

The Scottish Government's Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland

Consultation on Phase 1 Proposals

September 2020

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1. Introduction

1.1 This document sets out the Scottish Government's draft proposals for changes and extensions to Permitted Development Rights (PDR) in Scotland for the priority development types selected for inclusion in Phase 1 of our programme. It follows on from the consultation on our Proposed Work Programme and Sustainability Appraisal of options that ran from November 2019 to February 2020¹. It is accompanied by a draft Strategic Environmental Assessment Post-Adoption Statement and an update to the earlier Sustainability Appraisal.

1.2 PDR, as set out in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GPDO), remove the need to apply for planning permission. These typically relate to minor, uncontroversial developments or changes associated with an existing development. PDR cover situations where it would be very unlikely for a planning permission application to be refused, where standardised conditions are likely to be used, and therefore, where consideration on the principle of the development by a planning authority on an individual basis is unlikely to add value to the process. On this basis, PDR can help remove the need for unnecessary applications for planning permission and therefore reduce the burden on both applicants and planning authorities. In addition, there is a range of other statutory mechanisms relevant to PDR. Section 3.5 of the 2019 Sustainability Appraisal contains further information.

1.3 We are seeking feedback on both the proposed Phase 1 changes to PDR and the further assessment that was undertaken as an update to the Sustainability Appraisal. Views are also sought on the partial and draft impact assessments that accompany the proposals for change. Section 10 and Annex G set out how to respond. Responses are due by 12th November 2020.

1.4 These proposals are subject to a shorter consultation period than would normally be the case because the general scope of the proposals have already been subject to consultation and scrutiny as part of the Sustainability Appraisal earlier this year. In addition, the changes prioritised in Phase 1 have been selected because they are considered to make important contributions to economic and social recovery from the Coronavirus pandemic and the Scottish Government considers that it is important that they are put into effect as soon as is practicable.

1.5 Following this consultation we will take into account the feedback received, finalise the proposals for changes and extensions to PDR and prepare regulations to be laid in the Scottish Parliament bringing changes to the General Permitted Development Order into effect. To ensure that there is adequate time for Parliamentary scrutiny and for the changes to come into force before the Scottish Parliament goes into pre-election recess, regulations need to be laid in Parliament in December 2020.

¹ <https://www.gov.scot/publications/scottish-governments-proposed-work-programme-reviewing-extending-permitted-development-rights-pdr-scotland/>

2. Responses to Previous Consultation

2.1 An analysis of responses to the previous consultation on the Proposed Work Programme and Sustainability Appraisal was conducted by Craigforth, an independent social research consultancy, and published on 30 September 2020.² All published responses can be found at the Scottish Government's Consultation hub³. The responses have informed the development of the detailed proposals for change we are consulting on now, and changes to the proposed phasing of our PDR work.

2.2 In total 113 responses were received, of which 61 were from groups or organisations and 52 from individual members of the public. The total number of responses includes comments received from the three statutory SEA consultation authorities through the SEA Gateway. Responses varied in their focus – almost all commented on the proposed phasing in the workplan, some focused primarily, or exclusively, on specific development types (including responses which provided significant detail on issues relating to the extension of PDR for these development types), and others commented across a broader range of development types.

2.3 A total of 101 respondents commented on the proposed work programme. Of these, 30 expressed broad support, 44 provided comments which criticised aspects of the programme or offered further suggestions of how this could be improved (the great majority being individuals, including 16 campaign plus responses) and 27 did not express a clear view on the work programme as a whole. Most of those providing comment, including those who expressed broad support, raised issues or suggested amendments to the proposed work programme.

2.4 A total of 74 respondents commented on the accuracy and scope of information set out in the Sustainability Appraisal. Of these, 20 expressed broad support, 18 provided comments which criticised aspects of the accuracy and scope of information described or offered suggestions as to how this could be improved, and 36 did not give a clear overall view. Those expressing support included a mix of planning authorities and other public bodies, planning/other professionals, private sector, third sector and individual respondents. However, most of those providing comment raised issues or concerns regarding the baselines set out in the SA. These were primarily related to specific development types, but some common themes were raised across the environmental, social and economic baselines.

2.5 A total of 81 respondents commented on the predicted effects as described in the SA. Of these, 13 expressed broad support, 44 provided comments which criticised aspects of the predicted effects, and 24 did not express a clear overall view. Most of those providing comment raised issues or concerns, including those expressing broad support for the SA description

² <https://Analysis of Responses to a Consultation on Reviewing and Extending Permitted Development Rights>

³ <https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/>

of predicted effects. The great majority of these issues or concerns related to specific development types. However, several common themes were also evident, some of which were similar to those raised in relation to the accuracy and scope of information set out in the SA.

2.6 A total of 75 respondents commented on proposals for mitigation and monitoring of predicted effects. Of these, 6 expressed broad support for the proposals, 23 provided comments which criticised aspects of mitigation and monitoring, and 46 did not express a clear overall view. Those expressing support included planning/other professionals and private sector respondents. However, a substantial proportion of those providing comment raised issues or suggested amendments to proposals and these have helped inform the proposals for change for the Phase 1 development types that are the focus of this consultation.

3. Revised Work Programme and Phasing

3.1 Following the earlier consultation the Proposed Work Programme has been revised taking into account a number of considerations, including:

- The impact of the Coronavirus pandemic on the Scottish economy and society and the enforced delay in taking forward work on amendments to PDR due to the need to divert staff resource to tackle the emergency;
- Informed by the SA findings, the potential contribution that amendments to PDR for particular development types could make to the delivery of Scottish Government priorities and strategic outcomes – and in particular the potential contribution to economic and social recovery from the pandemic; and
- Feedback from the consultation responses on the Proposed Work Programme and the Sustainability Appraisal.

3.2 As a result of these multiple and interconnected considerations a number of changes to the Proposed Work Programme have been made. These include:

- The retention of digital communications infrastructure, agricultural developments and peatland restoration in Phase 1 of the programme. This reflects the positive contribution that each can make to economic recovery (particularly in fragile and remote rural areas), the importance to society and day to day life of good digital connectivity, and the potential significant positive effects on climate change of changes to PDR for peatland restoration and digital communications. Mitigation of the potential negative impacts of changes to PDR for these development types forms an important component of the detailed proposals for change for each.
- The movement of changes to PDR for development related to active travel from Phase 2 to Phase 1. This reflects the significant increase in levels of walking and cycling witnessed during the pandemic and a desire to capitalise on this, to maximise the positive impacts for human health and climate via reduced greenhouse gas emissions.
- The movement of PDR for town centre changes of use from Phase 3 to Phase 2. This reflects the expectation that changes to our town centres are likely to be accelerated by the impact of the Coronavirus pandemic and the important role that changes to PDR here may play in enabling adjustments which will encourage vitality in town centres. In addition, we consider that any potential changes to PDR in this area should be informed by the conclusions of the Town Centre Action Plan Expert Review Group, which is due to report to Ministers later in 2020.
- The movement of consideration of changes to PDR for hill tracks (private ways) from Phase 1 to Phase 3 and for micro-renewables

from Phase 1 to a later phase. This largely reflects the range of development types within the micro-renewables category, the complexity of the issues around these development types and the recognition that more time will be needed to fully explore how changes to PDR might most effectively maximise positive impacts and mitigate any potential negative impacts arising.

- In addition, in light of recommended support for the tourism sector from the report of the Advisory Group on Economic Recovery, the Planning and Architecture Division undertook to engage with snowsports operators, to seek their views on whether the options covered in the sustainability appraisal have potential to support economic recovery as part of Phase 1. However, discussions with the sector indicated that the scale of development that could reasonably be granted PDR in the sensitive areas in which the centres are located would not be of value to the sector, and therefore there is not a clear basis for including a proposition in Phase 1.

3.3 Where responses to the previous consultation suggested additional development types for PDR these have been noted but are not currently being considered for inclusion in the work programme. This is because either the suggestions received were not considered to be suitable for the granting of PDR and/or because inclusion would require significant additional work to identify and assess the likely environmental, social and economic impacts and/or the changes are not considered a priority at this time. Some minor changes that have not previously been subject to assessment have been added to the proposals for change for the development types in Phase 1. Where this is the case these have been subject to assessment, the results of which are set out in the update to the Sustainability Appraisal published alongside this consultation.

3.4 Table 1 sets out the proposed new phasing for our PDR Work Programme. We will continue to revisit this and update it as required, and will begin work on future development types when resources and opportunities permit.

Table 1. Revised Work Programme

Phase 1 – regulations to be laid December 2020
Digital telecommunications infrastructure
Agricultural developments
Peatland restoration
Developments relating to active travel
Phase 2 – beginning January 2021
Town centre changes of use
Electric vehicle charging infrastructure
Phase 3 – beginning Spring 2021
Hill tracks (private ways)
Phases 4 and beyond – beginning Autumn 2021 & subsequently
Micro-renewables (domestic and non-domestic)
District heating and supporting infrastructure
Energy storage (domestic and non-domestic)
Householder developments
Defibrillator cabinets
Habitat pond creation
Allotments and community growing schemes

3.5 The following sections summarise our proposals for changes and extensions to PDR for the four priority development types in Phase 1 of the programme and on which we are seeking views. When proposing changes to PDR for a particular development type consideration has been given to what is granted planning permission, what limitations (if any) should be placed on that permission, and what conditions (if any) should apply to its use.

4. Digital Telecommunications Infrastructure

4.1 The Scottish Government is committed to reviewing permitted development rights (PDR) for digital communications infrastructure to assist in enhancing and rolling out vital and improved digital communications (e.g. the rollout of 5G) for all regions of Scotland. This has become even more important given our reliance on digital communications during the Covid-19 pandemic. The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing our carbon footprint.

4.2 Planning has an important role to play in strengthening digital communications capacity and coverage across Scotland and extensions to PDR can support this. Our proposals therefore mainly aim to:

- increase existing size limits for PDR for digital infrastructure, i.e. new masts, extensions to existing masts, antennae and other equipment on buildings, equipment cabinets on the ground and on buildings, other apparatus, and underground equipment; and
- extend PDR for some types of digital infrastructure into sensitive areas, subject to lower size/height limits than elsewhere.

4.3 In extending PDR, we appreciate that there are tensions between supporting connectivity with its economic and climate change benefits and the potential environmental impact, particularly on sensitive areas. We want to get the balance right. We do not propose to extend PDR for new masts into any designated areas as part of this consultation. National Planning Framework 4 will incorporate any changes to Scottish Planning Policy and we consider that any significant changes to PDR within designated areas should form part of that review process.

Background

4.4 Class 67 of the GPDO⁴ and the Amendment Order 2017⁵ sets out PDR which apply to Electronic Communications Code Operators (ECCO). A number of general conditions apply to Class 67 with regard to notification arrangements and the appearance of developments.

4.5 A prior notification/prior approval regime applies to the siting and appearance of new ground based masts. This requires the developer to apply to the planning authority for a determination as to whether prior approval is required in respect of the siting and appearance of new ground based masts. In the case of equipment located on buildings, the development must minimise the effect on the external appearance of the building as far as is practicable. **The prior notification/prior approval regime for new ground based masts works differently from standard prior notification/prior approval; Annex A contains some additional information.**

⁴ <https://www.legislation.gov.uk/uksi/1992/223/contents/made>

⁵ <https://www.legislation.gov.uk/ssi/2017/189/contents/made>

4.6 There are a number of existing limitations on PDR which apply in certain designated areas and these are set out in Class 67(2). However, there are some exceptions as, for example, development is permitted in these areas if it would be carried out in an emergency or if the development would be the same, or smaller than, the apparatus/structure being altered or replaced. The current list of 'designated areas' is as follows:

- Conservation Areas
- Settings of Category A listed buildings and scheduled monuments
- World Heritage Sites (WHS)
- Historic Gardens and Designed Landscapes
- Historic Battlefields
- Sites of Special Scientific Interest (SSSI)
- National Parks
- National Scenic Areas
- European Sites (e.g. special protection areas and special areas of conservation)

4.7 The type of digital communications infrastructure considered in the review of PDR is set out in Chapter 5 of the Sustainability Appraisal. The key issues identified and the options for the mitigation of negative effects have informed the development of the proposals in this consultation paper. Consultees are encouraged to consider the proposals in conjunction with Chapter 5 of the sustainability appraisal, Class 67 of the GPDO and the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017.⁶

4.8 Please note that, in addition to the mitigation proposals outlined here, to support the implementation of future changes to PDR, we are currently reviewing and updating the good practice advice and guidance on the siting, design and installation/construction of digital telecommunications infrastructure contained in Planning Advice Note 62⁷. Revised guidance will be published which will help to ensure any potential negative impacts are mitigated in relation to the built and natural environment and air safety.

Proposals for Changes and Extensions to PDR for Digital Telecommunications Infrastructure

New Ground Based Masts

4.9 Current PDR allow for the construction or installation of new ground based masts up to 25 metres high outside designated areas and we propose to increase this height limit to 30 metres.

4.10 This will be subject to a continuing requirement that the developer must first apply to the planning authority for a determination as to whether its prior

⁶ <https://www.legislation.gov.uk/ssi/2017/189/contents/made>

⁷ <https://www.gov.scot/publications/pan-62-radio-telecommunications/>

approval is required with regard to the siting and appearance of the development. This allows the planning authority to consider the siting and appearance of a proposal. The planning authority has 56 days from when an application for 'prior approval' is made within which to indicate if its prior approval is required and, if it is, to issue a decision on whether approval in respect of the siting and appearance is given or refused.

Q.1 Do you agree with an increase in permitted height for new ground based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance?

If you disagree, please explain why.

NOTE: In the following sections, any reference to using prior notification/ prior approval should be taken to mean the standard version. If you consider some other form of prior notification/ prior approval should apply, please signal this in your answer.

Existing Ground Based Masts

4.11 An operator may want to improve mobile coverage or carry out maintenance requiring alterations to or replacement of the original mast. According to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), an 'original mast' is defined as "the mast as it is first constructed or installed and includes any apparatus attached to the mast at that time (other than an antenna) and any plinth or other structure to which it was attached at that time".

4.12 Currently PDR exists for the replacement or alteration of an existing ground based mast. There are limitations on the increase of the overall height and/or width of the structure as follows:

- If the ground based mast being altered is up to 20 metres in height, then the altered or replacement mast must not exceed the height of the original mast by 7 metres to a maximum of 25 metres.
- For existing ground based masts above 20 metres, up to 50 metres in height, then the altered or replacement mast can only be up to 5 metres greater in height than the original mast.
- In cases where the height of the existing mast is greater than 50 metres, the replacement or alteration of the mast must not add more than 15% to the height of the original mast.
- The increase in width of the mast must not exceed one metre or, if greater, one third of the width of the original mast.
- These height and width measurements include apparatus on the masts except antennas.

- In case of replacement, the mast must not be situated more than 6 metres from the location of the original mast.

4.13 These PDR for changes and replacement of ground based masts apply in all areas including designated areas. We propose to amend the limits on the increase of the overall height and/or width of existing masts , as set out in the following questions.

Q.2 Do you agree that existing ground based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)?

If you disagree, please explain why.

Q.3 Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height?

If you disagree, please explain why.

Q.4 Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast?

If you disagree, please explain why.

Q.5 Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)?

If you disagree, please explain why

Q.6 Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed?

If you disagree, please explain why

Replacement masts

Q.7 Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas?

If you disagree, please explain why.

Q.8 Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained?

If you disagree, please explain why

Mitigating potential impacts on safeguarded sites on PDR for masts

4.14 There are existing requirements on PDR for new masts, or for changes to height or location of existing masts, for the operator to notify the relevant body for a safeguarded area (e.g. the Secretary of State for Defence, airport operator, Met Office, NATS) for their comments to ensure the safe and efficient operation around an aerodrome or technical site.

Q.9 We propose to retain the current approach. Do you agree?

If you disagree, please explain why

Antenna Systems (please note that this does not apply to small cell systems - which are dealt with in paragraphs 4.18-4.22)

4.15 Antenna systems and dish antennas are classified as PDR provided that they meet a number of criteria. Different restrictions apply to antenna systems and dish antennas depending on their relative location on the building on which they are installed (below or above a height of 15 metres above ground level). These limitations do not apply to small antennas and small cell systems. Table 2 below summarises the conditions and restrictions in relation to the installation, replacement and alteration of dish antennas and other antenna systems on buildings.

4.16 Additionally, there is no PDR for dish antennas and antenna systems in designated areas unless it is carried out in an emergency or for the alteration or replacement of the existing dish antennas and antenna systems and the resulting apparatus would be no larger, the number of items no greater and the location substantially the same as what was there already

Table 2. Existing limits on PDR for dish antennas and other antenna systems on buildings

LOCATION OF DISH ANTENNA ON BUILDING	EXISTING PDR
Below a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none">• It would exceed 0.9 metres;• the aggregate size of all dishes would exceed 4.5 metres; and• for alteration or replacement the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made

<p>Above a height of 15 metres above ground level</p>	<p>Class 67 rights do not apply if:</p> <ul style="list-style-type: none"> • It would exceed 1.3 metres; • the aggregate size of all dishes would exceed 10 metres; and • for alteration or replacement the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made.
<p>LOCATION OF OTHER ANTENNA ON BUILDING</p>	<p>EXISTING PDR</p>
<p>Below a height of 15 metres above ground level</p>	<p>Class 67 PDR do not apply if:</p> <ul style="list-style-type: none"> • the number of antenna systems would exceed four; and • with alteration or replacement, the number of antenna systems, if greater than four, would be greater than the number of existing antenna systems on the building
<p>Above a height of 15 metres above ground level</p>	<p>Class 67 PDR do not apply if:</p> <ul style="list-style-type: none"> • the number of antenna systems would exceed five; and • with alteration or replacement, the number of antenna systems, if greater than five, would be greater than the number of antenna systems on the building before the change was made.

Q.10 Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 below?

If you disagree with an increase, please explain why.

Table 3. Proposed limits on PDR for dish antennas and other antenna systems on buildings

LOCATION OF DISH ANTENNA ON BUILDING	PROPOSAL
Up to a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • It would exceed 1.3 metres; • the aggregate size of all dishes would exceed 10 metres; and • for alteration or replacement, the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made
Above a height of 15 metres above ground level	No change proposed and current threshold remains in place.
LOCATION OF OTHER ANTENNA ON BUILDING	PROPOSAL
Below a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • the number of antenna systems would exceed five • with alteration or replacement, the number of antenna systems, if greater than five would be greater than the number of existing antenna systems on the building before the change was made.
Above a height of 15 metres above ground level	No change proposed and current threshold remains in place

4.17 As indicated in paragraph 4.18, the PDR for this sort of apparatus is currently limited. We are considering extending PDR for antenna systems on buildings to designated areas, and would welcome views on the following questions.

Q.11 Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies?

Please indicate which designations should have extended PDR and why, or, if you disagree, please explain why.

Q.12 What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc.)?

Small Cell Systems

4.18 Small cell systems are generally deployed to add local capacity to the main radio coverage infrastructure.

4.19 The GPDO contains the following definitions:

- ‘small cell system’ means a ‘small antenna’ and any apparatus which is ancillary to that antenna.
- ‘small antenna’ means an antenna which –
 - operates on a point to fixed multi point basis or area basis in connection with an electronic communications service’;
 - may be described as a femtocell, picocell, metrocell or microcell antenna; and
 - which does not exceed, in two-dimensional measurement, a surface area of 5,000 square centimetres or a volume area of 50,000 cubic centimetres.

4.20 We are proposing to extend PDR beyond small antennas to cover small cell systems (small antennas and ancillary apparatus) on dwellinghouses and on all buildings in conservation areas. This will bring these buildings into line with other buildings as regards PDR for small cell systems.

4.21 The number, sizing, scaling and siting of small antennas and small cell systems currently permitted on buildings are defined in Class 67(2)(b) (c) and (11) (12) (13). Table 4 sets out the current PDR for small antennas that needs to change to small cell systems.

Table 4. Current limits on PDR for small antennas on dwellinghouses and other buildings in conservation areas

Location of the small antenna	Existing limits on PDR
Dwellinghouse (in a Conservation Area)	<ul style="list-style-type: none"> • There would be more than 2 small antennas on the dwellinghouse and its curtilage. The replacement or alteration of small antennas is allowed provided that the number of small antennas does not exceed the number of existing small antennas

	<ul style="list-style-type: none"> • The small antenna must not be installed on a part of the dwellinghouse or its curtilage which fronts a road • The highest part of the antenna must not be higher than the highest part of the roof
Building (in a Conservation Area) other than a dwellinghouse	<ul style="list-style-type: none"> • The maximum number of small antennas permitted is two. • The replacement or alteration of small cell systems is allowed provided that the number of small antennas does not exceed the number of existing antennas

4.22 The following questions relate to extending the PDR for small antennas on dwellinghouses and in conservation areas to small cell systems (which include small antennae plus ancillary equipment). We recognise that in conservation areas it may be difficult to increase PDR from small antennas to small cell systems and would therefore welcome your views on what should be permitted.

Q.13 Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)?

If you disagree, please explain why.

Q.14 What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)?

Please explain your answer.

Q15 In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)?

Please explain your answer.

Article 57 of EU Directive 2018/1972

4.23 We are currently liaising with the UK Government, and the other devolved administrations, on potential amendments to PDR that may be considered necessary to be compliant with the requirements of Article 57 of

EU Directive 2018/1972⁸ and Commission Implementing Regulation (EU) 2020/1070⁹.

4.24 We consider that with the changes to PDR for small cell systems on dwellinghouses and in conservation areas (even if those in conservation areas will require additional limitations or requirements), together with general proposals for PDR for new ground based cabinets in designated areas, we can meet the EU requirements.

Q.16 Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972?

If you disagree, please explain why.

Q.17 Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR that you consider necessary to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

Equipment housing cabinets (ground based)

4.25 Equipment housing cabinets accommodate electronic equipment associated with antenna systems. Housing cabinets help to prevent electrical shock and protect the contents from the varying weather conditions and wider environmental impacts.

4.26 PDR that apply to the installation or alteration/replacement ground based equipment housing cabinets are included in Class 67(5) and (6), respectively and permit development which meets the following criteria:

- the cabinet would not exceed 3 metres in height; or
- the cabinet would not exceed 90 cubic metres in volume; or
- for alteration or replacement; it would not exceed the height and/or volume of the equipment housing cabinet before alteration or replacement.

4.27 PDR are restricted in designated areas and are considered to apply to development only:

(i) if it is ancillary development to changes to ground based masts, telegraph poles or overhead lines under PDR; and/or

⁸ <https://www.legislation.gov.uk/eudr/2018/1972/article/57>

⁹ <https://www.legislation.gov.uk/eur/2020/1070/contents>

(ii) other than i) where the alteration or replacement of ground-based equipment housing is permitted in designated areas if the equipment housing would not be larger than what exists, is in substantially the same location, and does not increase the number of items of apparatus.

4.28 We have no plans to increase PDR for ground based equipment housing, outside designated areas. The changes we propose would be in addition to existing PDR in designated areas that may apply to ground based equipment housing – i.e. development consisting of the alteration or replacement of apparatus generally where the size and number of pieces of apparatus is the same or smaller and the location of apparatus is the same or substantially the same (unless specific restrictions in Class 67(2) apply). We propose to increase the volume of cabinets that enjoy PDR as set out in the following questions:

Q.18 Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume?

If you disagree, please explain why.

Q.19 Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts?

If you disagree, please explain why.

Q.20 If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks?

If you disagree, please explain why and give your view on what limits should apply in which areas.

Equipment housing cabinets on buildings

4.29 Class 67(8) of the GPDO sets out the PDR for the construction, installation, replacement or alteration of equipment housing on a building. Equipment housing on buildings is classified as permitted development provided that the development meets the following criteria:

- the equipment housing must not exceed 3 metres in height or 30 cubic metres in volume; and
- the equipment housing must not exceed the height and/or the volume of the original equipment housing.

4.30 The alteration or replacement of equipment housing on buildings is permitted in designated areas provided the equipment housing would not be larger than existing, is in substantially the same location and does not increase the number of items of apparatus.

4.31 We have no plans to increase PDR for equipment housing on buildings outside designated areas but the sustainability appraisal highlighted potential changes to PDR and we are considering whether to extend existing PDR in designated areas.

4.32 The changes we propose would be in addition to existing PDR in designated areas that may apply to equipment housing on buildings, i.e. development consisting of the alteration or replacement of apparatus generally where the size and number of pieces of apparatus is the same or smaller and the location of apparatus is the same or substantially the same (unless specific restrictions in Class 67(2) apply). We propose to extend PDR for new equipment housing in designated areas as set out in the following questions.

Q.21 Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume?

If you disagree, please explain why.

Q.22 Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts?

If you disagree, please explain why.

Other apparatus on buildings

4.33 'Other apparatus' is defined as any structure or apparatus which is ancillary or reasonably required for the construction, installation, alteration or replacement of digital communications infrastructure network. Examples of these include backup power generators, a maintenance ladder or fencing. These do not have specific PDR limits in the way equipment housing and antenna systems do.

4.34 For apparatus generally on a building, under Class 67(10) PDR applies provided the development:

- does not exceed 10 metres in height;
- would not protrude above the highest part of the building by 8 metres (if the building is more than 15 metres in height) or 6 metres (if the building is less than 15 metres in height); or
- with alteration or replacement, where the resulting apparatus is not above these limits and is not above what was there already as regards height and protruding above the highest part of the building.

4.35 Additional conditions apply in designated areas. The alteration or replacement of apparatus is not permitted unless it is the same size or

smaller, is in substantially the same location and does not increase the number of items of apparatus.

4.36 We propose extending the PDR that applies to other apparatus in designated areas. However, we recognise that this may require more controls than just the general ones on height that apply to such works outside designated areas.

Q.23 Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies?

If you disagree, please explain your answer.

Q.24 Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion?

Please explain your answer, and, if you agree, please indicate what sorts of limits and restrictions should apply and why. If you disagree, please explain why.

Q.25 Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts?

If you disagree, please explain why.

Underground equipment

4.37 Underground development typically refers to underground cables which support a digital telecommunications network. The two main types considered include power cables and telecommunications cables which are used for the purposes of broadband networks and mobile radio telecommunication networks. Changes in PDR that support the deployment of underground telecommunications are likely to have some long term positive effects on promoting economic growth by helping enhance digital connectivity in urban areas and supporting the rollout of 5G networks.

4.38 PDR for underground development is generally restricted in designated areas, though such development which is ancillary to certain works granted PDR in designated areas, e.g. regarding masts and telegraph poles, is also permitted development. We propose removing the general restriction on PDR for underground digital infrastructure in designated areas, but recognise that it may need to be retained in some such areas or be subject to certain safeguards.

Q.26 In which designated areas do you consider that PDR for underground development could be extended?

Please explain your answer, particularly with regard to those designated areas where PDR for underground development could not be extended.

Q.27 In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)?

Please explain your answer.

Access Tracks for Digital Telecommunications Infrastructure

4.39 The Sustainability Appraisal also considered possible changes to PDR for new access tracks associated with digital communications infrastructure. However, as a result of the re-prioritisation of the PDR work programme, a review of PDR for hilltracks has been temporarily postponed and will now take place in phase 3. As a result we do not consider that it would be appropriate to propose changes to access tracks for digital telecommunications at this time and will, instead, consider any changes in this regard alongside our broader consideration of PDR for tracks.

General Comments

Q.28 Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

5 Agricultural Developments

5.1 Our Programme for Government 2020-21 makes it clear that the rural economy must be at the forefront of Scotland's economic and environmental recovery. The proposals set out below are intended to help support agricultural development and diversification, as well as the delivery of new homes (including affordable properties) in rural areas. They would complement wider Scottish Government measures to support and protect the rural economy by:

- Increasing the scale of agricultural buildings that may be erected or extended under PDR;
- Allowing the conversion of agricultural and forestry buildings to residential and other uses under PDR; and
- Providing greater certainty as to the planning status of polytunnels

Larger agricultural buildings

Background

5.2 Class 18 of Schedule 1 to the GPDO sets out various PDR relating to agricultural buildings and operations. This includes works for the erection, extension or alteration of agricultural buildings, where these are carried out on agricultural land within an agricultural unit.

5.3 These rights are subject to a number of conditions and limitations. In summary, any building erected, extended or altered under these provisions may not:

- exceed 465sqm in area (this figure includes the area of any other building, structure, works, plant or machinery on the same farm which is being provided or has been provided within the preceding two years and which are within 90m);
- be carried out on agricultural land less than 0.4ha in area;
- exceed 12m in height (3m if located within 3km of an aerodrome);
- be within 25m of a trunk or classified road;
- be within 400m of a dwelling (other than a farmhouse) if it is to be used to house certain livestock or for the storage of slurry or sewage;
- involve the erection, extension or alteration of a dwelling; or
- involve the provision of a building designed for purposes other than agriculture.

5.4 In the case of the erection of a new building, or the "significant extension or significant alteration" of an existing one, the developer must –

prior to commencing the development – apply to the planning authority for a determination as to whether prior approval is required in respect of siting, design and external appearance. The GPDO defines significant alteration and significant extension for agricultural and forestry buildings as where the cubic content of the original building would be exceeded by more than 10%, or the height of the building as extended or altered would exceed the height of the original building. The GPDO does not currently restrict Class 18 PDR for agricultural buildings in designated areas other than historic battlefields¹⁰.

5.5 Class 22 of Schedule 1 to the GPDO sets out PDR for forestry buildings and operations. This includes works for the erection, extension or alteration of buildings, where these are carried out on land used for the purposes of forestry, including afforestation. As with agricultural buildings, these rights are subject to certain conditions and limitations – including a requirement to seek prior notification/prior approval in respect of siting, design and external appearance where development consists of the erection of a new building, or the significant extension or alteration of an existing one. Unlike agricultural buildings, there is no maximum ground area of buildings provided under this PDR.

Proposals

5.6 The current 465sqm size limit that applies to agricultural buildings has been in place for several decades, during which time farming practices have evolved and associated machinery has increased in size and complexity.

5.7 For this reason we propose to:

- increase the maximum ground area of a building that may be erected or extended under class 18 PDR from 465sqm to 1,000sqm; and
- amend the definition of “significant extension” and “significant alteration” to refer to a 20% increase in the cubic content of a building. This new definition would also apply to forestry buildings extended or altered under class 22 PDR.

5.8 Taken together, the effect of these changes would be to approximately double the size of new agricultural buildings that may be erected under PDR (subject to prior approval), and double the size of extensions to existing agricultural and forestry buildings that may be carried out without requiring prior notification/approval.

Conditions and Limitations

5.9 We do not propose to alter the other existing restrictions (e.g. maximum building heights or minimum distances to trunk roads and dwellings) or the matters requiring prior approval.

¹⁰ See <https://www.legislation.gov.uk/ssi/2014/142/made>

5.10 As noted above and explained in detail below, this consultation also proposes new PDR for the conversion of existing agricultural (and forestry) buildings to residential and other uses. To limit the incentive for landowners to construct new buildings for the sole purpose of converting them, we propose that PDR under class 18 and 22 for the erection of a new building would not apply where a residential conversion has taken place (under the new PDR proposed below) on the same farm within the preceding 10 years.

Questions

Q.29 Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDR from 465sqm to 1,000sqm?

If you do not agree please explain why.

Q.30 Do you agree with our proposal to retain other existing class 18 conditions and limitations?

If you do not agree please explain why.

Q.31 Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)?

Please explain your answer.

Q.32 Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval?

If you do not agree please explain why.

Q.33 Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years?

If you do not agree please explain why.

Conversion of agricultural buildings to residential use

Background

5.11 Planning legislation provides that material changes of the use of land or buildings constitute development and therefore require planning

permission. Although certain changes of use may be carried out under existing PDR¹¹, these do not currently apply to agricultural buildings.

5.12 At present, converting an agricultural building to residential use would require an application for planning permission. Such an application would be determined in accordance with the development plan and any material considerations.

Proposals

5.13 We want to support the provision of new homes in rural areas by making it simpler to convert existing agricultural buildings to residential use. Our proposed new PDR for the conversion of such buildings delivers on a commitment in our Programme for Government 2019-20, and would complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation.

5.14 The aim of the proposed new PDR is to allow the *conversion* of existing buildings to dwellings. It is not intended that this right would permit their wholesale redevelopment. However, it is accepted that some works affecting the exterior of an existing agricultural building may be required for it to function as a dwelling (e.g. installation of windows, doors, services). For this reason, we propose that reasonable building operations such as these would be included within the new PDR. We propose that the new PDR would include:

- Change of use of an agricultural building (and any land within its curtilage) to one or more dwellings (houses or flats); and
- The reasonable building operations necessary to convert the building to a dwelling (or dwellings).

5.15 It should also be noted that a building warrant is required for the conversion of a building, regardless of the amount of work being undertaken, and all relevant building standards would have to be met.

5.16 The proposals aim to strike a balance between the provision of new homes in rural areas, while limiting potential harm that could be caused by unconstrained conversion of buildings to residential use. Accordingly, a number of conditions and limitations are proposed.

Conditions and Limitations

5.17 We recognise that dwellings are very different from agricultural buildings in terms of the way they function and their relationship to (and impact on) the surrounding area. We also want to ensure dwellings provided under this right are safe and of good quality. As such we think that the PDR should provide for consideration and approval of a limited range of matters by the planning authority. Even so, this would represent a lighter touch process

¹¹ See [Part 3 of Schedule 1 to the GPDO](#)

than submitting a full planning application. We propose that this would relate to:

- Design and external appearance (if building operations are proposed);
- The provision of natural light within proposed habitable rooms;
- Transport and access;
- Flood risk;
- Contamination risks; and
- Noise.

5.18 It would be open to planning authorities to impose conditions relating to these matters when prior approval is given. We accept that in a limited number of cases, site-specific circumstances may be such that it is not possible for the impacts of a development to be acceptably mitigated. For example, if the existing building is located in an area that is at high risk of flooding and it cannot be designed or adapted in such a way to make it safe for habitation. In such cases, prior approval may be refused.

5.19 We recognise that the proposed scope of such a prior notification/prior approval mechanism would go beyond that which currently applies to other PDR in Scotland. We are interested to hear views on whether the proposed approach would provide an effective and proportionate means of implementing the proposed new PDR.

5.20 In order to limit the impact on local infrastructure and facilities, we consider that there should be limits on the total number of new homes that may be provided under this proposed new PDR. We propose that a maximum of five dwellings within an agricultural unit may be developed under these provisions. We are also minded to limit the size of each home created under this PDR to a maximum of 150sqm.

5.21 Given that the intention of the new right is to provide for the conversion of buildings, we propose that the external dimensions of the development upon completion may not extend beyond those of the existing building. The right would not apply if the building is listed or if the site is (or contains) a scheduled monument.

5.22 As outlined above, existing PDR already provide for the erection of buildings used for agricultural purposes. We recognise that introducing a separate right which permits the conversion of such buildings to dwellings could lead to abuse and/or over-development. Specifically, landowners may be incentivised to erect buildings under existing rights (class 18) for the sole purpose of converting them to (potentially more valuable) residential use. To limit the scope of such 'gaming', we propose that any building converted to

residential use under this right must have been used for the purposes of agriculture:

- On or before 5 November 2019; or
- In the case of buildings brought into use after that date, for a continuous period of ten years prior to the conversion taking place.

5.23 The cut-off date of 5 November 2019 is proposed because this is when the Scottish Government published its programme for reviewing and extending PDRs in Scotland, making public its intention to introduce PDRs for the conversion of agricultural buildings to residential use.

Q.34 Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building?

If you do not agree please explain why.

Q.35 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters?

If you do not agree please explain why.

Q.36 Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process?

If you do not agree please explain why.

Q.37 Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR?

If you do not agree please explain why.

Q.38 Do you agree with the proposed protection for listed buildings and scheduled monuments?

If you do not agree please explain why.

Q.39 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

If you do not agree please explain why.

Conversion of agricultural buildings to flexible commercial use

Background

5.24 Currently, converting agricultural buildings to a commercial use (e.g. shop, café, restaurant, office) would require an application for planning permission. Such an application would be determined in accordance with the development plan and any material considerations.

Proposals

5.25 We want to support Scotland's rural economy by making it simpler to convert existing agricultural and forestry buildings to a range of commercial uses. The proposed new PDR is intended to help support economic diversification and sustainable communities in rural areas. Doing so would respond to a number of the recommendations in [Rural Planning Policy to 2050](#) published in January 2020.

5.26 The proposed PDR would allow the change of use of an agricultural building (and any land within its curtilage) to a 'flexible' use falling within class 1 (shops), class 2 (financial, professional and other services), class 3 (food and drink), class 4 (business), class 6 (storage or distribution or class 10 (non-residential institutions)¹² of the Town and Country Planning (Use Classes) (Scotland) Order 1997. As with proposed PDR for residential conversions, we think that the new right should also include reasonable building operations necessary to convert the building to a commercial use.

5.27 It should also be noted that a building warrant is required for the conversion of a building, regardless of the amount of work, if any, being undertaken and all relevant building standards would have to be met.

5.28 The proposals aim to strike a balance between the economic benefits that this relaxation may deliver, while limiting potential harm that the unconstrained development of commercial uses could have on a local area. Accordingly, a number of conditions and limitations are proposed.

Conditions and Limitations

5.29 We propose that where the cumulative floorspace of a building or buildings that have changed use under this PDR exceeds 150sqm within an agricultural unit, a process of prior notification/prior approval would apply in respect of:

- Design and external appearance (if building operations are proposed);
- Contamination risks;

¹² "Non-residential institutions" include museums, galleries, places of worship, halls, nurseries and educational use.

- Noise;
- Transport and highways; and
- Flood risk.

5.30 Below the 150sqm threshold, no prior notification/approval process would apply. Nevertheless, we propose that the planning authority would still need to be notified of the change of use in such cases.

5.31 We propose that the total cumulative floorspace of a building or buildings that may change to a flexible commercial use under this PDR may not exceed 500sqm within an agricultural unit.

5.32 As with the proposed PDR for residential conversion, we want to limit incentives for landowners to erect new buildings for the sole purpose of converting them. Accordingly, we propose to apply the same time limits/cut-offs to this right.

5.33 The right would not apply to a building which is listed or if the site is (or contains) a scheduled monument.

Questions

Q.40 Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building?

If you do not agree please explain why.

Q.41 Do you agree with the proposed cumulative maximum floorspace (500sqm) that may change use?

If you do not agree please explain why.

Q.42 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm?

If you do not agree please explain why.

Q.43 Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval?

If you do not agree please explain why.

Q.44 Do you agree with the proposed protection for listed buildings and scheduled monuments?

If you do not agree please explain why.

Q.45 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

If you do not agree please explain why.

Conversion of Forestry Buildings

5.34 The proposed new PDRs outlined above provide for the conversion of agricultural buildings to residential and various commercial uses. We consider that there is merit in making parallel provision in respect of forestry buildings. Insofar as relevant, we propose that the same conditions and limitations would apply to the conversion of a forestry building as to an agricultural building.

Q.46 Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses?

If you do not agree please explain why.

Q.47 Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant?

If you do not agree please explain why.

Polytunnels

Background

5.35 Polytunnels are buildings or structures comprising a series of semi-circular or rectangular supports covered with polythene or other translucent material. Their purpose is to create a warmer micro-climate within the interior which is conducive to the growth of certain fruit or vegetable plants. As such, polytunnels can help to extend the growing season, which can in turn support greater product diversity and yields. By providing opportunities for localised food production, the use of polytunnels can help to reduce food miles.

5.36 There is considerable variation in the size, extent, scale, moveability and permanence of structures or buildings covered by the term 'polytunnel'. Some polytunnels are small-scale, temporary structures comprising metal hoops that are screwed into the ground and may only be covered with material for part of the year. These are relatively simple to construct, disassemble and move. However, polytunnels can also be substantial, permanent buildings covering multiple hectares of land. As well as being used for commercial purposes on agricultural land, polytunnels are also used for domestic purposes.

5.37 Reflecting this level of diversity, the planning status of polytunnels varies considerably. In some cases, the erection or provision of polytunnels may not involve 'development' (for the purposes of the Planning Acts) at all. In other cases, polytunnel schemes may constitute development but be covered by existing PDRs: in particular, under class 18 of Schedule 1 to the GPDO (see above). Alternatively, larger polytunnel schemes may require a 'full' application for planning permission. This situation can lead to uncertainty for planning authorities, farmers and communities. Furthermore, where a planning application is required (as opposed to an application for prior approval) it is not always clear what fee is applicable.

Proposals

5.38 To the extent that polytunnels constitute agricultural buildings, the proposed amendments to class 18 (see section on larger agricultural buildings above) would allow some larger schemes under PDR.

5.39 Otherwise, we are not currently minded to create a specific PDR for polytunnels. Given the considerable variation in the scale, nature and permanence of polytunnels outlined above, we consider that seeking to do so risks:

- Subjecting small-scale and/or temporary structures to additional regulation than at present; and/or
- Permitting very large-scale polytunnel developments whose impacts ought to be considered through a planning application.

5.40 Instead of taking forward a bespoke PDR, we propose

- Amending the fees regulations to clarify the appropriate fee where a polytunnel development requires an application for planning permission.
- Preparing new guidance clarifying PDR under which polytunnels may be erected or provided. For example, class 18 (agricultural buildings).
- Preparing new guidance, to be taken into account where a polytunnel proposal is the subject of a planning application, highlighting the need to give appropriate weight to the economic/agricultural benefits of polytunnels and the role they can play in extending the growing season and supporting local produce.

5.41 We will continue to keep the case for a specific PDR for polytunnels under review.

Questions

Q.48 Do you agree with our proposed approach to providing greater clarity as to the planning status of polytunnels?

If you do not agree please explain why.

6. Peatland Restoration

Introduction

6.1 The primary benefit of peatland restoration is in relation to climate change and storing carbon, though it has many other benefits including providing an internationally important habitat, improving water quality and reducing flood risk. The National Peatland Plan (2015) indicates that, in total, peatlands cover over 20% of Scotland's land area. However, estimates point to as much as 80% of Scotland's peatland landscape having been damaged. The Scottish Government's Climate Change Plan sets targets to restore 50,000 hectares of degraded peatland by 2020, increasing to 250,000 hectares by 2030.

6.2 In February 2020, the Scottish Government announced a substantial, multi-annual investment in peatland restoration of more than £250 million over the next 10 years. Currently, Scottish Government funding for peatland restoration is administered largely through Peatland Action, but also Forestry and Land Scotland, the national park authorities, and Scottish Water. There is also an International Union for Conservation of Nature (IUCN) mechanism – the Peatland Code – for validating schemes seeking private funding.

6.3 The Scottish Government's support for peatland restoration and what it can mean for the environment, and the above commitments, are confirmed in a number of strategic documents, including the Climate Change Plan, the Scottish Government's response to the report of the Advisory Group on Economic Recovery, and the Programme for Government 2021-22.

6.4 As far as planning is concerned, peatland restoration activity does not appear to have been regarded, on the whole, as a matter requiring planning permission despite the definition of 'development' including various engineering and 'other operations'. Currently there are in the region of 70 restoration projects started each year, but only in a small number of cases have planning authorities sought a planning application from restorers before projects can proceed.

6.5 In future the scale and number of projects is expected to increase, in order to meet the annual target of 20,000 hectares of peatland restoration per annum. Such increases will likely affect the extent to which projects would be regarded as needing planning permission – that is as scale or the use of machinery and more intrusive works increases, especially in large areas of open, uncultivated or undeveloped land.

6.6 The intention with permitted development rights (PDR) in this regard, is to provide clarity on the planning position for peatland restoration projects.

6.7 The questions in this section on peatland restoration PDR will focus on each aspect of the PDR in turn – the definitions, the basic grant of planning permission, the restrictions and conditions that apply to it. There will then be a general question on the proposed peatland restoration PDR as a whole.

The General Approach to PDR for Peatland Restoration

6.8 Whilst the aim of policy on peatland restoration is for the number and size of peatland restoration projects to grow, and for the funding streams to diversify, the expectation is that for the foreseeable future the majority will continue to depend on public sector funding. Where a project is not relying on public funds, then it is likely to be registered and validated under the Peatland Code.

6.9 Currently Peatland Action¹³ delivers the bulk of projects for peatland restoration across Scotland that use funds provided from the Scottish Government. Its officers are hosted within NatureScot and a number of partner organisations, including Scottish Water and the National Park Authorities. As part of their work in authorising funding they carry out an assessment of projects to ensure compliance with legislative requirements and good practice.

6.10 The Peatland Code¹⁴ is a voluntary certification standard for UK peatland projects wishing to market the climate benefits of peatland restoration. It is administered by the International Union for Conservation of Nature (IUCN), the world's largest network of environmental experts.

6.11 To access these voluntary carbon markets buyers need to be given assurance that the climate benefits being sold are real, quantifiable, additional and permanent. The Peatland Code is the mechanism through which such assurances can be given. The Peatland Code is currently a standard for verifying greenhouse gas emissions, and is not a general code for restoration good practice. It can require projects to demonstrate how they have planned their restoration in line with best available guidance, such as from the IUCN¹⁵, as well as other specific guidance on peatland restoration and archaeology available from statutory agencies for the historic environment.

6.12 The overall approach proposed is therefore that, given for the foreseeable future the majority of peatland restoration projects are likely to require support through the Peatland Action programme, with some using the Peatland Code approach to attract private finance, there are unlikely to be projects proceeding without a significant degree of scrutiny, wide ranging PDR can be granted for such projects.

Q.49 Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)?

If you do not agree please explain why.

¹³ <https://www.nature.scot/climate-change/nature-based-solutions/peatland-action>

¹⁴ <https://www.iucn-uk-peatlandprogramme.org/funding-finance/peatland-code>

¹⁵ <https://www.iucn-uk-peatlandprogramme.org/news/new-edition-conserving-bogs-management-handbook>

Defining the Permitted Development Rights for Peatland Restoration

6.13 There is no single, overarching approval process for all peatland restoration projects to which PDR can be attached. While there are maps of peatland areas, we do not believe they are sufficiently formal in nature to allow PDR to be legally attached to them – that is, they are not, for example, maps of legally designated areas, with boundaries and which are subject to formal procedures for being changed or updated.

6.14 As far as a definition of ‘peatland’ is concerned, these can be highly technical or not necessarily helpful for the purposes of readily identifying peatland. Consequently, the intention is that PDR will rely on a general understanding of what constitutes peatland.

Q.50 Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland?

If you do not agree please explain why.

6.15 Our proposed approach is to apply PDR to ‘peatland restoration’ without further definition.

Q.51 Do you agree with this approach to a blanket PDR for ‘peatland restoration’?

If you do not agree please explain why.

Conditions and restrictions on PDR for Peatland Restoration

Designated Areas

6.16 The principal concern identified in the sustainability appraisal relating to peatland restoration was the potential loss of, or damage to, archaeological and cultural artefacts. The sustainability appraisal suggested mitigation in the form of prior notification/prior approval in designated areas, particularly those designated for cultural heritage or archaeological assets.

6.17 Designations for natural heritage, namely Sites of Special Scientific Interest and European Sites have their own safeguards, that is, respectively the requirements on ‘potentially damaging operations’, and under the Conservation (Natural Habitats &c.) Regulations 1994. Built heritage designations, other than listed buildings and scheduled monuments, normally rely on controls under legislation on the granting of planning permission.

6.18 Peatland Action, in its planning, application and assessment process, considers historical, cultural and archaeological interests. This is one of the many aspects Peatland Action cover that ensures projects are completed in a professional manner, within tight time constraints. Peatland Action have also been working with Historic Environment Scotland to ensure that undesignated

features and the effects of restoration are fully considered and understood in the future.

6.19 Under the Peatland Code applicants are required to prepare statements that cover restoration and management activities and statements of environmental and social impact. This could include considerations of historical, cultural and archaeological heritage.

6.20 We therefore do not propose to have restrictions or requirements in particular designated areas regarding peatland PDR.

Q.52 Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas?

If you do not agree please explain why.

Access Tracks (Private Ways)

6.21 Where peatland restoration sites are remote from existing roads and tracks, peatland restoration projects may require a new access track. Given the imperatives around climate change, we are interested in people's views regarding the issue of PDR for temporary access tracks necessary to carry out peatland restoration.

6.22 The 2019 Sustainability Appraisal identified the likely significant positive and negative environmental, social and economic effects of PDR for peatland restoration *excluding* access tracks. We will ensure that all statutory assessment obligations are met before any new proposals for PDR in respect of access tracks for peatland restoration are progressed, including any obligations arising under the Environmental Assessment (Scotland) Act 2005.

Q.53 Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects?

Please explain your answer.

Q.54 What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects?

Please explain your answer.

Q.55 If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies?

Please explain your answer.

Other Conditions and Restrictions

6.23 As indicated by the proposals, the aim is to be very wide ranging in the PDR for peatland restoration. Given that approach, there is a risk that planning permission could be granted, however inadvertently, for inappropriate development.

6.24 One issue is where peat is transferred for the purposes of peatland restoration. The intention is that the transfer of peat within a restoration site, for the purposes of restoration, should be allowed under PDR. Also the bringing in of peat to a restoration site for the purposes of peatland restoration. However, the extraction of peat outside the restoration site would not be granted permission by the peatland restoration PDR, nor would removal of peat from the restoration site.

Q56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site?

If you do not agree please explain why.

Q57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site?

If you do not agree please explain why.

Q.58 Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled?

Please explain your answer, setting out what sorts of development you consider should be restricted and why.

Q.59 Do you have any other views or points to make about the proposed PDR for peatland restoration?

7. Development Related to Active Travel

Existing Permitted Development Rights

7.1 Active travel means cycling, walking and wheeling and includes the use of bikes, adaptive bikes, wheelchairs and mobility scooters for everyday journeys. Added to this is the growing popularity of e-bikes, bicycles with an electric motor. E-bikes are regulated under the [Electrically Assisted Pedal Cycles Regulations 1983](#); regulation 4 includes restrictions on weight and the output of the motor and restricts the speed of an e-bike, under propulsion by a motor, to 15 miles an hour. E-bikes can be used on roads and cycle routes.

7.2 One positive experience of the lockdown earlier this year has been the increase in active travel and we want to take steps to lock in these changes and provide more people with the opportunity to benefit from walking and cycling. The changes to PDR proposed here are aimed at encouraging the use of bikes as a means of travel, as part of Scotland's strategy to achieve its net zero greenhouse gases emission target, and in improving health in support of the Active Scotland Delivery Plan.

7.3 Councils already have the right, under the [Roads \(Scotland\) Act 1984](#) and class 31 of the [General Permitted Development Order](#) (GPDO) to undertake road-related development on the road carriageway, on adopted footpaths and on road verges without planning permission. The definition of a road, under the Roads Act, is "any way (other than a waterway) over which there is a public right of passage (by whatever means and whether subject to a toll or not) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes".

7.4 Councils, as Roads authorities, also have PDR for the erection of and changes to street furniture. Planning permission is therefore not required for councils to:

- form new cycle paths or footpaths on the existing road carriageway or verge;
- form dedicated cycle lanes, by painting on roads or separating by a raised kerb, or by painting on adopted footpaths;
- form raised crossings on road carriageways;
- construct traffic islands;
- form pedestrian and 'toucan' crossings (for pedestrians and cyclists);
- provide lighting on adopted footpaths; or
- provide EV charging points built into existing street furniture, such as lampposts.

7.5 Class 31 of the GPDO also gives permission 'on land outside but adjoining the boundary of an existing road of works required for or incidental to the maintenance or improvement of the road' which provides for the formation of a cycle path or footpath outwith the carriageway but in the verge. In other circumstances, planning permission is required for the formation of a

new road, footpath or cycle path. It can be unclear, given the wording of class 31, when a new footpath or cycle path can be formed without having to apply for planning permission, and we will give consideration to whether that uncertainty can be removed through amendments to definitions in the GPDO and/or through guidance.

7.6 We do not propose any changes to existing permitted development rights for works within the road carriageway and verge.

7.7 The creation of new walking and cycling routes remote from existing roads and footpaths does require planning permission, though existing PDR allow for the replacement and/or improvement of the surface of established paths. Given the need for scrutiny of the impacts of proposed new routes outwith the road boundary we do not propose to introduce PDR for the formation of new footpaths or cycle paths away from existing roads.

7.8 Householders in detached, semi-detached and terraced houses already have extensive PDR for the erection of storage sheds large enough for bikes and mobility scooters, as long as the sheds are not in front of the principal elevation (i.e. to the rear or side of the house, as long as the side of the house does not front a road). However, the same PDR does not apply to other types of residential property.

7.9 Planning permission is currently required for storage sheds to the front of a house, or to the side of a house if the side fronts a road. In a conservation area, a shed with a floorspace of more than four metres also needs consent, even in the rear or side garden. Listed building consent will also be required if a storage shed adjacent to a listed building would affect the character of the listed building.

Proposals for extensions to PDR for storage sheds/structures for bicycles

7.10 In order to encourage ownership and use of bicycles, and to give all householders the right to erect external storage for cycles and scooters in a convenient location, it is proposed to extend PDR to give all householders the right to erect bicycle/scooter stores to the front of their properties. It is also proposed to extend the same rights to owners of flats with a private garden space, and to allow flatted properties with private garden space to erect communal storage sheds within the curtilage of the flat block. Care will need to be taken to ensure that storage sheds erected under this amendment do not block the view of drivers on the road or exiting from their driveways.

7.11 It is proposed to extend the same PDR to houses and flats in conservation areas, perhaps with additional control over materials. It is also proposed to increase the floorspace restriction of four square metres for sheds in the rear gardens of houses in conservation areas to eight square metres, to allow for the storage of adaptive bikes and bike trailers as well as bikes and mobility scooters.

7.12 In order to give residents of flats without a private external garden area the right to secure ground level storage of bikes, it is proposed to introduce PDR for communal bike storage sheds (hangars) in public places.

7.13 E-bikes are significantly heavier than pedal bikes, so these proposals should help facilitate the ownership and use of e-bikes. Charging points for e-bikes are not being considered as part of this consultation, as many e-bikes have removable batteries, negating the need for a dedicated charging point. In any case, the addition of a power supply to a bike store would not require planning permission, so the storage solutions suggested above would also allow for the charging of e-bikes which do not have a removable battery. Extending PDR to allow charging points for e-bikes will be considered alongside new PDR for EV charging stations for cars, in Phase 2 of our programme.

Houses

7.14 Specialist bicycle and scooter storage structures are widely available, in a variety of materials and sizes. Individual storage sheds, which will hold a mobility scooter or up to four bikes, can measure as little as 1.2 metres in height, 2 metres in width and 1 metre in depth. A secure cycle or scooter store could therefore be as little as 200 mm higher than a one metre fence, which is allowed under existing permitted development rights.

7.15 Allowing householders to erect or site a cycle store of these dimensions in the front garden would not, it is considered, give rise to a significant impact on residential and visual amenity – though it is proposed that finishing materials for the stores in conservation areas should be restricted to timber and that sheds would not be permitted if they would compromise traffic and pedestrian safety by blocking a sightline. Preliminary research suggests that most applications of this sort are approved under the current regulations.

Q.60 Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth?

If you disagree please explain why.

7.16 Houses in conservation areas have existing PDR to erect a storage shed of up to four square metres floorspace to the rear of the property. It is proposed to increase this floorspace limit to eight square metres to facilitate the storage of adaptive bikes, bikes with trailers and mobility scooters. It is also proposed to allow the construction of bicycle stores up to a maximum size of 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side gardens of houses in conservation areas,.

Q.61 Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?.

If you disagree please explain why.

Q.62 Should such an extension to PDR should be subject to a restriction on materials?

Please explain your answer

Q.63 Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres?

If you do not agree please explain why.

Flats

7.17 Some ground floor flats and cottage flats have a private, allocated garden space. There is currently no PDR for the erection of a storage shed in the curtilage of any flatted development, including flats with their own garden area. It is proposed to extend the PDR for bike storage sheds (up to the same maximum dimensions as for houses) to flats which have an allocated garden area, including in a conservation area.

Q.64 Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area?

If you disagree please explain why.

7.18 Most modern blocks of flats will have a parking court and communal spaces, which will often have sufficient space to allow for the construction of a communal, secure cycle store without affecting the parking area. If this is not the case, and the erection of a cycle store would necessitate the removal of some parking spaces, the residents of the flats – the co-owners of the parking court in most cases – would need to agree to the loss of these spaces. A typical cycle store, which can hold up to six bikes, would take up half a traditional car parking space, and would be about 1.5 metres in height. If the cycle store is sited in or adjacent to the parking court, we consider that it would be unlikely to have a detrimental impact on the amenity of the surrounding area.

7.19 Traditional Scottish tenement buildings with a common close generally have a communal drying green, also in common ownership (some accessed via a lane at the rear of the flats) which is used for bin storage and collection. In these cases, a communal store at the rear of the building, in the common backcourt area, would normally be private to the residents of the block, and not visible from the street. Again, we consider that the erection of a communal bike hangar in such circumstances would not be likely to have an impact on visual or residential amenity.

7.20 Communal bike/mobility scooter storage for larger blocks of flats would by necessity be larger than cycle/scooter sheds which serve individual houses; for this reason, it is proposed to restrict PDR to the rear of blocks of flats.

7.21 We propose to introduce PDR to give flatted developments the right to erect a cycle store in the rear parking court or backcourt of a flatted block, of sufficient size to store two bikes per flat, including in conservation areas.

Q.65 Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas?

If you disagree please explain why.

Offices, commercial and industrial buildings (classes 4, 5 and 6 of the Use Classes Order)

7.22 Offices with car parks will generally have sufficient space to erect a cycle shelter for employees and, where not, the loss of a small number of car parking spaces to accommodate a communal shelter is considered to be acceptable, as long as the spaces affected are not for disabled drivers. We therefore propose to introduce PDR for secure, communal cycle stores in the curtilage of offices, commercial and industrial buildings of a size suitable to accommodate a number of bikes proportionate to the floorspace of the office.

Q.66 Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses?

If you disagree please explain why.

Other Locations

7.23 Many railway stations and shopping centres already provide some bike parking facilities, in the form of Sheffield type racks, which do not currently require planning permission. Secure, covered cycle storage at public locations, which does require planning permission, would undoubtedly encourage the use of bicycles and e-bikes, and could in many cases be successfully integrated into the urban environment.

7.24 For example, Edinburgh has recently sited secure communal bike hangars on the street in built up parts of the city where local residents who live in flats do not have easy access to secure storage. The hangars are metal and each holds up to six bikes and measure 1.36 metres in height, 2.55 metres in length and 2 metres in depth. Each takes up approximately half a car parking space.

7.25 We propose to introduce PDR for the siting of up to four cycle stores of up to 1.36 metres in height, 2.55 metres in length and 2 metres in depth within a street block of 100 metres length in public places. The cycle stores should

ideally be placed on the road carriageway (replacing car parking spaces other than disabled parking spaces as necessary) and should not reduce the width of the public footpath.

Q.67 Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets?

If you disagree please explain why.

Q.68 If such PDR is introduced, do you agree with the proposed maximum size for the cycle stores, and the proposed restriction on the number allowed in a particular street or block?

If you disagree please explain why.

Q.69 If such PDR is introduced, do you think it should be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc?

If you disagree please explain why.

Q.70 Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

8. SEA Post-adoption Statement Summary

8.1 The Scottish Government set out its Proposed Work Programme for reviewing and extending permitted development rights (PDR) (referred to as “the proposed programme”) in November 2019. The proposed programme was the first step in an iterative and ongoing policy process which has been, and will continue to be, informed by a Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) requirements¹⁶. The SA was undertaken by independent consultants LUC commissioned by the Scottish Government.

8.2 A Sustainability Appraisal Report setting out the potential environmental, social and economic effects arising from the proposed programme was consulted on alongside the proposed programme from 5 November 2019 – 28 January 2020. The SA report considered broad options for changes to PDR across a range of development types.

8.3 The draft Post Adoption Statement published alongside this consultation sets out how the views gathered on the environmental, social and economic considerations incorporated within the Sustainability Appraisal have been taken into account in finalising the Proposed Work Programme and in progressing the detailed proposals for Phase 1 changes to PDR. The draft Post Adoption Statement will continue to be updated as future work on the remaining phases of the PDR programme is progressed. We will also give consideration to whether any further appraisal or assessment is required at each step of the iterative policy process.

8.4 In the meantime, the draft Post Adoption Statement sets out:

- how the environmental, social and economic considerations have been integrated into the iterative programme for expanding PDR;
- how the Sustainability Appraisal Report has been taken into account;
- how the opinions of consultees have been taken into account;
- the reasons for choosing the programme as adopted, in light of the other reasonable alternatives considered; and
- the measures to be taken to monitor any significant environmental effects arising from implementation.

8.5 Furthermore, we have also undertaken some additional assessment of the Phase 1 proposals, including any new or updated SA findings. This includes an assessment of those Phase 1 proposals that were not considered as part of the original Sustainability Appraisal. This additional assessment is published alongside this consultation as an update to the Sustainability Appraisal.

¹⁶ The Sustainability Appraisal incorporates SEA requirements under the Environmental Assessment (Scotland) Act 2005.

Q.71 What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report that accompanies this consultation document?

(N.B. Consultees are asked to avoid restating their views on the November 2019 consultation as these views are already being taken into account.)

9. Assessment of Impacts

9.1 In addition to Strategic Environmental Assessment we have undertaken a number of other assessments of our draft proposals (or screened proposals to see whether an assessment is required). Our initial and draft assessments are set out in annexes B-F and we would welcome feedback on these as part of the consultation. The draft assessments and screening assessments undertaken include:

- A Business and Regulatory Impact Assessment (BRIA) that considers the costs and benefits, particularly with regard to business, of the proposed changes. We will engage with businesses likely to be affected by the proposals during the consultation period to confirm/supplement our conclusions (see Annex B);
- An Equality Impact Assessment (EqIA) that considers the impact of the draft proposals on various equalities groups defined by protected characteristics such as age, sex, religious or other belief, race or sexual orientation (see Annex C);
- A Children's Rights and Wellbeing Impact Assessment (CRWIA) that considers the impact of the changes on children. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex D);
- A Fairer Scotland Duty Assessment that considers how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex E); and
- An Island Communities Impact Assessment (ICIA) that considers the impact of proposed changes on Scotland's islands. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex F).

9.2 A Data Protection Impact Assessment (DPIA) was not considered relevant to these proposals because none pose any risk to privacy or data protection.

9.3 We invite views on these draft and partial impact assessments as part of this consultation. In particular:

Q.72 Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 1 proposals?

Q.73 Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

10. Responding to this Consultation

10.1 We are inviting responses to this consultation by 12 November 2020.

10.2 Please respond using the Scottish Government's consultation hub, Citizen Space by accessing and responding to this consultation online at [<https://consult.gov.scot/planning-architecture/programme-reviewing-extending-pdr>]. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses must be submitted by the closing date of 12 November 2020 to be considered.

10.3 If you are unable to respond using our consultation hub, please complete and send the Respondent Information Form to:

Planning.PDRphase1consultation2020@gov.scot or

Planning Development Delivery Team
(PDR Review)
Scottish Government
Area 2F South
Victoria Quay
EDINBURGH
EH6 6QQ

Handling your response

10.4 If you respond using the consultation hub, you will be directed to the "About You" page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and will treat it accordingly.

10.5 All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

10.6 To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

10.7 Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

10.8 Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

10.9 Responses to the consultation will help inform the final development of proposals and the drafting of regulations that will be laid in the Scottish Parliament amending the General Permitted Development Order to bring the changes into effect. Subject to confirmation by the Scottish Parliament it is anticipated that changes resulting from this process will come into force in Spring 2021.

Annex A: Digital Communications Infrastructure: Additional information

The Prior Notification/Prior Approval Regime for Digital Telecommunications Infrastructure

A.1 The Prior Notification/Prior Approval regime means before beginning development, developers must ask the planning authority whether its prior approval of specified aspects of the development is required or not.

A.2 The PDR for new ground based masts has a particular form of prior notification/ prior approval, which involves neighbour notification and other requirements, and a 56 day period within which the planning authority has to respond to indicate whether its prior approval is required and, if so, whether or not it is granted. If a planning authority does not issue a decision within 56 days, the developer can proceed.

A.3 Further details can be found in Annex G (paragraphs 66 to 96) of the revised Circular 2/2015 on Non-domestic Permitted Development Rights¹⁷

A.4 Prior approval would not apply where Class 67 PD rights are exercised in an emergency.

A.5 In other areas of PDR, the more **standard version** of prior notification/ prior approval, involves prior notification, from which the planning authority has 28 days to indicate whether its prior approval is required. If it does so, then development cannot proceed unless and until prior approval is granted. There are rights of appeal to Scottish Ministers¹⁸ if a decision on prior approval is not issued within statutory timescales or where prior approval is refused.

NOTE: In this consultation paper, other than proposals regarding PDR in relation to new ground based masts, reference to using prior notification/prior approval should be taken to mean the standard version. If you consider some other form of prior notification/ prior approval should apply, please signal this in your answer.

¹⁷ <https://www.gov.scot/publications/planning-circular-2-2015-consolidated-circular-non-domestic-permitted-development/>

¹⁸ Section 28 of the Town and Country Planning (Scotland) Act 2019 contains new powers, not yet commenced, for planning authorities to delegate prior approval decisions such that they are subject to local review procedures as opposed to appeals to Scottish Ministers.

Annex B: Business and Regulatory Impact Assessment Template

Title of Proposal

General Permitted Development Order - Agriculture, Digital, Active Travel and Peatland Restoration

Purpose and intended effect

Background

Permitted development rights (PDR) refer to those forms of development which are granted planning permission nationally through legislation, meaning they can be undertaken without having to make an application to the planning authority in the usual way. They are, however, subject to specific conditions and limitations to protect amenity and to control the impacts of the development to which they relate. Current PDR in Scotland are governed by the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) (“the GPDO”).

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link <https://consult.gov.scot/localgovernment-and-communities/reviewing-and-extending-pdr/>.

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programme being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

Objective

Extending current PDR or introducing new PDR supports Scotland’s ongoing recovery from the COVID Pandemic

Our proposals seek to boost the Scottish Economy and help to meet our climate change ambitions. They are intended to support the expansion and improvement in Digital Communication, allow residents to erect storage for bikes and other active travel equipment in front gardens, restore Scotland’s vital peatlands and allow for increased agricultural development and

diversification, as well as the delivery of new homes (including affordable properties) in rural areas.

Rationale for Government intervention

It is widely acknowledged that the Planning System can play an integral role in achieving all of the outcomes included in the National Performance Framework. The changes we are proposing to bring forward relating to agriculture, digital communications, active travel and peatland restoration can contribute to the specific outcomes of Economy, Environment, Fair Work and Business, Health and Children and Young People.

Removing the requirement for some developments to submit an application for planning permission means that development can be progressed more swiftly, taking advantage of improvements to technology or react to situations.

Agriculture

We propose to:

- Approximately double the size of new agricultural buildings (from 465m² to 1,000m²) that may be erected under PDR (subject to prior approval) and double of the size of extensions to existing agricultural buildings that may be carried out without prior approval
- Introduce a new PDR for the conversion of agricultural buildings to residential and other commercial uses subject to a number of conditions and limitations, including prior approval in respect of a number of matters
- Make equivalent provision in respect of forestry buildings.

Digital Communications

We propose:

- increases to existing PDR limits for digital infrastructure (e.g. new masts, extensions to existing masts, antenna and kit on buildings, equipment cabinets on the ground and underground development);
- extensions of PD rights into sensitive areas (but subject to lower size/heights limits); and
- to ensure that PDR is compliant with Article 57 of the EU Directive in relation to Small Aerial Wireless Access Points (SAWAP).

Active Travel

We propose to:

- introduce PDR for a storage shed in the front garden of properties without external access to a rear garden – subject to a height and size limit. Aim will be to make it big enough to store 1-2 bikes and/or an adapted bike or mobility scooter

- introduce PDR for storage sheds in the rear garden and/or the car park of shared properties (i.e. flats) – subject to a height/size limit
- introduce PDR for storage sheds/shelters in the car parks/grounds of offices – subject to height/size limit
- introduce PDR for storage sheds/shelters in certain public spaces (e.g. on roads in dense residential areas, near train stations) – subject to height/size limits. Some shelters (e.g. those on road) would still be subject to the TRO process
- clarify what active travel ‘developments’ already enjoy PDR (e.g. cycle lanes on road)

Peatland Restoration

We are proposing that PDR relies on a generally accepted understanding of what constitutes peatland, and that peatland restoration operations are not specifically defined. The proposals do not contain any restrictions, though they do not include PDR for hill tracks for peatland restoration purposes.

Given the broad nature of the proposed PDR, it seems unlikely they would introduce any costs for peatland restoration.

Consultation

Within Government

Discussions were undertaken involving a Virtual Review Group, which consisted of key stakeholders with knowledge and expertise, from scoping stage through to informing the sustainability on the options for change.

Agriculture

Proposals have been informed by engagement with a number of Directorates within Scottish Government, including relevant policy teams in the Agricultural and Rural Economy Directorate, Transport Scotland, the Directorate for Local Government and Communities, the Directorate for Housing and Social Justice and the Directorate for Environment and Forestry. Prior to public consultation, targeted engagement was carried out with a number of stakeholders including the National Farmers Union Scotland, Scottish Land and Estates, Heads of Planning Scotland, Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland.

Digital

Towards the end of the consultation period on the sustainability appraisal, together with the proposed work programme, an engagement paper was issued to the key stakeholders in advance of workshops which were planned for March 2020. Given the situation with the pandemic, those workshops had to be cancelled and the PDR work subsequently paused and refocussed.

A targeted pre-consultation engagement paper was circulated in July 2020 to key stakeholders within industry, public sector and environmental bodies and their responses assisted in the preparation of the consultation questions. The consultation paper on digital has been shared with policy leads within Scottish Government's Digital Connectivity team.

Active Travel

Discussions on extending permitted development rights for the storage of bikes and other potential works to do with active travel have taken place with Transport Scotland, Sustrans, Cycling UK, NatureScot, Living Streets Scotland and Historic Environment Scotland. Discussions with Sustrans and Transport Scotland have been particularly helpful in considering the different types of bikes and storage solutions which are available such as adaptive bikes, trikes and communal bike storage.

Peatland Restoration

The proposals on permitted development rights for peatland restoration have been discussed with the team promoting peatland restoration. A discussion paper was circulated in August 2020 to the National Peatland Group, which includes representatives from that team, local authorities, national park authorities, Scotch Whisky Association, Scottish Renewables, Scottish Water, Scottish Land & Estates, RSPB, Community Land Scotland, University of the Highlands & Islands, Scottish Forestry, International Union for Conservation of Nature UK Peatland Project, Buglife, as well as Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland.

Public Consultation

As previously indicated, in November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work.

The consultation on the proposed changes to Agriculture, Digital Communications, Active Travel and Peatland Restoration will be published week commencing 21st September with a 6 week period in which to respond (week commencing 6th November). Events will be arranged during that 6 week period to allow people chance to learn more detail about the proposals and to ask questions.

Business

Some limited consultation has been undertaken with businesses in advance of the public consultation to help shape our proposals. As indicated above further engagement will be undertaken during the consultation period to help inform our final proposals for change. Outlined below is an indication of the engagement already undertaken.

Options

Option	
Do Nothing – all classes	No changes would be made to the General Permitted Development Order with current restrictions on development remaining in place.
Option 1 – changes proposed by consultation paper	The General Permitted Development Order would be updated to extend the types of development which will not require the submission of a full application for planning permission.

Sectors and groups affected

Permitted Development Rights mainly affect directly residents, developers, landowners, community groups and planning authorities. Landowners and developers may include individual persons as well as business interests. Where PDR encourage development, then the wider public can also experience any associated benefits and/or any negative impacts of the development itself.

Benefits

Extending PDR will help to improve certainty of outcome for developers, and can help to reduce timescales for securing any necessary permissions or approvals.

By removing more proposals from the planning application process, the proposals will also help free up resources for Planning Authorities. Where prior approval is required, these benefits may be offset in part by the need to submit an application for prior approval.

However, the fee for prior approval would be less than that for an application for planning permission.

Extending PDR could:

- encourage development and improve digital connectivity,
- allow farmers/landowners to erect larger buildings to house machinery or convert existing buildings to residential or commercial uses, allowing them to diversify their current business,
- allow residents to erect containers to store bikes/scooters or other mobility devices, freeing up space within stairwells in tenement properties or within residential properties and improving access to wheeled transport; and
- encourage peatland restoration as a means to offset carbon emissions (and other environmental improvements).

All of this will benefit both businesses and the general public.

Digital

The need for improved and effective connectivity has become even more important given the nation's reliability on the use of digital communications in the Covid-19 pandemic, where we have seen significant demand on connectivity for home working, video conferencing, health consultations, public services, on line shopping etc. The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing carbon footprint. By decreasing planning controls in certain areas this will also reduce the burden on planning authorities and, therefore, speed up deployment of such infrastructure.

In 2019-20 there was 261 applications which were for telecommunications infrastructure. Of these it is not clear how many would be removed from the planning application process as a direct result of the proposals.

Peatland Restoration

Peatlands cover more than 20% of Scotland's land area. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.

Healthy peatlands provide many benefits to us all – but not all of our peatlands are in good health. It is estimated that 80% of Scotland's peatlands are damaged.

There have been limited numbers of applications for planning permission up to now for Peatland Restoration projects, though currently there are in the region of 70 projects started each year. In future the scale and number of projects is expected to rise in line with the target of restoring 20,000 hectares of peatland per annum. These factors will likely affect the extent to which the question of whether planning permission is required and so, in the absence of permitted development rights, lead to requests for planning applications despite such projects being regarded as having positive impacts and minimal risks.

Active Travel

During the Review of the Planning System one of the most popular ideas on our digital forum was for the removal of the need to apply for planning permission to erect a storage unit in which to store bicycles. During the Covid-19 pandemic there has been a significant increase in the number of people cycling with many bike shops being sold out of stock or there being long waiting times to service bikes.

With this increase comes the need to provide safe and secure storage for people when at home and when undertaking errands or commuting. In our recent call for ideas for National Planning Framework 4 a requirement for secure cycle storage was also highlighted. The proposed changes will provide residents, particularly those in flats or who only have access to a garden at the front of their property, with the ability to erect a storage shed in which to store their bicycle removing the need to either carry a bike upstairs or access the rear of the property. This can have an important impact by ensuring that people have easy access to safe and secure storage. This could increase the use of bikes by making it more straightforward to access a bicycle to carry out day to day tasks.

Agriculture

Our proposals are intended to support the rural economy and complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation. Amongst other things, our proposals may help to support succession planning for farms, economic diversification and sustainable communities in rural areas. The proposed PDR are subject to conditions and limitations in order to limit potential harm to local amenity.

For the Active Travel and Agriculture categories the Planning Statistics are not broken down to a level which will provide an accurate picture of how many applications are currently considered and how many applications for full planning permission will be removed by the changes which are being proposed. It may also be the case that the requirement to apply for planning permission currently acts as a deterrent due to cost or complexity, therefore granting permitted development rights may actually encourage people to carry out development.

Costs

It is expected that the proposed changes will result in savings for both planning authorities by removing the need to determine applications and to applicants in them not requiring to pay for the submission of a full planning application.

However, initially, savings may be partially offset by some indirect costs to business in ascertaining whether or not development is permitted development, and in complying with planning enforcement were any work inadvertently carried out which subsequently transpires not to benefit from PDR. However, such costs are anticipated to be minimal and short-term and will naturally fall away as developers become familiar with the changes.

In peatland restoration, costs to the environment may arise where, given the proposed very broad PDR, the level of oversight via public financial support (such as Peatland Action) or through the Peatland Code (anticipated in most cases) do not apply to a project, and a badly designed project is implemented.

Given that the likelihood of projects coming forward without public support and consideration by Peatland Action and/or the Peatland Code is low we do not consider this to be likely but we will consider whether any new guidance is necessary to further reduce the likelihood of any such errors.

For developments which do not already benefit from permitted development rights an application for planning permission is required to be submitted. The fee for submitting an application for development within the curtilage of a dwellinghouse is currently £202 with most other types of development starting at £401 and increasing on an incremental basis based on the size of the development. Applications for Prior Approval generally attract a fee of £78 although the fee for Telecommunication Masts is £300.

Scottish Firms Impact Test

As indicated we have had limited face to face discussions with firms/ organisations about our proposals however, this will take place during the consultation period.

Competition Assessment

We do not consider that the proposed changes across the 4 areas of Agriculture, Digital, Active travel or Peatland Restoration will negatively impact on competition. It is considered that the proposed changes will not limit the number or range of suppliers, the ability of suppliers to compete, suppliers' incentives to compete vigorously,; or the choices and information available to consumers.

Consumer Assessment

We do not consider that the proposed changes across the 4 areas of Agriculture, Digital, Active travel or Peatland Restoration negatively impact on consumers. It is considered that the proposed changes will not affect the quality, availability or price of any goods or services in a market, affect the essential services market, such as energy or water, involve storage or increased use of consumer data, increase opportunities for unscrupulous suppliers to target consumers, impact the information available to consumers on either goods or services or their rights in relation to these, or affect routes for consumers to seek advice or raise complaints on consumer issues.

Test run of business forms

No new forms will be introduced.

Digital Impact Test

It is considered that the proposed changes will not be impacted by changes to processes brought about by digital transformation by removing the need to apply for planning permission in many instances.

Legal Aid Impact Test

It is considered that the proposed changes will not give rise to increased use of legal processes or create new rights or responsibilities which would impact on the legal aid fund.

Enforcement, sanctions and monitoring

Planning legislation sets out that enforcement is the responsibility of the planning authority in which a breach of planning control has taken place. Scottish Government guidance encourages the informal resolution of alleged breaches of planning control. Where it is established that there has been a breach and informal measures are unsuccessful in resolving the matter, there is a range of formal enforcement powers available to planning authorities.

Implementation and delivery plan

The consultation will be published week commencing 28th September with a 6 week period in which to respond (ending on 12 November). Following the closure of the consultation period analysis of the responses will be undertaken and regulations will be drafted with a view to them being laid week commencing 14th December. The regulations will then come into force in March 2021.

Once the final regulations are prepared we will consider whether additional guidance, advice and information if required for developers and planning authorities on the interpretation of the revised GPDO.

Post-implementation review

As noted in the Post Adoption Statement that accompanies this consultation we will give further consideration to monitoring and set out our proposals following the consultation. This could involve various approaches and combinations of approach, such as liaison with planning authorities, developers and statutory bodies, as well as commissioning research. Subsequent Phases of the PDR programme will consider changes to PDR for other development types.

Summary and recommendation

Extending the scope of permitted development rights can deliver benefits to both authorities and applicants. By extending the types of development which are granted permitted development rights thus removing the need to submit a full planning application it can free up local authorities to focus on the developments where they can add most value and it can provide applicants with the certainty that they can proceed with development without the cost and delay that submitting an application for planning permission can entail. It is recommended that the proposals to extend permitted development rights are progressed as outlined in the consultation paper.

Summary costs and benefits table

Option		Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1		Current situation is maintained which is understood by applicants and authorities.	Applications will continue to be processed by planning authorities which will require fees to be paid and delay in implementing any proposals as applications are determined. Failure to progress with our proposals could risk an increase in active travel, the restoration of our valuable peatlands, delays the expansion of telecommunication infrastructure and restricts the potential diversification of rural buildings and the safe storage of agricultural machinery.
2	Agriculture	<ul style="list-style-type: none"> • It is not clear how many applications these changes will remove from the system or how many developments will be progressed in response to this change. • These changes will support rural development and diversification by allowing farmers to erect larger agricultural buildings and to convert buildings to residential and other commercial uses 	Over the short term there is potential for uncertainty while parties familiarise themselves with the scope of the new provisions. Guidance should help to overcome such transitional issues.

	Digital	<ul style="list-style-type: none"> • In 2019-20 there was 261 applications which were for telecommunications infrastructure. Of these it is not clear how many would be removed from the planning application process as a direct result of the proposals. • The need for improved and effective connectivity has become even more important given the nation's reliability on the use of digital communications in the Covid-19 pandemic, • The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing carbon footprint. • By decreasing planning controls in certain areas this will also reduce the burden on planning authorities and, therefore, speed up deployment of such infrastructure. 	<ul style="list-style-type: none"> • Costs will be for projects requiring prior approval for new masts and for new PDR in designated areas
	Active Travel	<ul style="list-style-type: none"> • It is not clear how many applications these changes will remove from the system or how many developments will be progressed in response to this change. • During the Covid-19 pandemic there has been increases in the number of people cycling. • With this increase comes the need to provide safe and secure storage for 	

		<p>people when at home, work or shops.</p> <ul style="list-style-type: none"> • This can have an important impact by ensuring that people have easy access to safe and secure storage. This could increase the use of bikes by making it more straightforward to access a bicycle to carry out day to day tasks reducing the burden on public transport and the need to use a private car supporting our ambitions to reduce carbon emissions and improve people's health and wellbeing. 	
	<p>Peatland Restoration</p>	<ul style="list-style-type: none"> • It is not clear how many applications these changes may remove from the system. Currently planning applications are not being pursued for the 70 or so projects each year. The number and size of projects is expected to rise in line with the target of 20,000 hectares of peatland restoration a year, which could mean planning applications would be sought for more projects in the absence of PDR. • Peatlands cover more than 20% of Scotland's land area. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's 	<ul style="list-style-type: none"> • Costs may be that very broad PDR could allow badly designed projects that fall outside the oversight likely to apply in most cases, with impacts on the environment

		<p>water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.</p>	
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Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Kevin Stewart

Date: 29th September 2020

Minister's name: Kevin Stewart

Minister's title: Minister for Local Government, Housing and Planning

Scottish Government Contact point: Neil Langhorn, Planning & Architecture Division

Annex C: Equality Impact Assessment Record

Title of policy/ practice/strategy/ legislation etc.	General Permitted Development Order – Amendments – Active Travel, Digital Communication, Agriculture and Peatland Restoration	
Minister	Minister for Local Government, Housing and Planning	
Lead official	Neil Langhorn	
Officials involved in the EQIA	name	team
	Chris Sinclair	Planning and Architecture Division: Development Delivery
Directorate: Division: Team	Local Government and Communities: Planning and Architecture Division: Development Delivery	
Is this new policy or revision to an existing policy?	Revision to Existing Policy	

Screening

Policy Aim

Permitted development rights (PDRs) refer to those forms of development which are granted planning permission nationally through legislation, meaning they can be undertaken without having to make an application to the planning authority in the usual way. They are, however, subject to specific conditions and limitations to protect amenity and to control the impacts of the development to which they relate. Current PDRs in Scotland are governed by the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) (“the GPDO”).

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link <https://consult.gov.scot/localgovernment-and-communities/reviewing-and-extending-pdr/>.

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programme being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

It is widely acknowledged that the Planning System can play an integral role in achieving all of the outcomes included in the National Performance Framework. The changes we are proposing to bring forward relating to agriculture, digital communications, active travel and peatland restoration can contribute to the specific outcomes of Economy, Environment, Fair Work and Business, Health and Children and Young People.

By removing some elements from requiring to submit an application for planning permission means that development can be progressed more swiftly, taking advantage of improvements to technology or react to situations.

Who will it affect?

Extending PD rights will help to improve certainty of outcome for developers, and can help to reduce timescales for securing any necessary permissions or approvals. By removing more proposals from the planning application process, the proposals will also help free up resources for Planning Authorities. Where prior approval is required, these benefits may be offset in part by the need to submit an application for prior approval.

However, the fee for prior approval would be less than that for an application for planning permission.

Extending PD rights could:

- encourage development and improve digital connectivity,
- allow farmers/landowners to erect larger buildings to house machinery or convert existing buildings to residential or commercial uses, allowing them to diversify their current business,
- allow residents to erect containers to store bikes/scooters or other mobility devices, freeing up space within stairwells in tenement properties or within residential properties; and
- restoring peatland as a means to offset carbon emissions.

All of this will benefit both businesses and the general public.

What might prevent the desired outcomes being achieved?

The key factor which may prevent the desired outcomes being achieved is if the proposed developments are not being brought forward. The Scottish Government can put in place the framework in which the need to apply for planning permission is not required however, to achieve the outcomes which we expect to be delivered will require individuals as well as businesses taking advantage of the relaxation.

Stage 1: Framing

Results of framing exercise

The initial framing exercise has shown that the key areas where PDR will have an impact on Equality groups are primarily Active Travel and Digital Communication. We consider that these impacts will be positive and have not identified any negative impacts. However, we will highlight the consultation and invite comment from representative organisations to assist with the completion of the full EQIA.

The evidence which we have identified shows that rates of active travel and of the internet reduces with age and that there can be differences across sexes as well. We will ensure that the consultation paper is highlighted to relevant representative groups to identify if they can provide more insight into how the changes we are proposing may impact directly or indirectly on equality groups.

Extent/Level of EQIA required

We consider that these proposals do not give rise to negative impacts for those with protected characteristics although targeted engagement will be carried out during the consultation. In particular we will highlight the consultation to organisations that represent the age and sex categories to ensure our assumptions about positive impacts are correct.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹⁹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE DISABILITY SEX PREGNANCY AND MATERNITY GENDER REASSIGNMENT SEXUAL ORIENTATION RACE RELIGION OR BELIEF	Cycling contributes towards national and local policy objectives to reduce emissions, tackle congestion, increase tourism and improve physical and mental health. Cycling also aids accessibility and social inclusion objectives	https://www.transport.gov.scot/media/48026/cycling-by-design-july-2020.pdf Cycling by Design (July 2020)	
AGE SEX	<p>Participation levels - increased for cycling - from 9 per cent to 13 per cent since 2007</p> <p>When walking excluded, difference levels across sex - men participated more in cycling (17 and 9 per cent respectively)</p> <p>Cycling most popular in the 35-44 age group. Falls to only 2 per cent for the 75+ group</p> <p>Participation: Most deprived 20% - 8% Least deprived 20% - 13%</p>	Scottish Household Survey (Sept 2019) https://www.gov.scot/publications/scotland-people-annual-report-results-2018-scottish-household-survey/pages/8/	

¹⁹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>Although older adults were less likely to use the internet, the gap in internet use between adults aged 16-24 and adults aged 60 and above has fallen over time from 57 percentage points in 2007 to 35 percentage points in 2018. This result has mainly been driven by an increase in internet use amongst adults aged 60+ (from 29 per cent to 65 per cent).</p> <p>Overall there was no significant difference in use of internet between genders</p>		
<p>AGE</p>	<p>NPF4 Call for Ideas – Analysis (Aug 2020) https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-analysis/2020/08/npf4-analysis-reponses-call-ideas/documents/national-planning-framework-4-analysis-responses-call-ideas/national-planning-framework-4-analysis-responses-call-ideas/govscot%3Adocument/national-planning-framework-4-analysis-responses-call-ideas.pdf?forceDownload=true</p>		

	Peatlands restoration	Respondents pointed to the importance of restoration of peatlands, with suggestions this should increase and that, where possible, peat forming function should be restored.	
	Digital	It was noted that connectivity in rural areas could also help reverse depopulation and the drift to urban centres (especially of younger people)	
	Active Travel	With respect to active travel there were calls for a better network of good quality footpaths and cycle paths, not only linking housing developments with town centres but also connecting to longer distance paths and cycle routes. A requirement for secure cycle storage was highlighted.	
AGE	Young People and the Highlands and Islands (2018)	There is a deficit of young people in the Highlands and Islands – those aged 15-30 comprise 17% of the total population compared to 21%	

	https://www.hie.co.uk/research-and-reports/our-reports/2018/may/31/yp-research/#:~:text=Young%20People%20and%20the%20Highlands%20and%20Islands%3A%20Maximising,relation%20to%20the%20Highlands%20and%20Islands%20of%20Scotland.	<p>across Scotland – and this is projected to continue. Much of this deficit is a result of out-migration within the 15-19-year-old age group as significant numbers leave to pursue education and employment opportunities.</p>	
AGE	<p>Children and parents: media use and attitudes report 2019 (February 2020)</p> <p>https://www.ofcom.org.uk/research-and-data/media-literacy-research/childrens/children-and-parents-media-use-and-attitudes-report-2019</p>	<p>Social media is central for both tweens and teens. Some 21% of 8-11s and 71% of 12-15s have a social media profile. It also noted that 2019 saw an increase in the proportion of 12-15s who use social media to support causes and organisations by sharing or commenting on posts (18% in 2019 vs. 12% in 2018).</p>	

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination, harassment or victimisation.
Advancing equality of opportunity	X			It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front gardens could be beneficial to those who may be able to and willing to cycle as a means of transport, however they are restricted due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments. Improving the availability of Digital Communication technology will provide benefits

				for all. For young people this could improve access to learning and create new job opportunities.
Promoting good relations among and between different age groups			X	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination, harassment or victimisation.
Advancing equality of opportunity	X			It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front gardens could be beneficial to those who may be able to and willing to cycle as a means of transport, however they are restricted due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments.

				Improving the availability of Digital Communication technology will provide benefits for all. For disabled people this could have a transformative effect on job opportunities for instance by reducing the need to travel for work for instance.
Promoting good relations among and between disabled and non-disabled people			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that it would not have any impact on relations among disabled and non-disabled people.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity	X			It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front garden could be beneficial to those who may be able to and willing to cycle as a means of transport however they are restricted

				due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments.
Promoting good relations between men and women			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that it would not have any impact on relations between men and women.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.

Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good race relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission and we do not believe that this will have an impact positively or negatively on race relations.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take

				forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²⁰	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission and we do not believe that this will have an impact positively or negatively on eliminating discrimination.

²⁰ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Positive impacts have been identified relating to Active Travel and Digital Communication in the Age and Sex categories.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ²¹ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

As this EQIA forms part of the consultation paper we would expect that stakeholders will play a key role in highlighting if there are any issues which we may not have considered. As previously indicated we will ensure that the consultation paper is highlighted to relevant equality groups to provide them with the opportunity to scrutinise the policy proposals and test our assumptions about the positive impacts we believe will be realised.

Monitoring and Review

²¹ See EQIA – Setting the Scene for further information on the legislation.

The consultation will be published week commencing 28th September with a 6 week period in which to respond (week commencing 9th November). Following the closure of the consultation period analysis of the responses will be undertaken and regulations will be drafted with a view to them being laid week commencing 14th December. The regulations will then come into force in March 2021.

Once the final regulations are prepared we will consider whether additional guidance, advice and information if required for developers and planning authorities on the interpretation of the revised GPDO.

As noted in the Post Adoption Statement that accompanies this consultation we will give further consideration to monitoring and set out our proposals following the consultation. This could involve various approaches and combinations of approach, such as liaison with planning authorities, developers and statutory bodies, as well as commissioning research. Subsequent Phases of the PDR programme will consider changes to PDR for other development types.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also

assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for General Permitted Development Order and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: John McNairney

Position: Chief Planner, Scottish Government

Authorisation date: 25th September 2020

Annex D: Children's Rights and Wellbeing Impact Assessment

CRWIA Stage 1

Screening - key questions

(Hyperlink will only work within SG)

1. Name the policy, and describe its overall aims.

Changes to the General Permitted Development Order.

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link

<https://www.gov.scot/publications/scottish-governments-proposed-work-programme-reviewing-extending-permitted-development-rights-pdr-scotland/>

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programmed being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

2. What aspects of the policy/measure will affect children and young people up to the age of 18?

It is expected that the proposed changes to the permitted development rights for agriculture and peatland restoration will have minimal impact on children and young people and it is expected that there will be positive impacts from the proposed changes to active travel and digital infrastructure permitted development rights.

The Covid-19 pandemic has demonstrated that digital technology infrastructure is vital to ensuring people can continue to work and learn if restrictions are put in place to limit physical movement. However, where people are required to move around it has also been clear that current infrastructure does not support this movement in a way in which physical distancing can be observed. During the time when lockdown restrictions were in place the numbers of people walking, cycling and running increased. This led to many Local Authorities investigating ways to ensure that appropriate space was afforded to pedestrians and cyclists to enable them to exercise and move around in a safe environment.

Extending the range of developments which don't require submission of a planning application provides that changes to infrastructure can be progressed more simply. By extending the size and type of digital technology infrastructure which benefits from PD means that equipment can be installed, increasing capacity and availability as well as allowing providers to upgrade their equipment, with newer more powerful models as technology progresses, in a more responsive manner.

By extending the range of developments which can be carried out without the need for a planning application for active travel can be positive for children and young people by improving the available infrastructure to make walking and cycling a more attractive mode of transport.

3. What likely impact – direct or indirect – will the policy/measure have on children and young people?

We believe that the changes which are proposed will only indirectly affect young people. However, we believe that these impacts will be positive by creating the conditions in which provision of digital communication infrastructure can be improved and be more responsive to changes in demand and technology and providing safe and secure cycling infrastructure. We consider that these changes will be of benefit to everyone although the benefits to children and young people include having improved access to good quality digital communication signals. With regards to cycling infrastructure this could be of particular benefit as children and young people have fewer options when it comes to transport and the storage of bikes can be a challenge for those who do not have access to a back garden or live above the first floor of a building where bikes may need to be carried up stairs.

4. Which groups of children and young people will be affected?

The EQIA which has been prepared for these proposals highlight where particular positive impacts have been identified and it is considered that the impacts which are relevant irrespective of the age of the person.

5. Will this require a CRWIA?

We do not consider that a Children’s Rights and Welfare Impact Assessment is required. With regards to digital infrastructure these changes create the conditions that should lead to improved digital connectivity across Scotland providing faster and more reliable connections allowing children and young people to connect for learning, work and socially.

With regards to active travel these changes should allow businesses and authorities to put in place improved provision for cycle parking as well as making it easier for residents to install easily accessible storage solutions for bikes on their property. These changes should help encourage greater use of active travel options as these are particularly the only options available to children and young people.

CRWIA Declaration

CRWIA required

CRWIA not required



Authorisation

Policy lead

Neil Langhorn
Development Delivery
Planning and Architecture Division
Local Government and Communities

24th September 2020

Deputy Director or equivalent

John McNairney
Chief Planner and Deputy Director
Planning and Architecture Division
Local Government and Communities

25th September 2020

Annex E: Fairer Scotland Duty Assessment

ASSESSMENT NOT REQUIRED DECLARATION

Policy title	General Permitted Development Order
Directorate: Division: team	Local Government and Communities: Planning and Architecture: Development Delivery
Policy lead responsible for taking the decision	Neil Langhorn

Rationale for decision
<p>It is considered that changes to specific categories of development within the General permitted Development Order do not amount to making a Strategic Change to Policy. In most cases which are proposed permitted development rights are already in place such as for agriculture, active travel and digital communications. The Restoration of Peatlands is being added as a new category of development however, it is not considered that this qualifies as a strategic decision requiring the completion of the Fairer Scotland Duty. The Permitted Development rights which are being proposed only permit certain types of development in certain circumstances and for developments which do not meet these requirements then an application for full planning permission will be required.</p> <p>Where impacts have been identified in other impact assessments these have been positive, however we will highlight and invite comment on the consultation proposals from equality groups to ensure that they have the opportunity to raise any concerns or highlight additional benefits.</p>

I confirm that the decision to not carry out a Fairer Scotland assessment has been authorised by:

Name and job title of Deputy Director (or equivalent)	Date authorisation given
John McNairney, Chief Planner and Deputy Director	25 th September 2020

Annex F: Island Communities Impact Assessment

We consider that the proposed changes will deliver positive benefits for Island Communities. Of the proposals we are bringing forward we consider that Digital Communication, Agriculture and Peatland restoration will be of particular benefit to the islands.

Digital Communication

Our proposals will allow providers to update their existing infrastructure with more up to date versions or install new more advanced technologies which will improve coverage and connectivity for some of our most remote communities.

Agriculture

Our proposals are intended to support the rural economy and complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation. Amongst other things, our proposals may help to support succession planning for farms, economic diversification and sustainable communities in rural areas.

Peatland Restoration

Peatlands cover more than 20% of Scotland's land area including many of the islands. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.

During the consultation period we will engage with Island Authorities to gather evidence about the impact of our proposals on Islands Communities with a view to completing the Islands Impact Assessment which will accompany the amendments to the General Permitted Development Order.

Consultation on Planning Performance and Fees – 2019

1.
RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.
To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so.

Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes No



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