<td>×  Restrictions commercial development &amp; increases costs to business in applying for planning permission</td>
</tr>
</tbody>
</table>

**LEGEND**

✓  Positive Impact

0  No Impact

×  Negative Impact
10.9 **Other Potential Changes**

The following changes come out of the WYG Report and are considered here outside of the options appraisal.

### Table 10.3 Other Potential Changes to Commercial/Retail in GDO

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>New or replacement areas of hardstanding provided by LPAs under Part 12 or by other undertakers under Parts 13-17 to be constructed from permeable paving.</td>
<td>This change ties in with our flooding recommendations. As set out in WYG this recommendation seeks to ensure that PD does not increase run-off into the drainage system.</td>
</tr>
<tr>
<td>Street Furniture within Conservation Areas to be brought under planning control provided by LPAs under Part 12 or other undertakers Parts 13.</td>
<td>Entec do not propose this recommendation is taken forward because it would potentially add significant burden to the Planning Service in terms of application numbers. It is concluded that given such development would be carried out by public bodies such as District Councils anyway they should have a responsibility to ensure such street furniture is in keeping with the conservation area anyway.</td>
</tr>
</tbody>
</table>

10.10 **Recommendations for Change**

From the table above Option 2 is taken forward as the favoured option. The Option provides greater flexibility for commercial or retail businesses thus allowing for new jobs and improved vibrancy in such areas, in line with policy. Its introduction will reduce minor applications for the Planning Service to determine therefore providing greater potential for resources to determine major applications. The Option retains control over the impacts on the streetscape as a whole. The conditions set out within the recommendation take into account flooding conditions in the Northern Ireland context. In conclusion the rights set out in Table 10.5 are recommended.
Table 10.4  Recommended Changes to Commercial & Retail PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>
| Part 3 (Changes of use) grants a number of PD rights for the change of use between a number of commercial & retail operations. Minor developments in town centres are also permitted under Parts 12-17 when undertaken by Local Authorities, Highways Agencies and other Statutory Undertakers. | New Part – Retail & Town Centre Uses
PD rights for extensions, and external alterations in the form of new door or window openings, shutters and other surface fittings, subject to:  
- Max 50 sq m of floorspace per building;  
- A maximum of 5m in height;  
- Not within 2m of boundary;  
- Materials to match existing building;  
- Not permitted development within the curtilage of a listed building unless listed building consent for the development has previously been granted;  
- Not in front of the existing building;  
- New permeable (or porous) hardstandings up to 50 sq m; and  
- No basements in flood plains.
This part permits development on the uses set out in the definition section at the start of the chapter. | PD rights for extensions & alterations to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs.

Construction of trolley & bin stores away from the main building providing:  
- Not within 20m of residential property boundary;  
- Not more than 2.5m in height; and

Permitted development for licensed street markets for the number of days specified in the licence. | Erection of trolley stores to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs. | Permitted in all sensitive areas.

Parts 21, 22, 26, 27 & 32 of the GDO provide permitted development rights for CCTV cameras. | PD rights to allow CCTV cameras to be erected not only on buildings but also on existing poles and other structures, subject to conditions. | CCTV cameras to be permitted in National Parks, AONBs, & ASSIs but removed in CAs & SAIs.

A new part for offices permitting a maximum of 50 sq m of extensions or alterations per existing building up to 25% extra floorspace:  
- Height no greater than existing building, if within 10m of a boundary max height of 5m;  
- Not within 5m of a boundary, or facing a highway;  
- Materials to match existing building;  
- Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
- No loss of turning / manoeuvring space for vehicles;  
- New permeable (or porous) hardstandings up to 50 sq m; and  
- No basements in flood plains.
| PD rights for extensions & alterations to offices to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAIs. |
Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 138 applications relating to retail and commercial uses. Table 10.8 sets out the savings that would be achieved if the recommendations above were introduced both within the sample and Northern Ireland throughout 2007/2008.

Table 10.5 Predicted Savings in Retail & Commercial Applications

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>No. of applications saved</th>
<th>% apps. saved in topic</th>
<th>% apps. saved in total</th>
</tr>
</thead>
<tbody>
<tr>
<td>PD right for retail/food &amp; drink extensions &amp; alterations up to 50 sq m</td>
<td>2</td>
<td>1.45</td>
<td>0.52</td>
</tr>
<tr>
<td>PD rights to allow the erection of trolley stores up to 20 sq m</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>PD rights for licensed street markets</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>PD to allow CCTV cameras to be erected on existing poles &amp; other structures</td>
<td>4</td>
<td>2.90</td>
<td>1.03</td>
</tr>
<tr>
<td>PD right for office extensions &amp; alterations up to 50 sq m</td>
<td>1</td>
<td>0.26</td>
<td>0.72</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7</strong></td>
<td><strong>5.07</strong></td>
<td><strong>1.80</strong></td>
</tr>
<tr>
<td><strong>Total saved in Northern Ireland (2007-2008) if all recommendations implemented</strong></td>
<td><strong>108</strong></td>
<td><strong>5.07</strong></td>
<td><strong>1.80</strong></td>
</tr>
</tbody>
</table>

The potential savings made from Entec’s recommendations are notable within both the topic itself and the total sample. Over the course of a year they will decrease Planning Service workload and potentially free up resources to deal with major applications. Providing suitable conditions are introduced alongside the proposals the impact of the extended rights on surrounding land uses will be negligible.

Approach to Sensitive Areas

With regard to extensions to the existing premises, the recommended rights are not considered to have extensive impacts on AONBs or National Parks as the size of these areas and the PD limits suggested should ensure that wider impacts regarding external appearance will be minimal. The size of development offered under the recommended rights and the conditions upon them should prove suitable regulation in AONBs and National Parks. However given their smaller scale Entec conclude the converse for conservation areas and therefore recommend removing the mentioned PD rights in them.

However the construction and disturbance caused upon ASSIs and SAIs through PD rights for alterations or extensions/alterations to retail, food/drink or office premises may harm features of natural or archaeological value. It is therefore proposed that these rights would be removed in ASSIs and SAIs.
The proposal to permit development for trolley and bin stores may also produce level 3 impacts through their external appearance in conservation areas, ASSIs or SAIs. PD rights for such stores are therefore to be excluded in Conservation Areas, ASSIs and SAIs.

The GDO at present does not permit CCTV in conservation areas or SAIs, except in the special cases of Parts 27 and 32 outlined above. Given the historic nature of such areas, there could be potential impacts from CCTV on the character of these areas and therefore this condition is to be carried forward for the suggested PD right.

Table 10.6 provides a summary of the recommendations various elements and whether or not is to be permitted in the different sensitive areas.

**Table 10.6  Summary of Final Recommendations Introduction into Sensitive Areas**

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>National Park</th>
<th>AONB</th>
<th>ASSI</th>
<th>SAI</th>
<th>Conservation Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>PD right for retail/food &amp; drink extensions &amp; alterations up to 50 sq m</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>PD rights to allow the erection of trolley stores up to 20 sq m</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>PD rights for licensed street markets</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>PD to allow CCTV cameras to be erected on existing poles &amp; other structures</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>PD right for office extensions &amp; alterations up to 50 sq m</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
</tbody>
</table>

**LEGEND**

✓  Remains Permitted

✗  Excluded via condition
11. Rural Areas

11.1 Definitions

This section focuses on rural areas with particular reference given to agricultural development and diversification and equestrian use. Caravan sites are also covered under this section.

11.2 Background

The agricultural sector remains a key part of the Northern Ireland economy. As a result the GDO grants extensive PD rights for agricultural development when compared to other topics. This includes the erection, extension and alteration of buildings, excavation and engineering operations, winning and working of minerals and creation of access to a road, all for the purposes of agriculture. Further the erection, extension or alteration of a building is permitted up to 300 sq m, provided it remains in agricultural use and complies with certain locational requirements.

11.3 PD Rights in Surrounding Nations

The systems used in England & Wales and Scotland contain a number of parallels to the PD rights under the Northern Ireland GDO. However the England & Wales GPDO provides a two tier agricultural PD right system related to the size of the agricultural unit. However the Northern Ireland system provides an extra PD right regarding the construction, formation, laying out or alteration of a means of access to a road on an agricultural development. In England and Wales the erection, extension or alteration of an agricultural building is permitted up to a greater floorspace of 465 sq m. There is little crossover between these systems and the Republic of Ireland system, that is a lot more specific in terms of use. A more detailed comparison of the permitted rights throughout the UK and the Republic of Ireland is provided in Appendix C.

11.4 Current Volumes of Applications for Rural Areas

From the application sample it was not possible to easily identify which applications related purely to rural areas. Entec therefore focused on agricultural and equestrian development. All the applications noted within the sample were within the agricultural category and none were identified for equestrian uses. The analysis of planning application data therefore shows how many applications related to agricultural development were submitted over the period. These are summarised in Table 11.1.
Table 11.1 Sampled Applications for Agricultural Development

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Agricultural related Applications</td>
<td>43</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>11.08</td>
</tr>
</tbody>
</table>

Just over 11% of our sample was for agricultural development. This represents a significant proportion of the sample. As a result revised PD rights may offer potential for significant savings in applications and possibly regularise some ongoing development without planning permission. It is concluded that the sample is large enough to justify the review of PD rights with reference to rural areas.

11.5 Planning Policies

National and development plan policy provides support for agricultural development and stresses the economic role the sector still has to play in Northern Ireland. As a consequence a prime objective is to maintain agricultural operations and land. The diversification of agricultural operations is also encouraged in national and development plan policy under the right conditions. The position of both national and development plan policy with regard to rural areas is provided in further detail in Appendix D.

11.6 Previous PD Reviews and Possible Areas for Change

11.6.1 PD Review 2003 and Planning Service Analysis

The 2003 Lichfield Report found a number of concerns with Part 6 PD rights of the GDO. The Report concluded that the Part was poorly drafted and failed to align with government policy on farm diversification, the maintenance and enhancement of the rural economy, sustainable development, safeguarding the character of the countryside, the green belt, countryside access and the Northern Ireland Waste Strategy.

Both regulators and interest groups consulted in the Lichfield Review voiced concerns about monitoring agricultural PD, specifically in relation to whether it related to land genuinely in agricultural use. Other problems identified included long agricultural tracks made with inappropriate materials, importation and illegal dumping of waste, and insufficient protection for ASSIs. Farmers, on the other hand, felt that other legislation prevented harm but that, in trying to run their agricultural businesses, they had to deal with complex and in some instances, overlapping and legislation – of which Part 6 was but one small component. Nathaniel Lichfield noted that:

*Despite strongly contrasting views of interest groups and farmers, there was a common desire that Part 6 PDRs should permit farmers to proceed with modest development of their land, aimed at meeting genuine agricultural and countryside stewardship requirements. This development needed*
The changes proposed in the Lichfield Report aimed to pay particular regard to government commitment to the maintenance of a strong, sustainable, competitive, diverse and environmentally friendly industry. It was also recognised that, as far as possible, the regulatory burdens on farmers should be reduced, given the chronic difficulties facing the industry in Northern Ireland. It was concluded that any PD rights to permit farmers to proceed with modest development should be in scale and character with existing buildings, and not damage the landscape, amenity or environmental quality of the land itself. As a result the Planning Service Policy Papers reviewing the Lichfield Report proposed the following changes and alterations to the GDO:

- Review the 0.5 ha. minimum size of holding to which Part 6 rights apply and assess whether it should be increased;
- Review building/structure size limits against current and forecast farming requirements for livestock and grain/other storage, and against design, environmental, and visual impact factors;
- Require that the erection of any first building on an agricultural unit has planning permission, to enable future development to be controlled;
- Clarify that agricultural land must be actively used/occupied and that the proposed development must be ‘reasonably necessary for the purposes of agriculture’ on that unit;
- Prevent the importation or tipping of waste from being capable of being defined as an engineering operation, by specifically excluding waste from Part 6;
- For new development, add a distance limitation from boundaries and original farm buildings;
- Introduce “cordon sanitaire” minimum proximity thresholds for PDRs for buildings for the accommodation of livestock or for the storage of slurry or sewage and “protected buildings” (not to be within 400 metres of the curtilage of a building occupied by people other than a building within the agricultural unit);
- Produce a “GDO user Guide for Farmers”; and
- Examine the scope for minor changes of use for redundant farm buildings to business, industrial or warehouse Use Classes, as a change to Part 3 of the GDO. Further research needed to identify the likely costs and benefits in relation to, for example, transport policy implications and to the absence of scope to control such development by condition.

Finally a key conclusion culminating from the Planning Service Policy Papers was that a staged process of change would be needed by which agricultural PD rights would be tightened, particularly in Areas of Special Scientific Interest (ASSI). The Papers suggest that PD rights could be removed for all Part 6 classes of development within ASSIs, that the current restriction on development in areas of archaeological interest in Class C should be retained and that further consideration should be given to extending this restriction to Class B.
11.6.2 England and Wales Non Householder Minor Development Review 2008

The White Young Green (WYG) Report for England includes a specific section discussing rural areas in which recommendations are made with reference to the sector.

The WYG Report focuses particularly on farm diversification to be supported by increased PD rights that support national economic trends moving away from agriculture. The report therefore proposes PD rights allowing the change of use of an agricultural building to the making of products from produce/materials produced on the farm, the sale of produce from the farm and neighbouring farms and ancillary storage uses. Naturally such PD rights would be subject to conditions. The Report also proposes a permitted change of use encouraging diversification on agricultural land to recreational equestrianism use. It also proposes to make the erection of structures to house biomass boilers and biomass digesters and the importation of waste for landfill to be made subject to MDCs. The recommendations made are as follows:

Change of use of an agricultural building on an agricultural unit of 5 hectares or more to:

- The making of products from produce/materials grown or reared on the farm;
- The selling of produce/products grown within a 10 mile radius, and other products which account for no more than 20% of the sales area;
- Storage and distribution uses (but no subsequent change to B1)\(^{19}\).

The following limitations are proposed for these three rights:

- Farm unit to be larger than 5 hectares;
- The total amount of buildings used for farm diversification purposes shall not exceed 235m\(^2\) per agricultural unit, of which no more than 120m\(^2\) shall comprise a farm shop;
- At least 80 per cent of the sales area in farm shops shall be given over to produce/products grown within a 10 mile radius;
- The buildings have been in an agricultural use for 5 or more years and are of permanent construction;
- Storage use not within an AONB, National Park or Conservation Area;

\(^{19}\) Use Class B1 in England and Wales is equivalent to B1 and B2 together in Northern Ireland.
Creating the environment for business

- The building is not a listed building;
- The building shall continue to be part of the agricultural unit; and
- If the building is no longer needed for one of these uses it shall revert to an agricultural use.

Further WYG recommend a number of PD rights to encourage equestrian use:

- Change of use of land to recreational equestrian use subject to the area being no smaller than 1 ha, subject to:
  - No more than two horses at any one time being kept on any 1ha plot;
  - The 1ha site not being subdivided in anyway and all the land being kept available for the grazing and keeping of horses at all times; and
  - No equestrian business to be carried out.

- The erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land, subject to:
  - No fences, walls or structures of any kind shall be erected if these subdivide the 1ha site area; and
  - No fence, walls or structures of any kind shall be erected if these exceed 1.4m in height.

- The erection of a field shelter solely to be used for the keeping of horses for recreational use, subject to:
  - The building shall not exceed 3.0m in height;
  - The building shall have a footprint no greater than 36m²;
  - Only one building shall be constructed per 1ha plot of land;
  - If the shelter is no longer required for the keeping of horses it shall be removed within one calendar month;
  - The building shall be a minimum of 5m from any boundary with a public highway or a neighbouring residential property;
  - The field shelter shall be positioned on permeable (or porous) hardstanding of no more than 50 sq m;
  - If the site is within an AONB or National Park, a Minor Development Certificate required;
  - No internal subdivisions, lighting or electricity to be fitted; and
  - Completely open fronted.
The use of temporary jumps, subject to:
- No more than eight may be positioned on any 1ha plot at any one time; and
- The jumps shall only be in place on the site for no more than 52 days per calendar year.

The WYG Review considered the potential for a waste management class. Some of their recommendations related to agricultural development.

- A new class D (part 6) for agricultural buildings and operations allowing the erection of structures to house biomass boilers and anaerobic digesters (provided only waste generated on the farm holding is disposed of) to be subject to the Minor Development Procedure; and
- A new Class E allowing the importation of waste for landfill and other operations to be subject to the Minor Development Certificate procedure.

11.6.3 Summary

The previous reviews assessed provide justification for considering a review of PD rights in Northern Ireland and make a number of recommendations that could be considered as potential options for change. The recommendation for some form of GDO user guide and ultimately an improvement in the GDO’s readability has been discussed in section 6. The WYG recommendation referring to the sale of produce from that made on the farm is potentially PD in Northern Ireland based on correspondence provided to us by the Planning Service\(^\text{20}\), providing goods are not imported from elsewhere. However we consider these potential PD rights later on, as by including them, the situation could be clarified. It is noted here that the 5 hectare limitation placed on these rights and the right permitting storage and distribution uses by White Young Green is related to the two tier system used in Part 6 of the English GPDO. Given no such system exists in Northern Ireland it is noted that PD rights for farm diversification could apply to agricultural units at a smaller threshold.

As was concluded in Section 6, the MDC system is not to be taken forward in Northern Ireland. The condition subjecting the erection of a field shelter to an MDC in AONBs and National Parks in the WYG report suggests that potential impacts could arise from such development which needs to be controlled. As a prior approval system is not proposed for Northern Ireland then the removal of PD rights or more restrictive limits should be considered in such areas.

Further it is concluded that the recommendations culminating from the 2003 Lichfield Review of the Northern Ireland GDO and subsequent Planning Service Policy Papers are in some cases unspecific or set out requirements

\(^{20}\) Reference taken from letter dated 11th April 1994 from W. Wilson of Planning Service
for further assessment. We have not undertaken extra research on these but have reviewed these recommendations in light of stakeholder feedback in the other potential changes section.

11.7 **Stakeholder Views on Current System and Possible Areas for Change**

The Ulster Farmers Union provided a response relating to changes to agricultural PD rights:

- UFU maintain that lack of planning control for farmyards has never caused any real problems for overall planning policy in Northern Ireland. The additional existing powers for large buildings, IPCC, proximity etc. are existing and sufficient controls;

- Change of use regulations are already in place and therefore agricultural use is already satisfactorily ringfenced;

- Proximity thresholds are not acceptable in relation to distance from roads;

- ASSIs (and related legislation) are already controlled by DARD and the Northern Ireland Environment Agency;

- It is proposed that PD rights should be extended to 600 sq m for all agricultural buildings; and

- It was noted that a PD User guide would be useful.

A further response received from the Department of Agriculture and Rural Development (DARD) contained the following points regarding agricultural PD rights:

- The DARD has no objection with regard to proximity thresholds as farm buildings adjacent to roadways could have health and safety concerns and often can be unsightly;

- It is viewed as important that the dumping of waste remains a tightly controlled issue; however the GDO should allow flexibility for the disposal of soil/rubble (subject to conditions) within a farm unit. The importation of waste should continue to require permission;

- The GDO does not reflect the need / desire to screen new buildings which are exposed in the landscape without appropriate tree cover. This could be reflected in the mentioned User Guide.

The following summarised response was received from the Road Service, and pays reference to a number of considerations running through this chapter:

- Proximity thresholds are detailed in the Roads Order (NI) 1993, and the Roads (Amendment) (Northern Ireland) Order 2004. These were introduced to protect the structure of the road and there are no plans to alter this legislation;
Under Options 1 and 2 (seen below) Permitted Development Rights are granted to storage and distribution, recreational/equestrian use and an increase in floor area to 600m² (Option 1 only). Although there is a limit of 120 sq m for a building footprint, there is no limit on the amount of storage and/or display space allowed. There could be extensive areas of display for farm machinery or gardening equipment e.g. garden furniture/ornaments, and which could attract significant numbers of visitors;

If options 1 or 2 are accepted, and PD rights granted, it could result in the creation of a new access or the intensification of use of an access on to a protected route which would be contrary to PPS3 Access Movement and Parking. In addition if Options 1 and 2 are accepted, there is potential for a significant increase in traffic movements on narrow rural roads (some as narrow as 3.0m) many of which will not be adequate for such increases, resulting in a significant increase in Roads Service maintenance expenditure. With regard to this point the Road Service set out the following taken from Paragraph 5 of Article 3 of the General Development Order (GDO):

- ‘The permission granted by Schedule 1 shall not, except in relation to development permitted by Parts 9, 11 and 22, authorise any development which requires or involves the construction, formation, laying out or alteration of a means of access to an existing road which is a special, trunk or classified road or which creates an obstruction to the view of persons using any road at or near any crest, bend, corner, junction or inter-section so as to be likely to cause danger to such persons. [As amended by SR 2006/218 Article 6(3)]’.

Further the Roads Service has some major concerns in relation to road safety and the efficient use of the public road network with regard to protected routes:

- Planning Service has a long established policy of restricting access onto strategic roads (“Protected Routes”) that facilitate the efficient movement of traffic over long distances in Northern Ireland. These roads contribute significantly to economic prosperity by providing efficient links between all the main towns, airports and seaports. The extension of permitted development rights will lead to increased traffic accessing onto Protected Routes and this will exacerbate the problem. It is important that a new access, or the intensified use of an existing access onto Protected Routes, does not compromise their function of facilitating the free and safe movement of traffic and does not significantly add to congestion, or impact on road safety. As road safety is a key priority for Roads Service any policy that increases risk is a concern;

- The Protected Routes network has been progressively improved over the years. Roads Service has a programme to upgrade stretches of single carriageway to dual carriageway over the next ten years. Any additional accesses or intensification approved along single carriageway Protected Routes now, will have a detrimental impact on future dual carriageways.

Finally the Roads Service set out that the extension of permitted development rights in rural locations will have the following impact on road safety:

- Many existing accesses are substandard and do not meet minimum safety requirements set out in PPS3 for sight visibility. Permitted development is outside the remit of the planning application process, so no assessment or improvement will be carried out to access arrangements. Without improvements the intensified use of an access onto a rural road represents a safety risk to road users;
• Permitted development could significantly add to traffic movements on narrow rural roads, many of which are not suitable for such increases (e.g. due to width, gradient, visibility). The generation of any additional HGV vehicle movements would be of particular concern. Permitted development as proposed will impact on road safety. As road safety is a key priority for Roads Service any policy that increases risk is unacceptable.

11.7.1 Summary

Stakeholder views on extending PD rights were mixed with the Ulster Farmers Union arguing for enhanced PD rights and the Road Service expressing concerns particularly with regard to farm diversification and the need to set limits upon the amount of trade that is permitted and the consequent use of local roads.

The above responses have been used to inform the following options for change section. The comments regarding the permitted change of use of premises to new farm shops is of particular note as it is outlined as an option in the other review section. The proposal that PD rights be extended to 600 sq m for all agricultural buildings is worthy of consideration as the England & Wales system permits extensions up to 465 sq m. The potential for increased PD rights regarding agricultural extensions is therefore taken forward to the options for change section.

11.8 Options for Change

Entec has generated the following options for further appraisal of this topic.

A variety of options have been suggested in the above sections and we have used these to generate three broad options below. Farm diversification is a potential PD right that is mentioned in other reviews and is an objective set out in national policy. Although change of use to farm shops may be PD in Northern Ireland as described above, Entec consider that it is worth considering a specific option within the GDO to add clarity to this issue give the wider support for farm diversification. An increase in permitted floorspace for agricultural buildings is set out in a stakeholder response and a higher threshold exists in England. The options are:

Option 1 – Comprising:

• PD rights for a change of use to allow for
  
  - The making of products from produce/ materials grown or reared on the farm;
  - The selling of produce/products grown within a 10 mile radius, and other products which account for no more than 20% of the sales area; and
  - Storage and distribution uses (but no subsequent change to B2 (Light Industrial)).

• PD rights regarding recreational equestrian use as following:
- Change of use of land to recreational equestrian use subject to the area being no smaller than 1 ha;

- The erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land;

- The erection of a field shelter solely to be used for the keeping of horses for recreational use; and

- The use of temporary jumps.

- Further PD rights under this Option are an extension of floorspace to 600 sq m for all agricultural buildings under Part 6, Class A2.

Option 2 – Under this option all the above recommendations are made except the proposal to extend floorspace to 600 sq m for all agricultural buildings under Part 6, Class A2.

Option 3 – Under this Option, PD rights remain the same and are not extended.

Table 11.2 assesses the three options against economic, environmental, policy, social and administrative implications.

It is noted here that there is a level of uncertainty over calculating potential savings for the Planning Service from the application sample, if the floorspace limit were to be increased. It was noted that the sample contained some applications for erection, alteration or extension of agricultural buildings under the current PD limit of 300 sq m, however we have assumed that these did not comply with the other conditions under Part 6 and therefore an application was required. This assumption might be treated with caution because of anecdotal evidence elsewhere that planning applications are sometimes submitted for development which is already PD. In analysing the sample Entec did not have enough detailed information to calculate projected savings taking account of all of the existing conditions in Part 6. The projected savings under Option 1 are therefore made on the presumption that the savings would not be subject to other conditions hindering them from being PD, such as distance to roads.

Further the PD right for slurry tanks or livestock units incorporating slurry tanks up to 600 sq m was in place temporarily up to the end of 2008. As a result no applications in the sample should include such developments but if taken now would on those above 300 sq m. Again therefore the results taken in Option 1 are an estimate. This Option would effectively continue the PD right taken away on the 1st January 2009 and extend it for all agricultural buildings.
### Table 11.2 Rural Areas: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td><strong>Option 1 – Farm diversification &amp; increased floorspace</strong></td>
<td>Reduced PS case load 9.30% less applications in rural areas topic</td>
</tr>
<tr>
<td></td>
<td>Increased commerce &amp; jobs in rural areas from permitted diversification &amp; change of use</td>
</tr>
<tr>
<td></td>
<td>May increase commerce &amp; jobs in agricultural sector, boosting economy in key sector for NI</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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</tbody>
</table>

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Page 143

September 2009
### Rural Areas: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td></td>
</tr>
<tr>
<td>Option 2 – Farm diversification</td>
<td>Reduced PS case load to some extent</td>
</tr>
<tr>
<td></td>
<td>Increased commerce &amp; jobs in rural areas from permitted diversification &amp; change of use, boosting economy in key sector for NI</td>
</tr>
<tr>
<td></td>
<td>May increase commerce &amp; jobs in agricultural sector, boosting economy in key sector for NI</td>
</tr>
<tr>
<td><strong>ENVIRONMENTAL</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lesser potential for level 4 impacts in the form of increased surface runoff &amp; emissions as the erection, extension or alteration of buildings remains in control of the PS over 300 sq m.</td>
</tr>
<tr>
<td><strong>POLICY</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Complies with strategic objective in Planning Strategy for Rural Northern Ireland: 'To facilitate regeneration of the rural economy'</td>
</tr>
<tr>
<td></td>
<td>Diversification rights should as in RDS: ‘Sustain the continuing development of a strong agricultural and agri-food sector.’</td>
</tr>
<tr>
<td></td>
<td>Potential level 4 impacts if extended rights are to the detriment of protected areas such as ASSIs, this is set out as a key issue in PPS4</td>
</tr>
<tr>
<td><strong>SOCIAL</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Increased job potential for local community</td>
</tr>
<tr>
<td></td>
<td>Extended rights may have negative implications on the traditional character of rural areas, however may rejuvenate unused farmland</td>
</tr>
<tr>
<td></td>
<td>Potential level 2/3 impacts in the form of increased noise, traffic &amp; vibration to surrounding land uses</td>
</tr>
<tr>
<td></td>
<td>Extended PD rights could have adverse impacts on road safety &amp; congestion</td>
</tr>
<tr>
<td><strong>ADMINISTRATIVE</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Less applications for PS to deal with allowing for greater attention to be paid to major applications</td>
</tr>
<tr>
<td></td>
<td>Introduction of new system may produce uncertainty in short-term</td>
</tr>
</tbody>
</table>
Table 11.2 (continued)  Rural Areas: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 3 – No extension</td>
<td>![Cross]</td>
</tr>
<tr>
<td></td>
<td>May hamper agricultural development &amp; increases costs to business in applying for planning permission</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**LEGEND**

![Checkmark] Positive Impact
0 No Impact
![Cross] Negative Impact
11.8.1 Other Potential Changes

A number of changes were proposed in the other review section for this topic. These are discussed in the table below.

### Table 11.3 Other Potential Changes to Rural Areas in GDO

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevent the importation or tipping of waste from being capable of being defined as an engineering operation, by specifically excluding waste from Part 6, Class A.</td>
<td>Entec recommends this change. Agricultural operations do not include the importation or tipping of waste.</td>
</tr>
<tr>
<td>New Class E of Part 6 Importation of waste for landfill and other operations to be subject to the Minor Development Certificate procedure</td>
<td>This recommendation culminating from the WYG Report relates to the proposed change directly above. There is potential for Level 2/3 impacts for landfilling. At this stage there does not appear to be enough evidence to indicate that provision could be introduced without environmental impacts. Given that no MDC procedure is being considered, it would seem preferable to retain control over landfilling for agricultural purposes. Entec therefore do not recommend the option &amp; recommend the above.</td>
</tr>
<tr>
<td>Introduce “cordon sanitaire” minimum proximity thresholds for PDRs for buildings for the accommodation of livestock or for the storage of slurry or sewage and “protected buildings” (not to be within 400 metres of the curtilage of a building occupied by people other than a building within the agricultural unit).</td>
<td>This issue has not been specifically raised by any stakeholders in our review. We note that in the Lichfield Review consultation there was opposition to this change from the Ulster Farmers Union and some of the District Councils who considered it to be overly restrictive. Although such a restriction is in place in England and Wales we have not noted any stakeholder support for introducing such a restriction in Northern Ireland. It is not therefore suggested that any change is made to add this restriction at the present time.</td>
</tr>
<tr>
<td>Produce a GDO user guide for farmers.</td>
<td>This is recommended in Section 6 of the Report and is therefore not taken forward any further here.</td>
</tr>
<tr>
<td>New Class D of Part 6 The erection of structures to house biomass boilers and anaerobic digesters (provided only waste generated on the farm holding is disposed of) subject to the Minor Development Procedure.</td>
<td>This issue has been referred to in a separate review concerning micro-renewables and is therefore not considered here.</td>
</tr>
<tr>
<td>PD rights to be altered to ensure that the erection of any first building on an agricultural unit has planning permission to ensure that future development can be controlled. It is seen as difficult to define the first building unless there is a new divided unit.</td>
<td>This was a recommendation made in the 2003 Lichfield Review. The idea is to effectively withdraw PD rights for the first agricultural building to be erected on a new agricultural unit. This helps clarify the issue of what constitutes a principal group of farm buildings and whether a farmer can erect a building using PD on a holding which currently has no other agricultural building. This clarification will add to the GDO’s readability and therefore is proposed.</td>
</tr>
<tr>
<td>PD rights to be removed for all Part 6 classes of development within ASSIs &amp; SAIs; that the current restriction on development in areas of archaeological interest in Class C should be retained and that further consideration should be given to extending this restriction to Class B.</td>
<td>This option refers to ‘the winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part’ (Class B) and ‘the construction, formation, laying out or alteration of a means of access to a road’ (Class C). Such development could have level 4 impacts on ecology, nature and archaeology through potential excavation. Entec therefore recommend that Class B &amp; C rights are removed in ASSIs and SAIs.</td>
</tr>
</tbody>
</table>
Table 11.3 (continued) Other Potential Changes to Rural Areas in GDO

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The current 0.5 ha minimum size of holding to which Part 6 PD rights apply should be reviewed to assess whether it should be increased.</td>
<td>Our review has not highlighted any concerns with the current minimum size threshold. We note that the Lichfield Report finds that a working farm is likely to be at least 2 ha and more likely to be a minimum of 5 ha. There were some views that the threshold could be increased whilst others were concerned about the impact on small farms. In light of the above we do not currently consider that there is a case to alter the minimum size threshold.</td>
</tr>
<tr>
<td>Review building/structure size limits against current and forecast farming requirements for livestock and grain/other storage, and against design, environmental, and visual impact factors.</td>
<td>Our review has not highlighted any concerns with building/structure size limits or a need to conduct such a review. In light of this we do not currently consider that there is a case to alter the maximum size threshold.</td>
</tr>
<tr>
<td>Clarify that agricultural land must be actively used/occupied and that the proposed development must be ‘reasonably necessary for the purposes of agriculture’ on that unit.</td>
<td>Our review has not highlighted any demand for such a condition on agricultural PD rights. In light of this we do not propose such a condition.</td>
</tr>
<tr>
<td>Examine the scope for minor changes of use for redundant farm buildings to business, industrial or warehouse Use Classes, as a change to Part 3 of the GDO. Further research needed to identify the likely costs and benefits in relation to, for example, transport policy implications and to the absence of scope to control such development by condition.</td>
<td>A number of potential agricultural changes of use PD rights are assessed in the chapter. Such implications are considered in the tables above.</td>
</tr>
</tbody>
</table>

11.9 Recommendations for Change

The table finds Option 1 & 2 to have the greatest number of positive benefits overall. Both of these options provide potential economic benefits for the agricultural sector by relaxing planning controls. These options also provide benefits to the rural economy in the form of farm diversification and are therefore in line with the Planning Strategy for Rural Northern Ireland. Whilst Option 1 provides the greatest extension of PD rights, there could be potential impacts, notably visual and landscape effects arising from extensions of up to 600 square metres and it is noted that in England and Wales these are controlled by a prior approval system. In Northern Ireland there is no prior approval for agricultural development and therefore if such a right were introduced, no planning control over larger buildings would exist. In light of the potential impacts from larger extensions of agricultural buildings Entec propose that Option 2 is taken forward as the preferred Option.

Entec notes the Roads Service comments that extended PD rights could have adverse impacts on road congestion and safety. It is noted here that diversification uses proposed by Entec are specific to produce grown on the farm or within a 10 mile radius and therefore cannot include machinery. Further with regard to the creation of new accesses onto protected routes this is not currently PD and no change is recommended so new accesses will continue to require planning permission. However to ensure large amounts of external storage are not permitted the conditions on the amendments to Part 3 are to be for both land and buildings. On balance Entec therefore recommend the modest extension of PD rights as described below.
The following extended PD rights are proposed which draw on those made in the England and Wales Non-Householder Minor Developments Review 2008:

### Table 11.4  Recommended Changes to Rural Areas PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PART 6 - AGRICULTURAL BUILDINGS AND OPERATIONS</strong></td>
<td>Amendment to Part 3 to allow change of use of an agricultural building to:</td>
<td>Amended PD rights in Part 3 to be permitted in AONBs, National Parks, CAs, ASSIs &amp; SAIs.</td>
</tr>
</tbody>
</table>
| **Class A** - The carrying out on agricultural land comprised in an agricultural unit of: (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations; reasonably necessary for the purposes of agriculture within that unit. | - The making of products from produce/ materials grown or reared on the farm;  
- The selling of produce/products grown within a 10 mile radius, and other products which account for no more than 20% of the sales area;  
- Storage and distribution uses (but no subsequent change to B1 or B2).  
- The following limitations are proposed for these three rights:  
  - Farm unit to be larger than 0.5 hectares;  
  - The total amount of land or buildings used for farming diversification purposes shall not exceed 235m² per agricultural unit, of which no more than 120m² shall comprise a farm shop;  
  - At least 80 per cent of the sales area in farm shops shall be given over to produce/products grown within a 10 mile radius;  
  - The buildings have been in an agricultural use for 5 or more years and are of permanent construction;  
  - Not permitted development within the curtilage of a Listed Building unless Listed Building Consent for the development has previously been granted;  
  - The building shall continue to be part of the agricultural unit; and  
  - If the building is no longer needed for one of these uses it shall revert to an agricultural use. | |
| **Class B** - The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part. | | |
| **Class C** - The construction, formation, laying out or alteration of a means of access to a road. | | |

**Equestrian Uses**  
Further the following extended PD rights regarding equestrian use are recommended:  
- Change of use of land to recreational equestrian use subject to the area being no smaller than 1 ha, subject to:  
  - No more than two horses at any one time being kept on any 1ha plot;  
  - The 1ha site not being subdivided in anyway and all the land being kept available for the grazing and keeping of horses at all times; and  
  - No equestrian business to be carried out.  
- The erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land, subject to:  
  - No fences, walls or structures of any kind shall be erected if these subdivide the 1ha site area; and  
  - No fence, walls or structures of any kind shall be erected if these exceed 1.4m in height.  

Proposed PD rights to be permitted in NPs, AONBs & CAs but removed in ASSIs & SAIs.
### Table 11.4 (continued) Recommended Changes to Rural Areas PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed PD rights to be permitted in NPs, AONBs &amp; CAs but removed in ASSIs &amp; SAIs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed PD rights to be permitted in NPs, AONBs &amp; CAs but removed in ASSIs &amp; SAIs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed PD rights to be altered to ensure that the erection of any first building on an agricultural unit has planning permission to ensure that future development can be controlled.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PD rights in Part 6 Classes B and C to be removed within ASSIs &amp; SAIs (already removed within SAIs in Class C).</td>
</tr>
</tbody>
</table>

- **The erection of a field shelter solely to be used for the keeping of horses for recreational use, subject to:**
  - The building shall not exceed 3.0m in height;
  - The building shall have a footprint no greater than 36m²;
  - Only one building shall be constructed per 1ha plot of land;
  - If the shelter is no longer required for the keeping of horses it shall be removed within one calendar month;
  - The building shall be a minimum of 5m from any boundary with a public highway or a neighbouring residential property;
  - The field shelter shall be positioned on permeable (or porous) hardstanding of no more than 50 sq m;
  - No internal subdivisions, lighting or electricity to be fitted; and
  - Completely open fronted.

- **The use of temporary jumps, subject to:**
  - No more than eight may be positioned on any 1ha plot at any one time; and
  - The jumps shall only be in place on the site for no more than 52 days per calendar year.
Table 11.4 (continued)  Recommended Changes to Rural Areas PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caravan Sites</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permitted development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. The use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Condition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A.1 Development is permitted by Class A subject to the condition that the use shall be discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site shall be removed as soon as reasonably practicable.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interpretation of Class A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A.2 The circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of the Schedule to the Caravans Act (Northern Ireland) 1963(a) (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11.10 Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 43 applications relating to agricultural development. No potential savings are made in this area within our sample if our recommendations are introduced.

Whilst it appears from the sample that there would be little in the way of application savings, there still appears to be a good case for extending PD rights based on our research. The economic benefits from a strong and diversified agricultural sector are extensive to Northern Ireland. The proposed PD rights should also assist policy objectives regarding rejuvenation of the rural economy by permitting diversification.

11.11 Approach to Sensitive Areas

The recommended PD rights relate to the diversification of both agricultural buildings and land. The recommended rights are considered unlikely to have material impacts on the landscape with the only permitted physical development being for some equestrian apparatus. This is unlikely to have level 3 impacts on the wider landscapes of national parks and AONBs. It is therefore not proposed that PD rights be restricted in such sensitive areas. The same line is taken in conservation areas as these are predominantly urban and potential external impacts are minimal anyway.
The material impacts of those rights regarding the change of use to storage, the making of products from produce/materials grown or reared on the farm and the selling of produce/products grown within a 10 mile radius will have minimal impacts upon SAIs and ASSIs. The same is concluded for such rights in National Parks, AONBs and Conservation Areas. However the development of equestrian uses on SAIs and ASSIs has potential to have level 4 impacts on natural, geological or archaeological value. For instance biodiversity and ecology may be disturbed, as may the ground when constructing equestrian apparatus. It is therefore proposed that PD rights allowing for equestrian activities are removed in SAIs and ASSIs.

Table 11.5 provides a summary of the recommendations various elements and whether or not is to be permitted in the different sensitive areas.

### Table 11.5 Summary of Final Recommendations Introduction into Sensitive Areas

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>National Park</th>
<th>AONB</th>
<th>ASSI</th>
<th>SAI</th>
<th>Conservation Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendments to Part 3 to allow various change of use PD rights</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Permitted change of use to recreational equestrian use</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
</tr>
<tr>
<td>PD rights for the erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
</tr>
<tr>
<td>PD rights for the erection of a field shelter solely to be used for the keeping of horses for recreational use</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
</tr>
<tr>
<td>PD rights for the use of temporary jumps</td>
<td>✓</td>
<td>✓</td>
<td>✗</td>
<td>✗</td>
<td>✓</td>
</tr>
</tbody>
</table>

**LEGEND**

- ✓ Remains Permitted
- ✗ Excluded via condition

### Caravan Sites

The Planning Service has requested a review of PD rights in relation to caravan sites in light of a recent enquiry from an individual highlighting a difference in permitted development rights between Northern Ireland and England and Wales. Entec have therefore reviewed the provisions relating to the circumstances in which land can be used as a caravan site.
11.12.1 **Existing PD rights**

The Caravans Act (Northern Ireland) 1963 requires that land being used as a caravan site is licensed by the relevant District Council unless it is exempted from that requirement. The use of land as a caravan site is also, and separately, development requiring the grant of planning permission under the Planning (Northern Ireland) Order 1991.

The Schedule to the Caravans Act (Northern Ireland) 1963 describes a range of circumstances in which a caravan site licence is not required. Part 5 of the GDO then provides PD rights for the use of land as a caravan site in any of the circumstances specified in paragraphs 2, 3 and 6 to 10 of that schedule.

This is more limited compared with the GPDO in England which also provides PD rights in circumstances equivalent to paragraphs 4 and 5 of the schedule to the 1963 Act (in England and Wales it is the schedule to the Caravan Sites and Control of Development Act 1960).

Paragraph 4 to the schedule to the 1963 Act provides that a site licence is not required for the use as a caravan site of land which is occupied by an exempted organisation if the use is for recreational purposes and under the supervision of the organisation.

Paragraph 5 of the Schedule provides that a site licence is not required for the use as a caravan site of land where an exempted organisation has issued a certificate in circumstances where not more than five caravans are at the time stationed for the purpose of human habitation on the land to which the certificate relates. An exempted organisation may also issue a certificate stating that the land has been approved by the organisation for the use of its members for the purpose of recreation. A certificate must specify the date on which it is to come into force, may be for a period of not more than one year and may be withdrawn by the organisation at any time if the occupier of the land fails to comply with any condition specified in the certificate.

The GPDO in England and Wales also contains a Part 5 Class B which gives PD rights for development required by the conditions of a Caravan Site Licence. No such provision exists in Northern Ireland.

11.12.2 **Lichfield Review 2003 and Planning Service Analysis**

The 2003 Lichfield Review considered that whilst there was potential for conflict between these PD rights and countryside protection, good design and reducing the need to travel, such conflicts were not apparent in Northern Ireland. The review did not recommend any changes to Part 5 of the GDO.

The Planning Service analysis following the 2003 review was unable to determine why in Northern Ireland paragraphs 4 and 5 of the Schedule to the 1963 Act were left out of Part 5 of the GDO, especially when the equivalent provisions were included in the GPDO in England and Wales.

The Planning Service therefore considers that when the GPDO allows the use of land as a caravan site in the circumstances under paragraphs 4 and 5 of Schedule 1 to the 1960 Act it seems reasonable that in Northern Ireland those uses in the circumstances under paragraphs 4 and 5 of Schedule 1 to the 1963 Act could also be exempt from
the need to apply for planning permission. The inclusion of paragraphs 4 and 5 would introduce parity of approach and clarity for exempted organisations who are based on the mainland but who visit and have exemption certificates for Northern Ireland, provided this would not in any way be detrimental.

11.12.3 **Stakeholder Views**

This topic was not specifically identified for review as part of our study as it was not considered that it would lead to significant application savings. However, it has been raised in correspondence with the Planning Service.

In addition comments were received during the review from the Northern Ireland Motorhomes Association. The Association sought a variety of changes to improve motorhome tourism in Northern Ireland and provide additional facilities for visitors. The measures sought were wide ranging and including wider issues outside the scope of this review such as changes to bye-laws.

11.12.4 **Analysis**

The issue raised by the individual respondent regarding the discrepancy in PD rights between Northern Ireland and England and Wales is related to that considered by the Lichfield Review 2003 and subsequent Planning Service Analysis.

Based on the Lichfield Review 2003 and subsequent analysis by the Planning Service there seems no obvious reason why the discrepancy which exists between the Northern Ireland GDO and England and Wales GPDO should remain.

Entec therefore recommend the inclusion in Part 5 Class A A.2 of paragraphs 4 and 5 of the Caravans Act (NI) 1963 in the GDO, as this would bring the alignment of these PD rights with the rest of the UK and would introduce some clarity and consistency for exempted organisations which operate UK wide. This recommendation would be written as follows.

`Class A`  
Permitted development

**A. The use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2.**

**Condition**

**A.1** Development is permitted by Class A subject to the condition that the use shall be discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site shall be removed as soon as reasonably practicable.

**Interpretation of Class A**
A.2 The circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of the Schedule to the Caravans Act (Northern Ireland) 1963(a), but in relation to those mentioned in paragraph 10 do not include use for winter quarters'.

Consideration could also be given to producing a guide for exempted organisations similar to that produced by Natural England which includes in one of its annexes a Model Code of Conduct dealing with such things as nuisance, road safety and site access, spacing and density, fire precautions, waste water and refuse disposal.
12. Institutions, Community Facilities, Leisure & Recreation

12.1 Definitions

This topic section covers a variety of different land uses, some of which are currently defined in the Use Classes Order whilst others are not.

Institutions are not specifically defined in the GDO and therefore for the purpose of this study, institution uses are defined as schools, places of worship, hospitals and universities.

Community facility uses are defined as they are in the UCO (Northern Ireland):

12.1.1 Class D1: Community and Cultural Uses

Any use (not including a residential use):

- For the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner;
- As a crèche, day nursery, after school facility or day centre;
- As a community centre;
- For the provision of education;
- For the display of works of art (otherwise than for sale or hire);
- As a museum;
- As a public library or reading room; or
- As a public hall or exhibition hall.

For the purpose of this study, leisure and recreation uses are defined as they are in the UCO (Northern Ireland):

12.1.2 Class D2: Assembly and Leisure

Use as a:

- Bingo hall;
- Cinema;
Creating the environment for business

- Concert hall;
- Dance hall;
- Theatre.

In addition hotels, swimming baths, skating rinks, gymnasiums or areas for other indoor or outdoor sports or recreations including those involving motorised vehicles or firearms; animal boarding facilities (e.g. dog kennels) and public toilets fall into no class specified in the schedule but are included under this topic heading. The topic definition also includes leisure pursuits based around canals, fishing in inland waters and open space including parks is also included in the definition. This topic also covers PD rights for temporary uses under Part 4 of the GDO and this is dealt with separately following the main consideration of permanent PD rights for this section.

12.2 Background

There are currently few sections of the GDO specifically relating to any of the uses listed under this topic. However Part 4, Class B permits the use of land for any purpose for no more than 28 days of the year. This PD right could be used in providing a leisure or recreational use; however this right is restricted to 14 days for motor car and motorcycle racing including trials of speed. The only physical changes that the GDO permits for any of the uses listed above are those under Part 2 (Minor Operations) which relate to minor operations involving means of enclosure, creation of a means of access to a road and painting. In addition, Part 12 (Development by District Councils) of the GDO confers the right for district councils to erect or alter small ancillary buildings for the purpose of any function exercised by them subject to maximum heights and volumes. This could relate to facilities such as state schools, medical centres, sports facilities and council-run care homes. Further the Department of Culture, Arts and Leisure is given PD rights under Part 25 (Development by the Department of Culture, Arts & Leisure) involving a range of developments including the maintenance of canals and the provision of facilities relating to fishing. The PD rights granted to uses under this topic are negligible in contrast to those afforded for instance to industrial development.

12.3 PD Rights in Surrounding Nations

In England & Wales there is a specific class relating to PD rights for institutions which is not present in Northern Ireland. Given this is the case there may be potential for extended PD rights in this area for Northern Ireland. However the GDO grants extended rights to the Department of Culture, Arts and Leisure not repeated in any other nations. The Republic of Ireland Exempted Development Schedule does provide for a number of leisure uses that do not require planning permission and there may be the potential to include these within a new class of PD for Northern Ireland. The use of land for temporary buildings and uses is provided for throughout the UK and in the Republic of Ireland subject to differing conditions. A summary is provided in Appendix C of the differences in PD rights throughout the UK and the Republic of Ireland with regard to PD rights under this topic.
12.4 Current Volume of Minor Applications for Institutions, Community Facilities, Leisure & Recreation

The analysis of planning application data shows how many applications were submitted over the 4 week period in relation to institutions, community facilities, leisure & recreation. These are summarised in Table 12.1.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Institution Applications</td>
<td>98</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>25.26</td>
</tr>
</tbody>
</table>

A significant segment of our sample related to this topic, as it constitutes the second biggest in terms of application numbers within the study. The number of applications justifies a review of PD rights, as there may be potential for application savings. Of these a notable number of applications related to development regarding schools or colleges. There were also a number of applications for extensions or alterations to community halls/centres or medical centres.

There may be potential for increased PD rights for institutions on the basis that on large sites such as colleges, minor development will have a negligible impact on neighbours. Naturally PD rights for such facilities would have to be regulated with suitable conditions.

12.5 Planning Policies

National planning policy does not cover a significant portion of the uses discussed under this topic, however PPS 8 seeks to protect open space and land used for sport and outdoor recreation, and provide new areas for such development.

Development plan policy is typically supportive of planning applications for Education, Health, Community uses and Cultural and Recreational Facilities within the built up area. It seeks to protect land zoned for those purposes and grant planning permission subject to normal considerations of scale, size, appearance, impact on neighbours and traffic/noise generation. Further detail of the planning policy position with regard to community facilities, leisure and recreation is provided in Appendix D.
12.6 Previous PD reviews and Possible Areas for Change

12.6.1 PD Review 2003 and Planning Service Analysis

The Lichfield Review recommended there should be an additional category of permitted development rights for small buildings and extensions to schools, universities and hospitals. This was with the restrictions that, listed buildings are excluded, and small buildings and extensions are to be within the curtilage boundary. Unlike the England and Wales GPDO, a single story restriction on hospital development was not recommended. These proposals were expanded upon in the England and Wales Non-Householder Minor Developments Review 2008 and are therefore considered in more detail below.

Further Part 12 (Development undertaken by district councils) of the GDO was reviewed and the 200m³ volume restriction was recommended for removal, leaving the 4m height restriction. This would specifically include play equipment and waste recycling receptacles in PD rights. It also recommended specifically excluding means of enclosure over 2m in height – there was concern that Part 12 PD rights could be construed as including fences etc. up to 4m in height because of the 4m restriction on works and equipment. It is likely that these PD rights were never intended to include means of enclosure as there are specific PD rights for this type of development under Part 2 (minor operations). It is the Planning Service’s intention to try to remove such anomalies within the GDO and on the consultants’ advice clarification that Part 12 PD does not include means of enclosure over 2m in height should be included. The Planning Service Policy Paper concludes that ‘further research into the status of community centres is required before PD rights for these buildings are considered’. It is also proposed that Part 12 should specifically exclude new car parks and car park extensions which would result in an increase of more than 10% of an existing car park.

12.6.2 England and Wales Non Householder Minor Development Review 2008

WYG found that potential reforms could be made to Part 12 – Development by District Councils, referring to leisure uses. In relation to leisure uses, an area that the Local Government Ombudsman flagged up as raising a large number of complaints is the ability under Part 12 for LPAs to construct equipment on land for the purpose of any function exercised by them. Where this right is extended to potentially noisy leisure uses such as skateboard parks, BMX tracks or play equipment in residential areas, many residents felt that they should have the right to be consulted. The Report therefore recommended removing existing ‘permitted development’ rights for new skateboard parks and playgrounds by specifically excluding the installation of new leisure-related equipment from Part 12 of the GPDO. This would relieve the pressure on LPAs to try to deal with such developments without going through the formal planning process. It is therefore outlined that such a change is justified by the frequent complaints received by the Local Government Ombudsman about newly installed play areas near to dwellings upon which there has been no public consultation.

Further the Report concluded that universities, colleges and hospitals have the strongest case for a relaxation of ‘permitted development’ rights where they occupy substantial sites. Their rights could legitimately include the
erection of new buildings and the extension of existing buildings. The suggested limitation is 100 sq m per extension on an existing building and 100 sq m for new buildings. It is considered appropriate to give schools rights to erect new buildings although with stricter size limitations than universities and hospitals. The suggested limitation is 50 sq m per extension of existing building and 50 sq m if a new building is needed. The White Young Green Report therefore proposes the following revised Part 32 (Schools, Colleges Universities & Hospitals) for the GPDO:

- Max 100 sq m floorspace (50 sq m for schools) and max height of 5 m for new buildings;
- Max 100 sq m floorspace (50 sq m for schools) for extensions and alterations to buildings up to a max of 25 per cent additional floorspace at the size of the original building;
- Extensions to be no higher than existing building, and max of 5 m of within 10 m of a boundary;
- New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;
- For schools, pupil capacity not to be increased;
- Not on playingfields;
- Not within the curtilage of a listed building;
- Max 50 per cent ground coverage;
- Materials to match;
- New permeable (or porous) hardstanding up to 50 sq m; and
- No basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA’s.

Further the Report did refer to institutions not defined under the large institutions for which PD rights are proposed above. This would include minor works to nursing homes, hotels/hostels, institutions and leisure uses (including sui generis uses) as designated in the English Use Classes Order. The Report concluded that for other types of institutions which are less likely to occupy multi-building sites (though exhibition halls and outdoor sports facilities may be an exception) it is appropriate to grant more limited rights for such buildings. Again 50 sq m was suggested as the limit on each building. As a result a new part to the GPDO was proposed incorporating the following:

- Max 50 sq m floorspace and max height of 5 m for new buildings;
- Max 50 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace;
- Extensions to be no higher than existing building, and max 5 m high if within 10 m of boundary;
• New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;

• Not within curtilage of a listed building;

• Max 50 per cent ground coverage;

• No loss of turning/manoeuvring space for vehicles;

• Materials to match;

• New permeable (or porous) hardstanding up to 50 sq m; and

• No basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA’s.

Summary

The reviews discussed highlight the potential for the extension of PD rights both for new buildings and extensions relating to institutions. These rights may differ depending on the type of institution and their size. The recommendation regarding the potential to remove the volume restriction in Part 12 is a common theme throughout the topics and has therefore been assessed in Section 4 referring to the impact criteria. The WYG Report considers that an appropriate limit should be placed on schools to limit the pupil capacity of schools when carrying out extensions, since a rise in pupil numbers can adversely affect neighbours, e.g. through increased traffic. However Entec consider there is nothing to prevent pupil numbers being increased within an existing development and therefore the condition is difficult to police. As a result whilst the general recommendation is considered further in the options for change section, this condition is not.

However the extension of PD rights perhaps in a manner similar to those in England may offer potential to allow institutions to develop more efficiently and thus contribute towards goals such as furthering the knowledge economy.

12.7 Stakeholder Views on Current System/Possible Areas for Change

12.7.1 Stakeholder Views

A response received from a member of the Department of Health, Social Services and Public Safety commented that the Health and Social Care organisation have no PD rights in contrast to English Hospitals that have PD rights under Part 32 of the GPDO. It was therefore deemed by the representative that these rights could be included in the Northern Ireland GDO and could be extended still further in the following circumstances:

• Where the cumulative total floor space of an extension to any particular building could be erected up to a maximum of 10% of the floor area of the original building;
• Where the cumulative cubic capacity of an extension to any particular building could be erected that would not exceed 1,000 cubic metres;

• Where any part of an extension to a particular building would be erected, it would not be within 20 metres of a boundary of the site; and

• Where any part of an extension to any particular building would be erected, any materials used shall be of a similar appearance to those used on the original building.

A response from the Department of Education stated that enabling PD rights for education and Library board’s minor works would be of great benefit, especially in relation to portacabins and minor operational works.

A further response was received from the Western Education and Library Board. This suggested that extended PD rights would reduce unnecessary red tape and PD rights in some cases should not be allowed in AONBs. The Board proposed a number of minor applications that could be covered by PD outside of protected areas:

• Steel storage units to supplement gym equipment storage;

• Temporary mobile classrooms;

• Security fencing; and

• Small extensions – e.g. within 10% of existing floorspace.

The Northern Ireland Prison Service commented that they were generally satisfied with the amendments made to the GDO a few years ago.

A response received from the South Eastern Regional College set out that the present PD rights were fair.

The Southern Group Environmental Health Committee (SGEHC) responded by stating that any development falling outside of the planning permission system should not result in significant adverse environmental impacts.

12.7.2 Development Management Group Workshop

At the Development Management Group Workshop, an expressed view was that each health site should be dealt with on its own merits, and that this could be done through the use of LDOs rather than the introduction of PD. It was also discussed that if PD rights were to be extended for hospitals, materials for extensions should be ‘appropriate’ rather than ‘similar’ and that restrictions should be relaxed where development is not visible from outside the curtilage of the building.

12.7.3 Summary

In summary a number of PD rights were proposed through stakeholder consultation. These were all referring to potential PD rights for hospitals, library or educational facilities. These recommendations are in keeping with options proposed in previous reviews regarding PD rights for extensions or the erection of new buildings for
institutions. With regard to LDOs these are considered in Section 6 however at present there is not enough information regarding their potential benefits and disbenefits to make any recommendations at this stage.

A stakeholder response was received referring to potential PD rights for security fencing. This is not taken forward to the options stage as such fencing could have significant visual impact on neighbouring properties, as by default it lies on the site boundary. Further the potential for temporary mobile classrooms is excluded from the options for change section as Entec agree with the WYG view that ‘implications of increased pupil numbers and the appropriateness of long term temporary accommodation should be examined through the planning process’.

12.8 **Options for Change**

All of the above sections indicate at least some potential for reform of PD rights in this area. The key option that comes up throughout the sections refers to the potential for a new part to the GDO granting PD rights for institutions for both extensions and the erection of new buildings. Such Options are proposed in the WYG Report and supported by stakeholder responses. Entec has concluded that the above sections all suggest some form of extended PD rights in this area and therefore to provide no extension is not an option. In referring to institutions any proposed class would include the uses covered in classes D1 and D2 of the Northern Ireland UCO as set out above. However certain other uses are also to be included in the definition in the form of hotels, uses for or in connection with public worship or religious instruction, swimming baths, skating rinks or gymnasiums.

The recommendation in the WYG report regarding skateboard parks is not considered further as this has not been raised by stakeholders in our review.

The following three options are proposed:

**Option 1** – This Option proposes a new part to the GDO. This would grant PD rights for all institutions up to a maximum 100 sq m floorspace (no more than a 25% increase in floorspace for extensions) for new build, extensions and alterations. This is subject to key conditions providing that extensions are to be no higher than the existing building, a maximum of 5 m in height if within 10m of a boundary and a maximum of 50% ground coverage.

**Option 2** – This Option again creates a new part in the GDO for institutions. However under this Option, PD rights will have higher limits for universities and hospitals as indicated in Option 1 allowing for extensions, new build and alterations up to 100 sq m. A separate part is proposed for other institutions (listed above) that would only offer PD rights allowing for extension, new build and alterations to buildings up to a maximum of 50 sq m floorspace. These new parts would be subject to the same conditions as those set out in Option 1.

**Option 3** – This Option proposes a new part to the GDO. This would grant PD rights for all institutions up to a maximum 50 sq m floorspace (no more than a 25% increase in floorspace for extensions) for new build, extensions and alterations. This new part would be subject to the same conditions as those set out in Option 1.

A proposal was made in the 2003 analysis regarding PD rights for car parks. Entec agree clarification could be added with respect to car parks given that they could have level 2/3 impacts e.g. traffic & loss of landscaping. As
recommended in the Planning Service Policy Papers this should specifically exclude new car parks and car park extensions that result in an increase of more than 10% of an existing car park.

Table 12.2 assesses the three options against economic, environmental, policy, social and administrative implications.
### Table 12.2 Institutions, Community Facilities, Leisure & Recreation Development: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 1 - PD rights for all institutions up to 100 sq m</td>
<td>✓ Reduced application costs for institutions</td>
</tr>
<tr>
<td></td>
<td>✓ Increased commerce &amp; jobs both from construction and operation</td>
</tr>
<tr>
<td></td>
<td>✓ Extended rights should boost knowledge economy &amp; tourism sector</td>
</tr>
<tr>
<td></td>
<td>✓ Reduced PS case load. 8% less applications in institution topic</td>
</tr>
<tr>
<td>OPTION</td>
<td>IMPLICATIONS</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td>Option 2 - PD rights for hospitals / universities up to 100 sq m, other institutions up to 50 sq m</td>
<td>✓ Reduced application costs for institutions</td>
</tr>
<tr>
<td>✓ Increased commerce &amp; jobs both from construction and operation</td>
<td>✓ Potential level 4 impacts through surface runoff &amp; emissions caused by extensions, increasing urban density when building on greenfield land</td>
</tr>
<tr>
<td>✓ Reduced PS case load. 5% less applications in institution topic</td>
<td>✓ Potential impacts on ecology/biodiversity if extensions/new build take place on greenfield land</td>
</tr>
<tr>
<td>✓ Extended rights should boost knowledge economy &amp; tourism sector</td>
<td></td>
</tr>
</tbody>
</table>

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September 2009
Table 12.2 (continued) Institutions, Community Facilities, Leisure & Recreation Development: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 3 - PD rights for all institutions up to 50 sq m</td>
<td>✓ Some increased commerce &amp; jobs both from construction and operation</td>
</tr>
<tr>
<td></td>
<td>✓ Reduced PS case load. 5% less applications in institution topic</td>
</tr>
<tr>
<td></td>
<td>✗ Increases costs for public sector owned institutions by increasing chances of need to apply for planning permission relative to other options</td>
</tr>
<tr>
<td></td>
<td>✓ A lesser extension in PD rights relative to other options may restrain knowledge economy &amp; tourism sector</td>
</tr>
</tbody>
</table>
12.9 Recommendations for Change

The table above identifies Option 2 as the preferred option. Whilst there is not much difference between the three options it is concluded that introducing PD rights up to 100 sq m for all institutions provides too great a risk of level 2/3/4 impacts on neighbouring properties, the street scene and the wider environment. However it is concluded that the size of hospital and university sites means that it is more likely that minor extensions and works can be carried out whilst minimising the risk of such impacts. Option 2 retains increased PD rights for larger institutions whilst giving smaller institutions restricted rights. Whilst not reducing application numbers to the level of Option 1, Option 2 will reduce application numbers significantly in relation to this specific topic. The recommendation using conditions regarding flood risk is tailored to the Northern Ireland system.

The proposed parts will include certain essential infrastructure/vulnerable groups. Whilst there are also other uses under the headings it is possible that large buildings/community centres could be utilised in the event of emergency, so it would be important to minimise the risk of flooding. On balance it is therefore deemed appropriate to remove PD rights in Flood Plains under this heading.

As a result the following PD rights are proposed:

Table 12.3 Recommended Changes to Institution, Community Facility, Leisure & Recreation Development PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>
| Part 4 (Temporary buildings & uses), Class B permits the use of land for any purpose for no more than 28 days of the year. This PD right could be used in providing a leisure or recreational use. | A new Part in the GDO for ‘Universities and Hospitals’ permitting extensions, new build and alterations:  
  - Max 100 sq m floorspace and max height of 5 m for new buildings;  
  - Max 100 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace at the size of the original building;  
  - Extensions to be no higher than existing building, and max of 5 m of within 10 m of a boundary;  
  - New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;  
  - Not on playing fields;  
  - Not permitted development within the curtilage of a listed building unless listed building consent for the development has previously been granted;  
  - Max 50 per cent ground coverage;  
  - Materials to match;  
  - New permeable (or porous) hardstanding up to 50 sq m  
  - Not permitted development within flood plains; and  
  - No basements in flood plains. | PD rights for new Part regarding universities and hospitals to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAs. |
| Part 2 (Minor Operations) which relate to ‘minor operations’ involving means of enclosure, creation of accesses to roads and painting. |  |  |
| Part 12 (Development by District Councils) of the GDO confers the right for district councils to erect or alter small ancillary buildings for the purpose of any function exercised by them subject to maximum heights and volumes. |  |  |
| Part 25 (Development by the Department of Culture, Arts & Leisure) grants the Department of Culture, Arts and Leisure PD rights involving a range of developments including the maintenance of canals and the provision of facilities relating to fishing. |  |  |
Table 12.3 (continued) Recommended Changes to Institution, Community Facility, Leisure & Recreation Development PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>

An additional new part to the GDO for ‘Schools, Leisure & Community Facilities & Other Institutions’ should be produced, this would include all the uses set out in Table 12.4. The new Part for other institutions would permit extensions, new build and alterations:

- Max 50 sq m floorspace and max height of 5 m for new buildings;
- Max 50 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace;
- Extensions to be no higher than existing building, and max 5 m high if within 10 m of boundary;
- New buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building;
- Not on playing fields;
- Not permitted development within the curtilage of a listed building unless listed building consent for the development has previously been granted;
- Max 50 per cent ground coverage;
- No loss of turning/manoeuvring space for vehicles;
- Materials to match;
- New permeable (or porous) hardstanding up to 50 sq m;
- Not permitted development within flood plains; and
- No basements in flood plains.

PD rights for new Part regarding other institutions to be permitted in AONBs & National Parks but removed in CAs, ASSIs & SAs.

Table 12.4 Uses Included in New Part regarding ‘Schools, Leisure & Community Facilities & Other Institutions’

<table>
<thead>
<tr>
<th>Relevant Uses</th>
<th>Uses for or in connection with public worship or religious instruction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner</td>
<td>Exhibition hall</td>
</tr>
<tr>
<td>Crèche</td>
<td>Bingo hall</td>
</tr>
<tr>
<td>Day nursery</td>
<td>Cinema</td>
</tr>
<tr>
<td>After school facility</td>
<td>Concert hall</td>
</tr>
<tr>
<td>Day centre</td>
<td>Dance hall</td>
</tr>
<tr>
<td>Community centre</td>
<td>Theatre</td>
</tr>
<tr>
<td>Provision of education</td>
<td>Hotel</td>
</tr>
<tr>
<td>Display of works of art (otherwise than for sale or hire)</td>
<td></td>
</tr>
</tbody>
</table>
Creating the environment for business

Table 12.4 (continued) Uses Included in New Part regarding ‘Schools, Leisure & Community Facilities & Other Institutions’

<table>
<thead>
<tr>
<th>Relevant Uses</th>
<th>Swimming bath</th>
</tr>
</thead>
<tbody>
<tr>
<td>Museum</td>
<td>Swimming bath</td>
</tr>
<tr>
<td>Public library</td>
<td>Skating rink</td>
</tr>
<tr>
<td>Public hall</td>
<td>Gymnasium</td>
</tr>
<tr>
<td>Reading room</td>
<td></td>
</tr>
</tbody>
</table>

Further Entec agree clarification should be added to Part 12 with respect to car parks both new and extensions.

The principal difficulty with the recommendations put forward is ensuring that the two tiers of PD rights are conferred appropriately onto different types and sizes of institutions, leisure or community facilities. For example there may be other institutions apart from Universities and Hospitals which occupy large sites, e.g. concert halls, large leisure complexes or even large school sites where the greater PD rights might be appropriate. It appears to us that this is a potential issue with the WYG recommendations in England and Wales and could also be the case in Northern Ireland. However, in the absence of information on the typical size of different types of institutions our view is that the two parts of the GDO are best distinguished by reference to the specific types of institution concerned. Consequently hospitals and universities would be subject to the greater PD rights as they are likely to occupy larger sites.

12.9.1 Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 98 applications relating to institutions, community facilities, leisure and recreation. Table 12.5 sets out the savings that would be achieved if the recommendations above were introduced both within the sample and Northern Ireland throughout 2007/2008.

Table 12.5 Predicted Savings in Institution, Community Facility, Leisure & Recreation Applications

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>No. of applications saved</th>
<th>% apps. saved in topic</th>
<th>% apps. saved in total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Part regarding Universities &amp; Hospitals</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>New Part regarding Institutions, Leisure &amp; Community Facilities</td>
<td>5</td>
<td>5.10</td>
<td>1.29</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>5.10</td>
<td>1.29</td>
</tr>
<tr>
<td>Total saved in Northern Ireland (2007-2008) if all recommendations implemented</td>
<td>77</td>
<td>5.10</td>
<td>1.29</td>
</tr>
</tbody>
</table>
The potential savings within this topic area itself is about 5% although this represents only about 1% of all non-householder application. The proposed PD rights should provide some assistance in meeting national policy objectives regarding increasing the quality in the education system and access to leisure facilities.

12.10 Approach to Sensitive Areas

The final recommendation provides two new parts permitting extensions, new build and alterations for this topic. It is deemed that any new build or extension to institutions could potentially cause impacts to SAIs and ASSIs. It is therefore concluded that PD rights relating to the new parts for institutions proposed should be excluded in ASSIs and SAIs.

PD rights for institutions are deemed to be moderate enough to avoid material impacts on the wider landscape value of national parks or AONBs. The conditions included in the recommendation regarding materials should not produce level 4 impacts and therefore the proposed PD rights remain the same in these areas. In Conservation Areas however there may be potential impacts on the historic interest of these areas even from relatively modest development and it is therefore recommended that PD is withdrawn in these areas.

12.11 Temporary Uses

Planning Service requested that Entec consider PD rights for temporary uses as part of this review. During the review process correspondence had been received from residents regarding problems with noise and disturbance from temporary uses. This topic has therefore been considered although it does not fall within the overall aim of the study to look at potential to extend PDR.

12.11.1 Current PD Rights

Currently PD rights are granted under Part 4 of the GDO for temporary uses up to 28 days in any calendar year, except for markets, and motor sports which are restricted to 14 days.

12.11.2 PD Rights in Other Nations

PD rights in England and Wales are similar to Northern Ireland except that war games are also subject to the 14 day limitation. In Scotland PD rights are more generous with no equivalent 14 day restrictions.

12.11.3 Lichfield Review 2003 and Planning Service Analysis

In the 2003 Lichfield Review a number of concerns were raised with Part 4 of the GDO related to the lack of definition of certain terms, difficulties in monitoring 14 or 28 day use and in enforcing the reinstatement of the
land. This resulted in Part 4 PDR being abused and becoming permanent. There were also concerns about the effects on ASSI’s and noise pollution.

The subsequent Planning Service analysis of PDR considered this issue. Public consultation on the Lichfield Review had shown general support for a number of measures including:

- Part 4 should be amended to make temporary uses apply to whole units of ownership or occupation. This was intended to limit the possibility of exploitation of PD rights on a landholding, e.g. by moving an activity from one part of the site to another, in circumstances that could lead to unacceptable environmental health impact;
- Making it clear that in the interpretation of Part 4 that no permanent means of access can be provided to serve a temporary permitted use.

The Planning Service analysis considered that these two changes could be implemented.

- Advance notification of events should be provided to the Planning Service, e.g. two weeks in advance, to allow the recording of the number and duration of events taking place.

Although a number of respondents to the consultation on the Lichfield Review supported advance notification, an equal number, including the Planning Service had serious reservations about how that would work and whether the Planning Service had the resources to administer such a system. At that time it was therefore considered that this would require further consideration.

The Lichfield Review also considered the restriction on the number of days on which temporary uses could take place. Consultation indicated general support to a 14 day restriction on clay pigeon shooting, motorised sports and war games. There were some calls for a restriction of 7 days.

12.11.4 Other Reviews

The 2003 Lichfield Review in England and Wales is the only other PD review to have given significant consideration to this issue. Similar problems to those reported in NI were also found in England and Wales although following consultation, no recommendations to change Part 4 of the GDPO in England and Wales were made.

12.11.5 Stakeholder Views

This topic was not raised by any of the stakeholders directly consulted during our review.

Responses were however received from two residents who were querying Part 4, Class B (Temporary Uses) of Schedule 1 of the GDO. The respondents live in close proximity to two race circuits, one of which has planning permission for motor sport. The other however does not, but is permitted under Part 4, Class B to provide motor sports for up to 14 days of the calendar year. The views expressed are that motor racing creates a large amount of
Creating the environment for business

noise and disruption for local residents and that the events should not be permitted development and therefore planning permission should be applied for, for each motor sport event.

Entec agrees with the proposed changes to part 4 relating to units of ownership and clarification that Part 4 does not allow the creation of a permanent means of access for the permitted use that emerged following the 2003 review. However, given the concerns expressed by Planning Service and others in relation to the suggestion that there be prior notification of use of Part 4, such provision is not recommended. It would also be inconsistent with the objectives of the current review to deregulate where possible.

Entec also does not recommend any change in the number of days in the calendar year upon which motor sport can take place under Part 4 of the GDO, or indeed, to require all motor sports to apply for planning permission as this would increase the burden upon the planning system. There are also other powers to control them further under Environmental Health legislation, which controls noise etc.
13. Utilities

13.1 Definitions

For the purpose of this study, utilities are defined as activities undertaken by those statutory bodies given permitted development rights under Part 13 of the GDO.

This includes utilities relating to:

- Gas;
- Electricity;
- Railways;
- Lighthouses;
- Post;
- Road Transport;
- Water and Sewerage Undertakings; and
- Dock, Harbour or Water Transport Undertakings.

13.2 Background

PD rights regarding utilities in Northern Ireland are fairly extensive. These are conveyed in Part 13 of the GDO that entrusts PD rights to a range of statutory bodies. This includes railway undertakings, dock, pier, harbour or water transport undertakings, electricity undertakings, gas undertakings, road passenger transport undertakings, lighthouse undertakings, post office undertakings and water and sewerage undertakings. The table below provides a summary of the rights granted in the GDO.
Table 13.1 Summary of PD Rights for Utilities in Northern Ireland

<table>
<thead>
<tr>
<th>Statutory Bodies</th>
<th>Permitted Development Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railway undertakings</td>
<td>Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.</td>
</tr>
</tbody>
</table>
| Dock, pier, harbour or water transport undertakings | Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour or water transport undertakings, required:  
  (a) for the purposes of shipping; or  
  (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or the movement of traffic by any railway forming part of the undertaking.                                                                                           |
| Electricity undertakings                  | Development by electricity undertakers for the generation, transmission, distribution and supply of electricity for the purposes of the undertaking. Specifically Class (c) permits the ‘the installation of service lines for individual consumers from an electric line’. This is subject to the length of line not exceeding 100m and the land concerned not being within a site of archaeological interest. |
| Gas undertakings                          | Development by a gas undertaker required for the purposes of its undertaking consisting of:  
  (a) the laying underground of mains, pipes or other apparatus;  
  (b) the installation in a gas distribution system of apparatus for measuring, recording, controlling or varying the pressure, flow or volume of gas, and structures for housing such apparatus;  
  (c) any other development carried out in, on, over or under the operational land of the gas undertaking.                                                                                                                                                                         |
| Road passenger transport undertakings     | Development required for the purposes of the undertaking consisting of:  
  (a) the installation of telephone cables and apparatus, huts, stop posts and signs required in connection with the operation of public service vehicles;  
  (b) the erection or construction and the maintenance, improvement or other alteration of passenger shelters and barriers for the control of people waiting to enter public service vehicles;  
  (c) any other development on operational land of the undertaking.                                                                                                                                                                           |
| Lighthouse undertakings                   | Development required for the purposes of the functions of a general or local lighthouse authority under the Merchant Shipping Act 1894 and any other statutory provision made with respect to a local lighthouse authority, or in the exercise by a local lighthouse authority of rights, powers or duties acquired by usage prior to that Act.                                                                                                    |
| Post office undertakings                  | Development required for the purpose of the Post Office consisting of:  
  (a) the installation of posting boxes or self-service machines; or  
  (b) any other development carried out in, on, over or under the operational land of the undertaking.                                                                                                                                                                                            |
Table 13.1 (continued)  Summary of PD Rights for Utilities in Northern Ireland

<table>
<thead>
<tr>
<th>Statutory Bodies</th>
<th>Permitted Development Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water and sewerage undertakings</td>
<td>Development by water or sewerage undertakers consisting of:</td>
</tr>
<tr>
<td></td>
<td>(a) Development not above ground level required in connection with the provision, improvement, maintenance or repair of a sewer, outfall pipe, sludge main or associated apparatus;</td>
</tr>
<tr>
<td></td>
<td>(b) Development not above ground level required in connection with the supply of water or for conserving, redistributing or augmenting water resources, or for the conveyance of water treatment sludge;</td>
</tr>
<tr>
<td></td>
<td>(c) Development in, on or under any watercourse and required in connection with the improvement or maintenance of that watercourse;</td>
</tr>
<tr>
<td></td>
<td>(d) The provision of a building, plant, machinery or apparatus in, on, over or under land for the purpose of survey or investigation;</td>
</tr>
<tr>
<td></td>
<td>(e) The maintenance, improvement or repair of works for measuring the flow in any watercourse or channel;</td>
</tr>
<tr>
<td></td>
<td>(f) The installation in a water distribution system of a booster station, valve house, meter or switch-gear house;</td>
</tr>
<tr>
<td></td>
<td>(g) Any works authorised under Article 141 (works under drought orders) or Articles 219 and 220 (pipe laying) of the Water and Sewerage Services (Northern Ireland) Order 2006(a);</td>
</tr>
<tr>
<td></td>
<td>(h) Any other development in, on, over or under operational land, other than the provision of a building but including the extension or alteration of a building; or</td>
</tr>
<tr>
<td></td>
<td>(i) The strapping of pipelines to bridges.</td>
</tr>
<tr>
<td></td>
<td>Certain restrictions apply to these.</td>
</tr>
</tbody>
</table>

Under Part 10 - Repairs to Services, the GDO also permits development for the carrying out of any works for the purposes of inspecting, repairing or renewing any sewer, main, pipe, cable or other apparatus, including breaking open any land for that purpose.

13.3  PD Rights in Other Nations

The rest of the UK and the Republic of Ireland utilise similar PD classes to those granted to statutory bodies under Part 13 of the Northern Ireland GDO. However whilst the classes are similar the rights with regard to overhead electricity lines differ to Northern Ireland. PD rights for overhead electricity lines are substantially more permissive in England & Wales and Scotland than Northern Ireland. These are not subject to regulations on height, length or location but are restricted in terms of voltage levels. The Republic of Ireland system also uses a similar system to England & Wales. A more detailed breakdown of the PD rights granted in surrounding nations is provided in Appendix C.
13.4 **Current Volume of Applications for Utilities**

The analysis of planning application data shows how many industry related applications were submitted over the period. These are summarised in Table 13.2.

Table 13.2 **Sampled Applications for Utility Development**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Utility Applications</td>
<td>65</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>16.75</td>
</tr>
</tbody>
</table>

Utility applications constituted the second largest segment of our sample. Almost 70% off these applications were related to overhead electricity lines. 100% of these applications were approved. Particularly in this area therefore PD rights may save a substantial number of applications.

13.5 **Planning Policies**

There is no national guidance regarding this topic section, however regional planning policy sets out to facilitate a program of infrastructure improvements essential to business needs. Greater detail of the approach taken towards utilities in planning policy is provided in Appendix D.

13.6 **Previous PD Reviews and Possible Areas for Change**

13.6.1 **PD Review 2003 and Planning Service Analysis**

When considering Part 13 the Lichfield Review reported that the Planning Service and other interest groups did not raise many problems with interpretation or adverse impacts arising from these PD rights. More specifically electricity undertakers expressed general satisfaction with the operation of Class C, Part 13 but did raise some issues:

- The requirement to apply for planning permission to replace overhead lines is overly restrictive;
- The 100m length limit on (overhead) single user lines is not sufficient for the majority of rural connections, which require lines of up to 500m. Almost all planning applications for lines longer than 100m are approved but only after an unacceptable delay for the consumer.

Culminating from the Lichfield Review are a number of specific recommendations made in the Planning Service Policy Papers review, regarding Part 13 – Development by Statutory and Other Undertakers:
Class A – Railway Undertakings

It was recommended that electronic communication masts for rail safety systems should be permitted development, subject to a height limit of 15 metres (49 feet). It was also recommended that all Class A PD rights are removed in Areas of Special Scientific Interest (ASSIs).

Class B - Dock, Pier, Harbour or Water Transport Undertakings

In light of the analysis, the following recommendations were made for Class B of Part 13. PD rights for security fencing of up to 2.4 metres in height should be included but restricted where the operational boundary is shared with a residential dwelling. Also, rights should be restricted to “fences” for visual amenity reasons – the dictionary definition for fence being used. The Papers also recommended that PD rights for security CCTV cameras should be included with suitable height restrictions. In addition to these recommended changes the consultants also recommended that Part 13 PD rights be restricted in ASSIs.

Class C - Electricity Undertakings

In Northern Ireland express planning permission is required for overhead lines except for service lines for individual consumers which are permitted development up to 100 metres in length. The Planning Service Policy Papers note that on this basis, the majority of new connections to rural dwellings that need service lines require applications for planning permission (approximately 450 out of the total of 500). It was therefore acknowledged that stronger restrictions on overhead service lines for individual consumers apply in Northern Ireland compared to England, Scotland and the Republic of Ireland.

Recommendations for change put forward for single user overhead lines stated:

On the basis that planning applications for single user lines are usually uncontentious and get approved, and are made on a regular basis by NIE, there is a case to extend the length of permitted single user lines outside protected areas – Areas of Outstanding Natural Beauty (AONBs) - Conservation Areas and National Parks - from the current 100m limit to say 200m. This would, however, need to be subject of consultation and further discussion with NIE.

NIE has met with the Planning Service on a number of occasions and been advised that further public consultation would be desirable on any extension in line length beyond the 200m which Planning Service consulted on in 2003. Since the vast majority of new rural connections that require planning approval actually require an overhead line over 200m in length, an extension to 200m would have minimum impact on the volume of rural connections that require planning permission. Figure 13.1 is taken from the Planning Service Papers and indicates that the majority of applications fell within the 301-400m length category. This was taken from a sample of overhead electricity line applications over a 12 month period.
This indicates that if lines were permitted up to 400m in length then 70.45% of applications would be removed from the sample.

Under the Scottish GPDO electricity undertakers are permitted to install overhead lines of any length provided the voltage does not exceed 20Kv. The 2007 Scottish Office Report\textsuperscript{21} recommended that PD rights for the installation of new overhead lines should be removed within National Parks and National Scenic Areas, despite the fact that the report expressed concern at the increased number of planning applications that may result. In light of the Scottish Report and the research undertaken it was proposed by the Planning Service that PD Rights for single user overhead lines could be extended to a permitted length of 400m and that Class C PD rights should be removed in ASSIs.


\begin{figure}
\centering
\includegraphics[width=\textwidth]{Applications_for_11Kv_Overhead_Lines}
\caption{Applications for 11Kv Overhead Lines}
\end{figure}
Class G - Post Offices

In light of the analysis the following recommendations were made for Class G of Part 13; provide PD rights for universal postal service pouch-boxes – except in conservation areas and subject to the condition that they be sited to minimise their effect on pedestrian flow and visual impact:

- Remove all Class G PD rights within ASSIs;
- Replace “Post Office” with “universal service provider” wherever it occurs within Class G; and
- Provide interpretation provision stating that “universal service provider” and “universal postal service pouch-box” are defined in the Postal Services Act 2000.

13.6.2 Scotland Review 2007

In Scotland general concern was expressed as to the definition of operational land and it was suggested that a comprehensive definition should be included in a comprehensive glossary to avoid confusion.

A general recommendation that Part 13 should be rationalised and simplified, with inconsistencies between Classes removed was made, although this was not discussed in any detail. Given the brief nature of this recommendation, it is not taken forward into the options for change section.


The 2003 review of PD rights conducted by Nathaniel Lichfield covering England and Wales proposed some changes for Part 17 of the England and Wales GPDO:

Class J - Post Offices

After reports that a number of planning authorities felt that posting pouches should be within the scope of PD rights, the consultants made a recommendation similar to that in NI for PD rights to:

- Include freestanding postal pouch boxes within Class J as permitted development outside conservation areas and subject to no adverse effects on streetscape and pedestrian flow, which could be assessed against guidelines in a Street Management Code.

13.6.4 Summary

If any potential impacts on immediate surroundings can be avoided then the extension of PD rights in this topic area appears to be supported by regional and local policy.
A number of PD rights were proposed in the 2003 Review undertaken by the Planning Service. A key theme that comes out of the previous reviews and the consultation carried out within them refers to single overhead electricity lines. There is potential to extend PD rights for overhead electricity lines.

### 13.7 Stakeholder Views on Current System/Possible Areas for Change

Northern Ireland Electricity (NIE) commented that extending PD rights to 200m would have little effect as the vast majority of overhead power line work at NIE is for distances between 200m and 400m. Their reported current cycle time for their applications is 126 days for determination, of which 99% are approved.

The planning process, typically 17 weeks, has a very significant impact on the overall delivery time to provide an electricity connection for rural dwellings. This in turn leads to a high degree of frustration with customers as a result of the overall job cycle times.

NIE argued that if legislation was brought into line with the rest of the UK then ultimately the customer will be provided with a better service in terms of delivery time and cost. Further the planning process and the right for refusal is still robust because the overhead line planning permission will be part of the housing approval process and people have the right to object to the overhead line route etc. at that stage. NIE therefore recommend that consideration be given to bringing NI legislation into line with that of the rest of the UK for the following reasons:

- Provide NI customers with a fair and reasonable delivery time to obtain an electricity supply in rural locations.

This was said to provide a win-win for both the planning service and customers in Northern Ireland. The vast majority of planning applications for rural overhead services are approved. By classifying single user electricity lines as permitted development, this would assist the Planning Service in their drive for efficiency and reduced cycle times. Meanwhile customers in Northern Ireland requiring a rural electricity connection would only need to go through the planning process once for the actual dwelling rather than the current situation where a planning application is required for the dwelling and a separate application made for the overhead service to provide an electricity supply.

- The Planning Approval Process remains robust.

Rural electricity supplies requiring planning permission are typically more expensive due to the distance from existing electricity infrastructure and NIE argue the additional planning fee of £660 compounds the issue. NIE therefore conclude that the present process needs changing as a refusal is very rare, the cycle times for a decision are increasing and the costs are significant (have increased from £180 to £660 over the last three years).

A representative from NIE expressed a wish to see PD rights extended to cover low voltage OHP lines with no length restriction at the Stakeholder Meeting. The representative did accept that some restriction is likely to be set out in sensitive areas.
Principal planning officers suggested that permitted developments for the erection of electricity lines could be extended to provide longer lines without having to apply for an application. It was proposed that PD rights could be extended from 100m to 400-500m, except when located in AONBs.

A response received from Northern Ireland Water (NIW) provided a number of suggested changes to PD rights for Class H:

- NIW argue that there is currently no mechanism to clearly determine whether permission for significant water mains (generally greater than 5km) are PD. NIW outline that it may be possible to ensure that a Certificate of Lawful Development is applied for in instances where the water main is greater than 5km in length. There are other legislative requirements e.g. an Environmental Impact Assessment and Statement may be required, however these would continue to be outside of the planning requirements;

- NIW suggest additional wording is provided in Class H, Paragraph (f) to include ‘control kiosks’ along the lines of ‘….a water distribution system of a booster station, valve house, control kiosk, meter or switch gear house….’ NIW consider maximum dimensions of 1m x 2m x 1.8m to be appropriate;

- Under Class H, Paragraph (h) PD rights are given within existing operational lands indicating that works can be extended within certain parameters, however, there is not the flexibility to build a new house for control panel, blowers etc. NIW find this to be odd given the fact that a series of large tanks possibly up to 15m high could be built. Therefore, consideration should be given to PD rights for buildings for protection of essential apparatus to be constructed on operational land. Under Class H, Paragraph (h), additional wording is therefore required to include buildings that will be permitted for the housing and protection of apparatus essential to the operation of the works on operational lands (NIW change in bold). ‘…other development in, on over or under operational land other than provision of a building but including the extension or alteration of a building or a building for the purposes of the housing and protection of apparatus essential to the operation of the works’;

- Under Class H – NIW set out a requirement for a new paragraph for water and sewerage undertakers communication equipment; ‘Replacement of existing communications apparatus and addition of new communications apparatus on an existing mast with tolerance of 1m in the horizontal plane and 2m in the vertical plane. A 10% extension to an existing mast height is permissible. Additional communications antennas permitted on ground based and roof mounted masts but not exceed 5m in height’;

- Under Class H, Paragraph (b), there should be clarity on the application of PD rights to water distribution and trunk mains and may include additional wording in the clause (NIW change in bold). ‘…..supply and distribution of water or for…’;

- Under Class H there is a requirement for a new paragraph for water and sewerage undertakers waste water and storm water collection systems (NIW change in bold). ‘development not above ground level required in connection with the waste water and storm water collection systems including the installation of a pumping station, valve house, meter or switch-gear house’;
NIW set out that the prior notification/approval system should be transparent that directs water and sewerage undertakers in the application for a Certificate of Lawful Development demonstrating works are PD under the GDO. NIW therefore suggest a mechanism could apply to developments demonstrating PD characteristics as outlined in PGD Order. Such a prior notification and approval system could comprise of:

- A requirement for plans to be submitted with technical justification demonstrating alignment with constraints in PGD Order;
- An allowance of 28 days for determination with no extension of time or ability to seek further details;
- No third party consultation;
- A default of approval (deemed consent) if no decision within 28 days of timescale;
- A right of appeal by the applicant; and
- Issue of CLD on approval.

A further response was received from NIW further explaining a particular change recommended above. This sets out that cover is required to protect equipment (which generally has an electrical element) from the elements, to allow maintenance of a safe working environment and offer a further level of protection from trespassers. NIW set out that 30m² would be appropriate as a minimum but it is suggested there could be a system of proportionality to the size and function of the existing site. NIW state that operational sites will have a number of tanks and control and equipment buildings possible of a floor area circa 100m².

Many of NIW’s operational sites have above ground visual assets of some description. Many have operational buildings in addition to the structures, these currently house control equipment, panels, motors, dosing equipment, telemetry equipment, instrumentation etc. At the small works end of the scale NIW has a number of below ground assets (septic tanks serving a small number of houses), and there is little above ground of a visual nature, in these instances upgrading and replacement would invariably be a similar product. In these instances it may be appropriate to have an exclusion of PD rights for any form of modest building.

Overall NIW consider there is no requirement to impose further conditions such as removing PD within a certain distance of the boundary of a site or close to a public highway.

13.8 Summary

A number of stakeholder views have been collected throughout the consultation process. Comments received referred to the potential to extend PD rights for overhead electricity lines and how this could be regulated in ASSIs. A number of recommendations relating to the potential reform of Class H PD rights are made in the stakeholder response from NIW. Given their distinct nature they are appraised in the other potential changes section.
13.9 Options for Change

From the above analysis there appears to be a strong case to reform PD rights for overhead electricity lines and a potential for significant planning application savings. As a result Entec conclude that it within Class C (Electricity Undertakings) that there is a good case for considering options for change relating to overhead electricity lines to single properties.

It is also considered that there is such significant demand for extension of PD rights here that not to extend PD rights is not an option. As a consequence the following two options are taken forward for appraisal:

Option 1 - Under this Option, PD rights are extended for all overhead electricity lines with no length limit.

Option 2 - Under this Option, PD rights are to be extended for overhead electricity lines up to 400 metres.

Table 13.3 assesses the two options against economic, environmental, policy, social and administrative implications.
<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td>Option 1 - Electricity lines with no length limit</td>
<td>✓ Reduced application costs for electricity providers</td>
</tr>
<tr>
<td>✓ Reduced delays in obtaining planning permission, which could stall housebuilding, may provide some economic benefit...</td>
<td></td>
</tr>
<tr>
<td>✓ Reduced PS case load. 11.6% less applications in total sample &amp; would remove 69% of applications from the specific topic area.</td>
<td>✗ Substantially reduce PS fee income, given each application costs £660</td>
</tr>
</tbody>
</table>

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Page 184
Doc Reg No. 23271
September 2009
### Table 13.3 (continued) Electric lines: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 2 - Electricity lines up to 400m in length</td>
<td>✓ Reduced application costs for electricity providers</td>
</tr>
<tr>
<td></td>
<td>✓ Reduced PS case load. 8% less applications in total sample &amp; would remove 47% of applications from specific topic area. NIE state 99% of such applications are granted planning permission anyway.</td>
</tr>
<tr>
<td></td>
<td>✓ Substantially reduce PS fee income, given each application costs £660</td>
</tr>
</tbody>
</table>

### LEGEND

- ✔ Positive Impact
- 0 No Impact
- × Negative Impact
13.10 **Other Potential Changes**

Given their distinct nature, the changes proposed to Class H are considered individually as they cannot be grouped into options either within themselves or with those relating to overhead electricity lines.

Table 13.4 **Potential Changes to Water and Sewerage Undertakings (Class H)**

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potential PD rights for significant water mains (over 5Km in length) to be subject to a Certificate of Lawful Development.</td>
<td>If a pipeline is more than 5km long an EIA may be required as set out in DCAN 10 Annex A. If such a proposal is determined as an EIA development then PD rights are removed and a planning application is therefore required. However if an EIA is not required then PD rights remain for underground water mains as in Class H. If an EIA is not required it is concluded that a pipeline of over 5Km will not have significant adverse environmental impacts and therefore Entec propose the present system provides an appropriate level of protection.</td>
</tr>
<tr>
<td>Under Class H, Paragraph (f) there is no mention of control kiosks. Additional wording to include them should be provided.</td>
<td>Entec agree with this recommendation.</td>
</tr>
<tr>
<td>Provide PD rights for new buildings on operational land for water and sewerage undertakings under Class H, Paragraph (h).</td>
<td>This proposed change would introduce PD rights for new buildings on operational land to house apparatus essential to the operation of the works. A threshold of 30 sq m is suggested in light of NIW’s response. This would be around the size of a small domestic garage and thus would have limited visual impact on the surrounding area when combined with the conditions below. However Entec outline that to ensure such development is located suitably a condition is imposed stating that ‘the first above ground development should require planning permission’. Further Entec conclude that PD should be provided for buildings that are to house essential equipment.</td>
</tr>
<tr>
<td>Under Class H provide a requirement for a new paragraph for water and sewerage undertakers communication equipment; ‘Replacement of existing communications apparatus and addition of new communications apparatus on an existing mast with tolerance of 1m in the horizontal plane and 2m in the vertical plane. A 10% extension to an existing mast height is permissible. Additional communications antennas permitted on ground based and roof mounted masts but not exceed 5m in height’</td>
<td>Entec recommends that the proposals made in Part 17 are also adopted for this part of the GDO.</td>
</tr>
<tr>
<td>Under Class H, Paragraph (b), there should be clarity on the application of PD rights to water distribution and trunk mains and may include additional wording in the clause… ‘…..supply and distribution of water or for…’</td>
<td>Clarification will improve the GDO’s readability and is therefore recommended.</td>
</tr>
</tbody>
</table>
### Table 13.4 (continued) Potential Changes to Water and Sewerage Undertakings (Class H)

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A prior notification and approval system comprising:</td>
<td>As set out in Section 6, Entec are not proposing any form of prior approval system. Entec consider that the rights proposed present an appropriate balance between development which is unlikely to have impact and that which potentially does, and hence would require a planning application.</td>
</tr>
<tr>
<td>- A requirement for plans to be submitted with technical justification demonstrating alignment with constraints in PGD Order;</td>
<td></td>
</tr>
<tr>
<td>- An allowance of 28 days for determination with no extension of time or ability to seek further details;</td>
<td></td>
</tr>
<tr>
<td>- No third party consultation;</td>
<td></td>
</tr>
<tr>
<td>- A default of approval (deemed consent) if no decision within 28 days of timescale;</td>
<td></td>
</tr>
<tr>
<td>- A right of appeal by the applicant; and</td>
<td></td>
</tr>
<tr>
<td>- Issue of CLD on approval.</td>
<td></td>
</tr>
</tbody>
</table>

A number of other changes were proposed in the other review section for this topic. These are discussed in the table below.

### Table 13.5 Other Potential Changes to Utilities in GDO

<table>
<thead>
<tr>
<th>Proposed Change/Suggestion</th>
<th>Entec Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electronic communications masts for rail safety systems should be permitted development, subject to a height limit of 15 metres (49 feet)</td>
<td>Entec agree with this recommendation taken from the Planning Service Policy Papers.</td>
</tr>
<tr>
<td>All Class A (Railway Undertakings), Class C (Electricity Undertakings) &amp; Class G (Post Office) PD rights to be removed in Areas of Special Scientific Interest (ASSIs). Further Class B (Dock, pier, harbour or water transport undertakings) PD rights to be restricted in ASSIs.</td>
<td>Entec agree with the recommendation and suggest recommendation is implemented as in line with sensitive areas section.</td>
</tr>
<tr>
<td>Class B (Dock, pier, harbour or water transport undertakings) to include PD rights for security CCTV cameras with suitable height restrictions.</td>
<td>Entec agree with recommendation as proposed by Planning Service in their policy paper 2007, subject to the same restrictions as CCTV in Part 21 – Closed Circuit Television Cameras.</td>
</tr>
<tr>
<td>Class B (Dock, pier, harbour or water transport undertakings) to include PD rights for security fencing of up to 2.4 metres in height should be included but restricted where the operational boundary is shared with a residential dwelling. Rights should be restricted to ‘fences’ for visual amenity reasons.</td>
<td>Entec agree with the recommendation as proposed by Planning Service in their policy papers 2007, subject to the same restrictions as CCTV in Part 21 – Closed Circuit Television Cameras.</td>
</tr>
<tr>
<td>Provide PD rights for universal postal service pouch boxes, except in conservation areas and subject to the condition that they be sited to minimise their effect on pedestrian flow and visual impact</td>
<td>Entec agree with the recommendation as proposed by Planning Service in their policy paper 2007, subject to the same restrictions as CCTV in Part 21 – Closed Circuit Television Cameras.</td>
</tr>
<tr>
<td>Replace ‘Post Office’ with ‘universal service provider’ wherever it occurs within Class G (Post Office)</td>
<td>Entec agree with the recommendation as proposed by Planning Service in their policy paper 2007. Clarification will improve GDO’s readability.</td>
</tr>
<tr>
<td>Provide interpretation provision stating that ‘universal service provider’ and universal postal pouch-box’ are defined in the Postal Services Act 2000.</td>
<td>Entec agree with the recommendation as proposed by Planning Service in their policy paper 2007. Clarification will improve GDO’s readability.</td>
</tr>
</tbody>
</table>
13.11 Recommendations for Change

From table 13.3, Option 2 is taken forward as the preferred option. The Option provides a quicker system for operators, whilst the Planning Service retains control over lines impacting over a significant area. Further the Options implementation will reduce the Planning Services’ workload significantly. Table 13.4 and 13.5 provide an analysis of the other recommendations which have been suggested. As a consequence the following PD rights are recommended:

Table 13.6 Recommended Changes to Utility PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>
| **Class C (Electricity Undertakings)**
Development by electricity undertakers for the generation, transmission, distribution and supply of electricity for the purposes of the undertaking consisting of a number of operations including; ‘the installation of service lines for individual consumers from an electric line’. | The extension of Class C (Electricity Undertakings) PD Rights for single user overhead lines up to a permitted length of 400m. | At present Class C PD rights are removed in SAIs, CAIs, NPs & AONBs but are permitted in ASSIs.
Entec propose to permit the extended Class C PD rights in AONBs, National Parks & CAIs but remove them in ASSIs and SAIs.
Overhead lines to be restricted to 100m in Special Countryside Areas. |
| **Class A (Railway undertakings)**
Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail. | Addition to Part 13, Class A
Development by or on behalf of railway undertakers on their operational land, required for the provision of electronic communication masts for rail safety systems. However development is not permitted if:
- In the case of the installation of apparatus (other than on a building or other structure) the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;
- In the case of the alteration or replacement of apparatus already installed (other than on a building or other structure), the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;
- In the case of the installation, alteration or replacement of any apparatus other than:
  - A mast;
  - An antenna;
  - A public call box;
  - Any apparatus which does not project above the level of the surface of the ground; or
  - Radio equipment housing.
the ground or base area of the structure would exceed 1.5 square metres. | All Class A (Railway Undertakings), Class B (Dock, pier, harbour or water transport undertakings), Class C (Electricity Undertakings) & Class G (Post Office) PD rights to be removed in Areas of Special Scientific Interest (ASSIs) and SAIs. |
### Table 13.6 (continued)  Recommended Changes to Utility PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• In the case of the installation of a mast, on a building or structure which is less than 15 metres in height, such a mast would be within 20 metres of a highway;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• In the case of the installation, alteration or replacement of radio equipment housing:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- The development is not ancillary to the use of any other telecommunication apparatus; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- It would exceed 90 cubic metres or, if located on the roof of a building, it would exceed 30 cubic metres.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• If within an ASSI or SAI.</td>
</tr>
</tbody>
</table>

**Class B (Dock, pier, harbour or water transport undertakings)**

Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour or water transport undertakings, required:

(a) for the purposes of shipping; or
(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or the movement of traffic by any railway forming part of the undertaking.

Class B (Dock, pier, harbour or water transport undertakings) to include PD rights for security fencing of up to 2.4 metres in height should be included but removed where the operational boundary is shared with a residential dwelling.

**Class G (Post Office)**

Development required for the purpose of the Post Office consisting of:

(a) the installation of posting boxes or selfservice machines;
(b) any other development carried out in, on, over or under the operational land of the undertaking.

Provide PD rights for universal postal service pouch boxes, except in conservation areas and subject to the condition that they be sited to minimise their effect on pedestrian flow and visual impact.

**Class H (Water and Sewerage Undertakings)**

H (f) gives PD rights for the installation in a water distribution system of a booster station, valve house, meter or switch gear house.

Add “control kiosk” to the list of PD under this paragraph.
### Table 13.6 (continued)  Recommended Changes to Utility PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights / Approach in sensitive areas</th>
</tr>
</thead>
</table>
| **H (h)** gives PD for any other development in, on over, or under operational land other than the provision of a building but including the extension or alteration of a building. | New point **(j)** under Class **H** (Water and Sewerage Undertakings): (j) the erection of a building for the housing of essential equipment necessary for the function of the operational site in the delivery of the water and sewerage undertaker’s statutory duties’. Subject to:  
- A maximum floorspace of 30 sq m per new building;  
- Not within 5m of a boundary or facing a highway;  
- No loss of turning/manoeuvring space for vehicles;  
- Not permitted development within the curtilage of a listed building unless listed building consent for the development has previously been granted;  
- Max 50 per cent ground coverage;  
- Max height of 4m;  
- The first above ground development should require planning permission;  
- Not permitted development if the building is to serve proposed operations below ground in floodplains;  
- Not permitted development within flood plains; or  
- The land is within a site of archaeological interest or area of special scientific interest. | PD rights withdrawn in ASSIs and SAlis. |

| **H (b)** gives PD for development not above ground level required in connection with supply of water or conserving, redistributing or augmenting water resources or for the conveyance of water treatment sludge. | Amend paragraph **(b)** to include additional wording in the clause... '….supply and distribution of water or for…:' |

### 13.12 Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 65 applications relating to utilities. Table 13.7 sets out the predicted savings that would be achieved if the recommendation above were introduced both within the sample and Northern Ireland throughout 2007/2008.
Table 13.7 Predicted Savings in Utility Applications

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>No. of applications saved</th>
<th>% apps. Saved in topic</th>
<th>% apps. Saved in total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class C (Electricity Undertakings) to extend PD rights for single user overhead lines to a permitted length of 400m</td>
<td>31</td>
<td>47.69</td>
<td>8.01</td>
</tr>
<tr>
<td><strong>Total Savings</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total saved in Northern Ireland (2007-2008) if all recommendations implemented</td>
<td>479</td>
<td>47.69</td>
<td>8.01</td>
</tr>
</tbody>
</table>

The potential savings in this area are substantial but come entirely through the PD right to allow single user overhead lines to a permitted length of 400m. It therefore appears critical this PD right is introduced to decrease Planning Service workload but at the same time is accompanied with suitable conditions to ensure it does not result in negative outcomes in terms of visual amenity.

13.13 Approach to Sensitive Areas

The impact of the recommended approach on sensitive areas is likely to vary. In Areas of Outstanding Natural Beauty (AONBs) and National Parks there is potential for overhead lines to have level 3 visual impacts. However Entec consider that the recommendation for overhead lines up to 400m will not detrimentally impact upon the landscape over a large area. This being one of the factors behind this options selection. With regard to AONBs and National Parks therefore PD rights would not have conditions attached to them. However our assessment has indicated that additional protection should be put in place in Special Countryside Areas, restricting overhead lines to 100m.

However, Areas of Special Scientific Interest (ASSIs) and Sites of Archaeological Interest (SAIs) present a different issue as these areas are generally smaller and there is therefore potential for ground disturbance when erecting electricity poles or masts which may potentially impact on nature conservation, geological value or archaeological remains. In such areas the proposed PD rights would be withdrawn. This is in line with the findings of previous reviews.

It is deemed that the effects of the recommendation on conservation areas is negligible as demand for service lines to individual consumers is likely to be in rural areas, whilst conservation areas are predominantly located in urban areas where electricity apparatus is likely to have been previously installed. As a consequence no condition with regard to conservation areas is proposed. The approach is to be the same for the additional PD rights proposed under the new Point (j), Class H (Water and Sewerage Undertakings) of Part 13 as that taken for overhead lines, given the potential for ground disturbance.

As set out in the recommendations for change section all Class A (Railway Undertakings), Class C (Electricity Undertakings) & Class G (Post Office) PD rights are to be removed in ASSIs. It is recommended that Class B
(Dock, pier, harbour or water transport undertakings) PD rights are restricted in ASSIs. With regard to our recommendation to extend Part 13, Class A (Railway undertakings) PD rights these are to be restricted in ASSIs and SAIs as well as the PD rights offer the potential for ground disturbance.
14. Minerals

14.1 Definitions

The UCO does not include a class referring specifically to minerals. This section deals with the extraction of minerals and related ancillary activity e.g. processing plants.

The GDO contains a specific section regarding Mineral Exploration in the form of Part 16.

14.2 Background

In determining planning applications for minerals development the Planning Service, is required to balance the need for minerals against the need to protect the environment. The following information is taken from the Northern Ireland Planning Service website:\(^2^2\):

*Minerals are an essential raw material for construction and power generation. Minerals exploration makes an essential contribution to Northern Ireland’s prosperity and quality of life. The mineral extraction industry provides employment often in rural areas and produces a wide range of products for a variety of purposes in construction, agriculture and industry. Within Northern Ireland there are nearly 600 occurrences of economic minerals and approximately 1800 abandoned mine workings, mostly dating from the last century. The bulk of mineral commodities, which are largely natural sand, gravel and crushed rock aggregate plus rock for cement manufacture, are mostly obtained through quarrying. Increasingly, however, there is a recognition that mineral working can have a significant impact on the environment and quality of life.*

Part 16 of the GDO permits the following development on any land for a period not exceeding 4 months:

- The drilling of boreholes;
- The carrying out of seismic surveys; or
- The making of other excavations.

This is providing it is for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any such operations.

However development is not permitted by this Class if:

- The developer has not previously notified the Department;
- Any operation is within an ASSI or site of archaeological interest;
- A explosive charge of more than 1 Kg is to be used; or,
- Any structure would exceed 3m in height where such structures would be within 3 Km of an aerodrome.

This is subject to conditions regarding development:

- Being carried out in accordance with the details in developer’s notification;
- No trees to be removed, felled, lopped or topped or other things done on the land that are likely to harm or damage trees;
- Before any excavation (other than a borehole) is made, any topsoil and any subsoil shall be separately removed from the land to be excavated and stored separately; and,
- A number of conditions regarding the clean up of the workings.

14.3 **PD Rights in Other Nations**

PD rights in Scotland and England & Wales with regard to minerals are more extensive than in Northern Ireland. They cover 5 parts that relate to mineral workings. The England & Wales and Scotland GPDOs both provide a class not present in Northern Ireland permitting ‘Development Ancillary to Mining Operations’. This includes:

- The erection, extension, installation, rearrangement, replacement or other alteration of any plant or machinery; buildings;
- Private ways or private railways or sidings; or,
- Sewers, mains, pipes, cables or other similar apparatus, on land used as a mine.

Exempted development in the Republic with regard to minerals is minimal in contrast to the UK with the only rights proposed relating to minerals and petroleum prospecting. Greater detail of the PD rights offered in other nations for mineral development is outlined in Appendix C.

14.4 **Current Volume of Applications for Minerals**

The analysis of planning application data shows how many mineral related applications were submitted over the period. These are summarised in Table 14.1.
Table 14.1  Sampled Applications for Minerals Development

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Mineral Applications</td>
<td>4</td>
</tr>
<tr>
<td>Percentage of Total Sample (%)</td>
<td>1.03</td>
</tr>
</tbody>
</table>

Only 4 applications in the sample were for mineral related uses. The small number means that any application savings from new PD rights are likely to be minimal.

Entec conclude that the number of minerals applications included in the sample is not extensive enough to suggest, in itself that PD rights with for this topic are in need of reform. However we now go on to examine whether there is a case for reviewing PD based on other factors.

14.5  Planning Policies

National guidance and development plan policy sets out a general presumption in favour of minerals development. In evaluating a planning application, account should be taken as to the value of the mineral to the economy, the environmental implications of the proposal and the degree to which adverse effects can be mitigated in relation to the character of the local area. This summary of Northern Ireland’s planning policy in relation to minerals development is expanded upon in Appendix D.

14.6  Previous PD Reviews and Possible Areas for Change

14.6.1  PD Review 2003 and Planning Service Analysis

The Lichfield Review concluded that there was no strong demand from mineral operators for additional PD rights for mining operations. However the Review did report that the differences between the Northern Ireland System and the rest of the UK did cause problems for English based operators in Northern Ireland.

Further the Planning Service Papers provide the following summary of recommendations culminating from other reviews:

14.7  England & Wales Lichfield Report

- ‘Part 19 rights often removed by planning conditions by mineral authorities – necessary to avoid problems such as asphalt coating plants and concrete plants;
- Suggests changes to Part 19 are needed to avoid the need for mineral authorities to remove rights;
• Consultant recommended excluding mineral processing plants from Part 19 and limiting prior approval time period to 56 days (or shorter).

14.7.1 Scottish Office Review of Permitted Development

• With the cessation of underground mining in Scotland Part 16 is redundant;

• Consultants recommended that consideration be given to combining Part 16 with Part 15-19 in a rationalized minerals (including opencast mining) Part of the GPDO.

14.7.2 England and Wales Non Householder Minor Development Review 2008

This review did not appraise the minerals topic.

14.7.3 Summary

The above reviews present some case for reform of the Northern Ireland GDO in this area, given the more extensive rights in England and Scotland although there are recommendations from other reviews that are not necessarily relevant as they refer to prior approval or parts of the GPDO which have no equivalent in Northern Ireland.

14.8 Stakeholder Views on Current System and Possible Areas for Change

14.8.1 Stakeholder Views

The Quarry Products Association for Northern Ireland (QPANI) submitted a response on what should constitute PD within the minerals sector:

• Replacement equipment that does not change impact;

• Any measure that is a requirement of statutory bodies;

• Any measure that reduces environmental impact and improves health and safety;

• Improvements to welfare facilities;

• An extension that does not increase the structure by more than 15%;

• Minor works – wheel washes, covers for conveyors, creation of hard standings etc.; and
14.8.2 **Summary**

It is concluded that whilst this response comes from a single association, it provides sufficient grounds to reform the GDO in this area and ties in with some of the PD rights that may be introduced if a system similar to that used in England & Wales were introduced in Northern Ireland.

14.9 **Options for Change**

The presence of a number of recommendations made in stakeholder responses and the more extensive rights offered elsewhere in the UK has led to Entec concluding that further assessment of options for the GDO’s reform is justified. This is despite the low number of mineral related applications in the sample. In section 4 it is agreed that volume measurements are to be removed and therefore conditions used in the options for change section are based on height and floorspace measurements.

Entec has generated three options to appraise as a result of the above sections. It was felt that Part 19 in England offered many of the recommendations set out in the stakeholder response.

On the basis of the above analysis we have put forward three options.

14.9.1 **Option 1 – Similar to Part 19 of the England and Wales GPDO (Without Prior Approval)**

Under this Option rights similar to those set out in Part 19 (Development Ancillary to Mining Operations) of the England & Wales GPDO are introduced in the form of a new part in the GDO. Part 19 of the English GPDO is reproduced in full in Appendix F of the Report. Classes B and C from the GPDO in England & Wales would be included under Option 1, however unlike in England & Wales, we have not included a prior approval process as we are not proposing this for Northern Ireland. Option 1 would contain the following classes.

**Class A** - The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any:

- Plant or machinery;
- Buildings;
- Private ways or private railways or sidings; or
- Sewers, mains, pipes, cables or other similar apparatus, on land used as a mine.
However development is not permitted by Class A if:

- In relation to land at an underground mine, on land which is not an approved site;

- The principal purpose of development would be any purpose other than the purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that mine; or the treatment, storage or removal from the mine of such minerals or waste materials derived from them;

- The external appearance of the mine would be materially affected;

- The height of any building, plant or machinery which is not in an excavation would exceed; 15m above ground level; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greater;

- If the height of any building, plant or machinery in an excavation would exceed; 15m above the excavated ground level; or 15m above the lowest point of the unexcavated ground immediately adjacent to the excavation; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greatest;

- If any building erected (other than a replacement building) would have a floorspace exceeding 1,000 square metres; or

- If the floorspace of any replaced, extended or altered building would exceed by more than 25% the floorspace of the building replaced, extended or altered or the floorspace would exceed by more than 1,000 sq m the floorspace of that building.

This would be subject to the conditions:

- All buildings, plant and machinery permitted are removed within 24 months (or longer period agreed in writing) of the date operations have permanently ceased; and

- The land shall be restored, as far as practicable, to its condition before development took place, or such condition as is agreed with the planning authority.

**Class B** - The carrying out, on land used as a mine or on ancillary mining land, of operations for the erection, installation, extension, rearrangement, replacement, repair or other alteration of any:

- Plant or machinery;

- Buildings; or

- Structures or erections.

However development is not permitted by Class B if:

- In relation to land at an underground mine, it is on land which is not an approved site; or
• The principal purpose of development would be any purpose other than purposes in connection with the operation of the mine; treatment, preparation for sale, consumption or utilisation of minerals won or brought to the surface at that mine; or the storage or removal from the mine of such minerals, their products or waste materials derived from them.

This would be subject to similar conditions as those in Class A.

**Class C** - Development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

However development is not permitted by Class C where:

• The external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would be materially affected;

• Any building, plant, machinery, structure or erection:
  - Would exceed a height of 15 metres above ground level; or
  - Any building, plant, machinery, structure or erection rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was rearranged, replaced or repaired, whichever is the greater;

• The development consists of the extension, alteration or replacement of an existing building and
  - If the floorspace of any replaced, extended or altered building would exceed by more than 25% the floorspace of the building replaced, extended or altered; and
  - The floor space of the building as extended, altered or replaced exceeds that of the existing building by more than 1,000 square metres.

14.9.2 **Option 2 - Similar to Part 19 Class A of the England and Wales GPDO**

Under this Option, Class A and C as in Option 1 remain the same but Class B are removed.

14.9.3 **Option 3 – No Extension to PD Rights**

Under this Option no extension would be made to PD rights.

Table 14.2 assesses the three options against economic, environmental, policy, social and administrative implications.
### Table 14.2 Minerals: Summary of Implications of Options

<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ECONOMIC</td>
</tr>
<tr>
<td>Option 1 – As English &amp; Welsh Part 19 Class A-C (but with no prior approval)</td>
<td>✔ Reduced application costs for operators ✔ Allows for greater efficiency in operations at existing mineral sites ✔ Reduced PS case load ✔ Increased efficiency &amp; development on mineral sites should boost NI economy</td>
</tr>
</tbody>
</table>

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Page 200
<table>
<thead>
<tr>
<th>OPTION</th>
<th>IMPLICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECONOMIC</strong></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td>Option 2 – As English &amp; Welsh Part 19 Classes A &amp; C</td>
<td>✓ Reduced application costs for operators</td>
</tr>
<tr>
<td>✓ Allows for greater efficiency in operations at existing mineral sites</td>
<td>✓ Retains greater control than Option 1 over potential adverse impacts on ecology/biodiversity or neighbouring uses</td>
</tr>
<tr>
<td>✓ Reduced PS case load</td>
<td></td>
</tr>
<tr>
<td>✓ Increased efficiency &amp; development on mineral sites should boost NI economy</td>
<td></td>
</tr>
<tr>
<td></td>
<td>x Possible level 4 impacts through increased surface runoff &amp; emissions caused by extensions / new build</td>
</tr>
<tr>
<td></td>
<td>x Potential impacts/ disruption to ecology/ biodiversity/ neighbouring uses from extensions/ new build</td>
</tr>
<tr>
<td>OPTION</td>
<td>IMPLICATIONS</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td><strong>ECONOMIC</strong></td>
</tr>
<tr>
<td>Option 3 – No extension</td>
<td>✗ Hampers development on mineral sites &amp; increases costs to operators in applying for planning permission</td>
</tr>
<tr>
<td></td>
<td>✗ Restrains minerals economy in NI</td>
</tr>
<tr>
<td></td>
<td><strong>ENVIRONMENTAL</strong></td>
</tr>
<tr>
<td></td>
<td>✗ Environmental benefits of retaining complete control of extensions / new build that may cause adverse impacts.</td>
</tr>
<tr>
<td></td>
<td>✗ Option may hinder quick response to operational matters &amp; quicker clean up of site</td>
</tr>
<tr>
<td></td>
<td><strong>POLICY</strong></td>
</tr>
<tr>
<td></td>
<td>✗ PS retains control over potential negative environmental implications as set out in Planning Strategy for Rural NI</td>
</tr>
<tr>
<td></td>
<td>✗ Option may hinder mineral development to the detriment of the NI economy</td>
</tr>
<tr>
<td></td>
<td><strong>SOCIAL</strong></td>
</tr>
<tr>
<td></td>
<td>✗ PS retains control over potential level 2 impacts in the form of noise, vibration &amp; light spillage to surrounding land uses</td>
</tr>
<tr>
<td></td>
<td>✗ PS retains control over potential level 2 impacts on sightlines from surrounding land uses caused by buildings / machinery</td>
</tr>
<tr>
<td></td>
<td><strong>ADMINISTRATIVE</strong></td>
</tr>
<tr>
<td></td>
<td>✗ Applicants and PS are familiar with present system</td>
</tr>
<tr>
<td></td>
<td>✗ No application savings</td>
</tr>
</tbody>
</table>

**LEGEND**

✔ Positive Impact

0 No Impact

✗ Negative Impact
**14.9.4 Recommendations for Change**

Option 1 is based on the England & Wales GPDO. In England & Wales this includes a prior approval system. However under our Option Classes B and C would make such elements PD without the need for prior approval. The function of prior approval in Part 19 is to enable the authority to refuse or grant prior approval subject to conditions where it is expedient because the proposed development would impact on the amenity of the neighbourhood. This suggests that some level of control is warranted. As Entec are not recommending prior approval for Northern Ireland it is worth considering if Classes B and C could operate in the absence of prior approval. Class B overlaps with Class A but one of the major differences is that it refers to PD on “ancillary mining land” and this appears to be a potentially difficult term to define. The consultants in the 2003 Review felt that PD rights may be limited in Northern Ireland because there are no large mines, no significant coal mining and many small private mines close to housing. For this reason there could be impacts in extending PD to adjacent land which the GDO, particularly in the absence of prior approval, would not be able to control.

We are not therefore convinced that replicating Class B in Northern Ireland would be acceptable in terms of adequately controlling potential impacts. As regards Class C, measures to improve safety are likely to be as relevant in Northern Ireland as to the rest of the UK.

Entec therefore consider Option 2 to be the preferred option. This Option provides economic benefits, allows for greater efficiency on minerals sites, supports the Planning Strategy for Rural Northern Ireland, provides for the maintenance of safety of a mine and will decrease planning applications submitted to the Planning Service. The conditions placed upon this option should restrict potential level 2-4 impacts on surrounding land uses.

In conclusion the following new part is proposed based largely on the England & Wales system, encapsulating a number of recommendations received in the QPANI’s response.
## Table 14.3 Recommended Change to Mineral PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 16 – Mineral Exploration</td>
<td>New Part - Development Ancillary to Mining Operations</td>
<td>The PD rights offered under the new Part regarding 'Development Ancillary to Mining Operations' are to be permitted in National Parks &amp; AONBs but removed in SAIs, CAs &amp; ASSIs.</td>
</tr>
<tr>
<td>Development on any land during a period not exceeding 4 months consisting of:</td>
<td>Class A - The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any:</td>
<td></td>
</tr>
<tr>
<td>(a) The drilling of boreholes</td>
<td>• Plant or machinery;</td>
<td></td>
</tr>
<tr>
<td>(b) The carrying out of seismic surveys; or</td>
<td>• Buildings;</td>
<td></td>
</tr>
<tr>
<td>(c) The making of other excavations.</td>
<td>• Private ways or private railways or sidings; or</td>
<td></td>
</tr>
<tr>
<td>For the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.</td>
<td>• Sewers, mains, pipes, cables or other similar apparatus.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• On land used as a mine.</td>
<td></td>
</tr>
<tr>
<td>However development is not permitted by Class A if:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• In relation to land at an underground mine on land which is not an approved site;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The principal purpose of development would be any purpose other than the purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that mine; or the treatment, storage or removal from the mine of such minerals or waste materials derived from them;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The external appearance of the mine would be materially affected;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The height of any building, plant or machinery, if any, which is not in an excavation would exceed; 15m above ground level; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greater;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The height of any building, plant or machinery in an excavation would exceed; 15m above the excavated ground level; or 15m above the lowest point of the unexcavated ground immediately adjacent to the excavation; or the height of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greatest;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Any building erected (other than a replacement building) would have a floorspace exceeding 1,000 square metres; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The floorspace of any replaced, extended or altered building would exceed 25% of that of the existing building or the floorspace would exceed by more than 1,000 sq m the floorspace of the existing building.</td>
<td></td>
</tr>
<tr>
<td>This would be subject to the conditions:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• All buildings, plant and machinery permitted by Class A shall be removed from the land unless the mineral planning authority have otherwise agreed in writing; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The land shall be restored, so far as practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the mineral planning authority and the developer.</td>
<td></td>
</tr>
</tbody>
</table>
Table 14.4  Recommended Change to Mineral PD Rights

<table>
<thead>
<tr>
<th>Summary of current PD rights</th>
<th>Extended PD rights</th>
<th>Restricted PD rights</th>
</tr>
</thead>
</table>

**New Part - Development Ancillary to Mining Operations**

**Class C** - Development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or a disused mine.

However development is not permitted by Class C where:

- The external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would be materially affected;

- Any building, plant, machinery, structure or erection:
  - Would exceed a height of 15 metres above ground level; or
  - Any building, plant, machinery, structure or erection rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was rearranged, replaced or repaired, whichever is the greater;

- The development consists of the extension, alteration or replacement of an existing building and
  - If the floorspace of any replaced, extended or altered building would exceed by more than 25% the floorspace of the building replaced, extended or altered; and
  - The floor space of the building as extended, altered or replaced exceeds that of the existing building by more than 1,000 square metres.

The PD rights offered under the new Part regarding ‘Development Ancillary to Mining Operations’ are to be permitted in National Parks & AONBs but removed in SAIs, CAs & ASSIs.

There is a need to make it clear in the GDO that Part 8 regarding (Industrial and Warehouse development) does not apply to mining operations.

As our preferred approach would include the introduction of a new part to the GDO for minerals, Entec consider that it will be important to ensure that relevant terms are adequately defined in the GDO. In particular the terms “mine”, and “minerals” should be adequately defined and the Department may wish to draw on the definitions currently set out in the England and Wales GPDO.
14.10 Estimated Potential Savings in Planning Application Numbers

Our sample of 388 applications contained 4 applications relating to minerals development. No potential savings are made in this area with the introduction of the recommendations.

Whilst it appears from the sample that there would be little in the way of application savings, there still appears to be a good case for extending PD rights based on our research. The economic benefits from a strong minerals industry are important to Northern Ireland. The proposed new Part will allow operators greater freedom when conducting minor operations, thus improving their efficiency.

14.11 Approach to Sensitive Areas

At present Part 16 rights (Mineral Exploration) are restricted SAIs and ASSIs in Northern Ireland. Mineral development on land used as a mine in the form of extensions potentially up to 1,000 sq m could undoubtedly have level 4 impacts on sites of natural, archaeological or geological value. Development and the disruption caused during the construction process offers the potential to destroy such characteristics and therefore the removal of PD rights in such areas is proposed. Further the proposed PD rights are to be restricted in Conservation Areas as development of such scale could have level 4 impacts on such areas and disturb urban populations.

Similarly physical development may have level 4 impacts on the wider landscape within National Parks or AONBs. However, permitted development rights are exercised in relation to an existing site that has planning permission. Moreover, given the nature of quarrying sites it may be more possible to hide plant and buildings below surrounding ground level, than for other development types. Entec does not therefore propose restricting PD rights further in AONBs & National Parks. In the event that planning permission is granted within an AONB or National Park and there is concern about the sensitivity of the site, PD rights could be withdrawn by planning condition.
15. Conclusion

15.1 Overview

Our study has looked at many types of non-householder development in Northern Ireland. Entec has drawn on a strong evidence based from previous reviews of PD rights; interviews, written comments and workshops with organisations with an interest in permitted development; and an analysis of a sample of nearly 400 planning applications.

Our brief instructed us to review and make recommendations for reforming permitted development rights on the basis that planning control should be focused on development that matters the most. Our approach has been to look at the potential impacts of development as a means of judging which developments could be permitted without the need for a planning application.

In carrying out our work Entec has looked at a number of common themes which apply across the GDO. In seeking views from those organisations that use the GDO, Entec has noted a desire to make permitted development rights more widely and better understood by those involved in development. We have been able to make a number of recommendations for change which are intended to make the GDO easier to use and understand. We have also addressed important topics such as climate change (including flooding) and disabled access and have made recommendations to ensure that these matters are covered by the GDO.

Some of our key recommendations on these cross cutting themes are:

- As part of the wider Planning Reform programme measures should be put in place to make the GDO more accessible to those involved by providing a consolidated document, introducing user guidance and raising awareness amongst planners, agents, developers and other stakeholders;

- Not to introduce a prior approval process, as used in England and Wales because we believe it will create confusion and administrative difficulties which would result in a more complex and inefficient system. We believe that there is greater merit in focusing attention on streamlining the determination of minor applications which are not PD;

- Introducing changes to the GDO which allow for disabled works required to comply with the Disability Discrimination Act;

- Adopting a consistent approach to the way designated areas are covered in the GDO ensuring that PD rights are set at levels which are appropriate for the function and purpose of types of designated area;

- Set out recommendations regarding permitted development rights in relation to flood risk.

In terms of specific land uses we have sought to target minor developments with minimal impacts on neighbours, the wider street scene or environment which could be permitted development. These applications are most likely to
be routinely approved and non-contentious. Their removal from the planning system would reduce the administrative burden for planners and the development industry alike. Our research has shown that certain development types already covered by the GDO could benefit from extended PD rights and these include industry, agriculture, water and electricity providers and limited changes to telecommunications. We have also found that PD rights could be extended to other types of development which do currently benefit from such rights. This would lead to a fairer and more equitable system of permitted development. These include shops, restaurants, offices, hotels, community buildings, leisure facilities, schools, hospitals, waste management facilities and minerals extraction.

Our recommendations envisage amendments to Parts 2 (Minor Operations), 3 (Change of Use), 4 (Temporary Buildings and Uses), 5 (Caravan Sites), 6 (Agricultural Buildings and Operations), 8 (Industrial and Warehouse Development), 12 (Development by District Councils), 13 (Development by Statutory Undertakers) and 17 (Telecommunications) of the current GDO. In addition we recommend 5 new parts covering waste management, retail and town centre uses, ‘hospitals and universities, schools, leisure and community facilities and other institutions’, and minerals. The very large majority of these would mean relaxing planning controls in line with the intentions of Planning Reform in Northern Ireland. In many cases these will help secure an appreciable reduction in the volume of planning applications and/or be of significant benefit to the development industry, without causing undue harm to neighbouring occupiers, the wider community or the environment as a whole.

In certain situations, however, we have proposed that PD rights need to be drawn more tightly and consistently than they are now and we understand that this will extend regulatory control. We consider however that this is important to allow for a consistent approach for example to PD rights in designated areas and ensure that risks from flooding are properly addressed.

15.2 Indicative Savings in Planning Application Numbers

For each of the topic chapters above, we have provided, where possible, an estimate of the savings in planning applications which the changes would deliver.

Table 15.1 provides the sum total the savings of the planning applications were all of our main recommendations to be implemented. The main area of savings relates to single use electric lines (under utilities) where there would be an 8% saving.

The overall level of saved applications in our sample is 46, equivalent to a saving of 11.86%.
Table 15.1 Savings from Recommendations made in Topic Sections

<table>
<thead>
<tr>
<th>Topic Section</th>
<th>Applications saved in sample with all recommendations</th>
<th>Applications saved in NI (2007-2008) with all recommendations</th>
<th>% of total sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entec’s Disability Option</td>
<td>1</td>
<td>15</td>
<td>0.26</td>
</tr>
<tr>
<td>Industry &amp; Research &amp; Development</td>
<td>2</td>
<td>31</td>
<td>0.52</td>
</tr>
<tr>
<td>Waste Management</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Commercial/Retail</td>
<td>7</td>
<td>108</td>
<td>1.80</td>
</tr>
<tr>
<td>Rural Areas</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Institutions, Community Facilities,</td>
<td>5</td>
<td>77</td>
<td>1.29</td>
</tr>
<tr>
<td>Leisure &amp; Recreation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utilities</td>
<td>31</td>
<td>479</td>
<td>8.01</td>
</tr>
<tr>
<td>Minerals</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total Savings</td>
<td><strong>46</strong></td>
<td><strong>710</strong></td>
<td><strong>11.86</strong></td>
</tr>
</tbody>
</table>

The potential savings shown need to be caveated in the following respects:-

- Although the overall sample of planning applications is sizeable, not all of the applications in the sample were what we would consider to be minor in nature and therefore have the potential to be considered as permitted development. It is also the case that when the data is split into land use categories, some of these have only very small numbers of applications with the attendant risk that an unrepresentative sample could skew the result. However, more confidence may be placed in the figures once aggregated and some of the skewed results will balance out;

- No estimate has been made of increased application numbers resulting from the small additional controls which we have recommended in designated areas or increased control in floodplains because there is no statistical evidence on which to base such estimates. We do not believe that the level of additional applications generated will be significant, but it will inevitably impact to some degree on the overall level of savings predicted.

These figures represent no more than an estimate of potential savings. They reflect a small sample of applications and too much must not be read into them.

15.3 The Next Steps

Our report is intended to inform proposals from the Department to amend the GDO as part of the wider programme of Planning Reform. Our report when published will accompany a Consultation Paper summarising the findings of our work and seeking the views of organisations across Northern Ireland and the wider public regarding proposed changes to the GDO.
In a number of places in our report we have highlighted areas where we believe further research and analysis should be carried out before the Department recommends action. The two most notable examples of this are as follows;

- **Use of Local Development Orders/Article 4 Directions to further amend permitted development rights at the local level.** We consider that the Department should await the outcome of research being carried out on LDOs in England and Wales and consider this in light of the proposed changes to the planning system in Northern Ireland;

- **Implications of the Water Framework Directive for permitted development**– This has implications for all types of development not just non-householder and it is important that this topic is considered carefully in light of emerging policy and practice across the UK and in the Republic of Ireland. Further research is required before any recommendations to amend the GDO to take account of the Directive are made.

In addition we recommend that the Department consider the implications of the recommendations relation to PD rights in sensitive areas and flood plains on those parts of the GDO not addressed by this study. This will ensure a consistent approach.